

Council Meeting

10 April 2024

Separate Attachment

This attachment relates to Item 7
in your Agenda

*Separate Attachment 7.1–
Proposed Council Submission of the Fast-Track
Approvals Bill*

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Submission on Fast Track Approvals Bill- Marlborough District Council

1. Marlborough District Council (MDC) welcomes the opportunity to provide a submission on the Fast-track Approvals Bill (Bill).
2. MDC, as a unitary council, understands the complexity and financial burden of gaining consent for nationally and regionally significant infrastructure projects and is supportive of improved efficiency and effectiveness, and outcomes that support the wellbeing of the people, the economy, and the environment.
3. MDC is generally supportive of the Bill while advocating for positive environmental and community outcomes. As such MDC has confined its submission to matters of purpose, Iwi and Community, timeframes, eligibility criteria and change of consent conditions.

Purpose

4. MDC propose an amendment to the purpose of the Act to achieve a balance between enabling infrastructure while achieving sustainable management.

"The purpose of this Act is to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits, while continuing to promote the sustainable management of natural and physical resources."

5. This option still provides for the delivery of infrastructure and development as the primary purpose of the Bill while at the same time recognising the interaction these projects have with the environment and their success depends on the sustainable management of those resources.

Iwi and Community

6. It is acknowledged the removal of hearing requirements and limiting appeal rights will reduce decision timeframes for applications. However, it is critical that these restrictions on standard resource consenting procedure still adequately provide for stakeholder input under the Bill.
7. MDC supports the inclusion of a person nominated by the relevant local authority for the expert panel, this position can provide local and community considerations.
8. MDC supports that comments must be sought from local authorities and iwi on listed and referred project applications under the Bill.
9. MDC supports the Bill upholding Treaty settlements, Marine and Coastal Area (Takutai Moana) Act 2011, Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, and joint management agreements and Mana Whakahono ā Rohe under the Resource Management Act 1991.
10. MDC supports the retention of appeal rights in relation to compulsory land acquisition under the Public Works Act 1981 proposed in the Bill. It also supports the ability of local government to appeal a decision on an approval.
11. MDC supports that the expert panel may invite written comments from any other person the panel considered appropriate.

Timeframes

12. MDC has concern the timeframes provided for comment under clause 21(1) of schedule 4, of 10 working days is not sufficient to provide consideration for the scale or nature of a proposal. MDC supports an amendment to clause 21(1) which provides for an additional 10 working days to comment if requested by a person who must be invited to comment clause 20(2) of Schedule 4, as follows:

" A panel must specify in its invitation that written comments on a consent application or notice of requirement must be received by the EPA on behalf of the panel on a specified date, which must consider the scope and scale of the application (which must be not less than 10 working days or greater than 20 working days after the date on which the invitation is given under clause 20(2))."

13. MDC recognises the advanced preparation and scope of a listed or referred project application supports the ability of the expert panel to make an informed recommendation to Ministers, further information however may be required by the expert panel when considering an application and recommendation. Clause 28 of Schedule 4 recognises that further information on a proposal may be sought by the expert panel. MDC is concerned the timeframe of not later than 10 working days does not provide for the nature of a information request which may include the commissioning of a report. MDC proposes the following amendment to clause 28(3), of Schedule:

"Subclause (2) must be complied with by the date directed by the panel, which must consider the scope and scale of the requested information."

Eligibility criteria

14. MDC is concerned at the scope of the eligibility criteria under s 17 (5) of the Bill which includes prohibited activities under the Resource Management Act 1991 for inclusion as listed or referred projects.
15. Several National Environmental Standards, and MDC's proposed Marlborough Environment Plan (PMEP) include prohibited activities. This classification is not used lightly and ordinarily to avoid significant adverse effects. MDC is concerned the inclusion of prohibited activities under the Bill compromises the integrity of the PMEP which has gone through extensive consultation with the Marlborough community.
16. MDC supports an amendment to the Bill of deleting s 17(5).

Change of consent conditions

17. MDC has had experience with proposals that have been put through existing fast track legislation, particularly around the consenting for the Inter-Island Resilient Connection (iReX) Project.
18. Often changes to conditions of consent under s 127 of the RMA are required as the project progresses. Currently under clause 45 of Schedule 4 of the Bill, local authorities are responsible for determining change or cancellations of conditions for a project under s 127. However, these decisions are then made under the RMA, and not the Fast-Track Approvals legislation, and it is unclear the extent to which the purpose of the Bill is to be taken into account. The tension is likely to be made even more apparent when the change of conditions relates to a project that is a prohibited activity under the relevant resource management plan. This could mean more stringent conditions being placed on the consent, by virtue of the different legal test that needs to be applied.

Title (must complete)

19. MDC recommends any changes to conditions for a fast-track project should go to the Environmental Protection Agency or Expert Panel to resolve under the Fast-Track legislation.