

To: Minister for Land Information

Draft Cabinet paper: The Public Works Act and the Resource Management Act fast-track process

Rā / Date	22 May 2020	Kōmakatanga / Classification	In confidence
LINZ reference	BRF 20-564	Whakaarotau / Priority	High

Ngā mahi e hiahiatia ana / Action sought

Minita / Minister	Hohenga / Action	Deadline
Hon Eugenie Sage, Minister for Land Information	agree to LINZ engaging with iwi technicians provide feedback on the attached draft Cabinet paper	26 May 2020

LINZ Contacts

Ingoa / Name	Tūnga / Position	Contact number	First contact
Ruth Fischer-Smith	Policy Manager	MOB: 027 275 6448	<input checked="" type="checkbox"/>
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Te Tari o te Minita ki te Whakaoti / Minister's office to complete

1 = Was not satisfactory		2 = Fell short of my expectations in some respects		3 = Met my expectations	
4 = Met and sometimes exceeded my expectations			5 = Greatly exceeded my expectations		
Overall Quality	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Comments					
<input type="checkbox"/> Noted <input type="checkbox"/> Seen <input type="checkbox"/> Approved <input type="checkbox"/> Overtaken by events <input type="checkbox"/> Withdrawn <input type="checkbox"/> Not seen by Minister <input type="checkbox"/> Referred to:					

Pūtake / Purpose statement

To provide you with an updated Draft Cabinet Paper: The Public Works Act and the Resource Management Act fast-track process for your review and feedback.

Pānui whāinga / Key messages

1. The Cabinet report back on PWA changes to support and respond to the RMA fast-track, maintaining the checks and balances of the PWA regime has been delayed. An indicative date for the report back is now lodging on 28 May for DEV on 3/4 June.
2. An updated Draft Cabinet paper is attached, with changes to reflect agency feedback. Some modifications are to make the paper more of a joint report back from a number of Ministers – with respective views more clearly highlighted.
3. We seek your approval to engage with the iwi technicians supporting Ministry for the Environment on the RMA proposals – noting that this is a separate project, and we will require confidentiality agreements.
4. The paper now reflects further engagement with the Ministry of Justice, the Environment Court and Local Government (via the Department of Internal Affairs). We are continuing to work closely with all parties to continue working towards options for both operational and (potential) legislative changes (e.g., we have a workshop on Monday involving MoJ, DIA and MoT/NZTA).

Tohutohu / Recommendations

It is recommended that you:

1. **manatu / note** the contents of this briefing and attached draft Cabinet paper
2. **agree** to LINZ engaging with iwi technicians supporting Ministry for the Environment on the any PWA policy work
3. **provide** feedback on the attached draft Cabinet paper, alongside comments from Ministerial consultation you wish to include

Ruth Fischer-Smith
Policy Manager
Rā / Date: 22 / 05 / 2020

Hon Eugenie Sage
Te Minita mō Toitū te Whenua
Rā / Date: / /

Tāpiritanga / Attachments

1. Updated Cabinet Paper: The Public Works Act and The Resource Management Act

Context

1. The attached Cabinet paper incorporates changes from your Office and the latest round of Departmental consultation.

Key changes to the Cabinet paper

Ministry of Justice and Environment Court

2. The Cabinet paper now reflects further information from the Environment Court, including recent process improvements. It identifies how LINZ is working with the Ministry of Justice and Environment Court to investigate further ways to speed up the resolution of PWA objections by the Environment Court.
3. LINZ has received data on the Environment Court's processing of PWA objections since 2015. We are still analysing this data and need to test our findings with other agencies, but we have added our preliminary findings to the paper:

“Early analysis indicates that out of 50 cases, the average time from the filing of an objection to resolution is 4.5 months for cases against the Minister for Land Information, and 5.2 months for cases against local government. The resolution could be either the objection being withdrawn, a mediated agreement or a hearing and settlement. The slowest case did take 18 months.”

Modified time-saving for operational changes to negotiations

4. The Cabinet paper retains the 6-12 month time saving estimates. However, further comments from NZTA indicate this time-saving could be as little as 3-6 months for their projects, particularly ‘shovel ready’ ones, due to their focus on landowner and community engagement. NZTA has been supportive in providing their engagement practices to LINZ, including their best practice guide.

Other modifications to reflect agency views

5. The Cabinet paper is providing a joint report back – following the cabinet decision on the COVID-19 Recovery (Fast-track Consenting) Cabinet paper [CAB-20-MIN-0182 refers]. Agencies requested that some Ministerial views are made clearer, and we suggest ascribing those views to the relevant Ministers who are jointly making the report back. For example:
 - 5.1. The Minister of Local Government, Minister for Māori Crown Relations: Te Arawhiti, are both very clear about the need to exclude Māori land from any possible PWA legislative changes.
 - 5.2. The Minister of Local Government wants engagement with local government bodies on any proposals, while
 - 5.3. The Minister of Transport has his own legislative option that is included in the paper. MoT and NZTA have confirmed wording for this option.

Further work underway to estimate costings

6. The Treasury has asked us to do further work to estimate the cost of the PWA adjustments. Additionally, we are trying to estimate the possible resourcing implications of the RMA fast track, if it results in more PWA acquisitions for LINZ to process. This is dependent on knowing what projects may access the RMA fast-track process. We will be including more detail in the Cabinet paper as we are able.

Engagement with iwi technicians

7. Our initial engagement with iwi technicians was when PWA changes were being considered as part of the RMA changes. Now that the two are progressing in separate legislation, we need to

establish a separate – but connected – relationship with the appropriate Māori entity to partner with them on any PWA proposals.

8. We suggest using the iwi technicians, as they have indicated they want to be involved, and are aware of the RMA context. We are comfortable reaching out to them with your approval.
9. We will seek confidentiality agreements equivalent to those between Ministry for the Environment (MfE) and the iwi technicians, and will use LINZ's Māori engagement expertise to manage the relationship.
10. Te Arawhiti and Te Puni Kōkiri are strongly supportive of this approach, as are MfE.

Ngā Tāwhaitanga / Next Steps and/or angawā / timeframes

11. We will provide talking points to support you at DEV, when returning the final version for lodgement.
12. Timing for any second report back to Cabinet can be confirmed in the final version of this paper. We suggest 2 weeks between reports, to ensure that legislative proposals are as robust and workable as possible.

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