



TCF submission to the Environment Committee on the Fast-track Approvals Bill

18 April 2024

Introduction

1. Thank you for the opportunity to make a submission on the Fast-track Approvals Bill. This submission is made on behalf of the New Zealand Telecommunications Forum (TCF). The TCF is the telecommunications sector's industry body which plays a vital role in bringing together the telecommunications industry and key stakeholders to resolve regulatory, technical and policy issues for the benefit of the sector and consumers. TCF member companies represent 95 percent of New Zealand telecommunications customers. Our members include network operators, retail service providers and the tower companies that own and operate cell towers.
2. The telecommunications sector provides critical infrastructure and services (such as internet access, messaging and voice calling) that New Zealanders, businesses and government rely on to be able to communicate, access essential services and do business. Telecommunications is also an enabler for other areas of critical infrastructure, such as electricity, fuel, housing and banking. Our infrastructure is essential for economic growth and wellbeing.

Executive summary

3. The TCF supports the concept of a fast-track process. We can see it having some application for larger telecommunications projects that require multiple consents and access to infrastructure corridors along highways. It may also be useful for projects with significant consenting complexities.
4. However, the fast track regime will not address most of the consenting delays the telecommunications sector faces which are inhibiting our ability to make essential network upgrades in a timely and cost effective manner. This is because of the size of our infrastructure, which tends to have a smaller footprint but is needed in every town and region. To address consenting delays for telecommunications we need upgrades to the outdated National Environmental Standards for Telecommunications Facilities (NESTF). We ask the Committee to recommend the updating of NESTF (as part of the phase two resource

management reforms) when it reports the Bill back, because of the interdependencies between telecommunications infrastructure and the large scale infrastructure and development projects the fast track process is designed to support.

5. We recommend changes to the Bill to take account of the interconnectedness of critical infrastructure. Not considering relevant infrastructure networks as part of the fast track process puts the fast track projects at risk of delay while infrastructure providers negotiate locations for their infrastructure and seek appropriate consents. If this is not addressed then fast tracked projects (including much needed housing developments and new roads) could be without essential utilities such as internet access and mobile calling. This issue can be rectified by including critical related infrastructure in various provisions, as set out later in this submission.

We support the concept of a fast track process

Consenting delays

6. The current consenting process can inhibit our ability to make essential network upgrades in a timely and cost effective manner; it can also prevent those upgrades happening at all. For this reason we support resource management reform.
7. At the moment a single project can require multiple approvals under the RMA as well as conservation, reserves and heritage legislation. A DOC approval can take over six months. The one stop shop that the fast track process promises has the potential to help remove the uncertainty and productivity loss the current process causes. But there are other ways to do this. For example, in some cases the solution would be additional funding and resources to support agencies such as DOC to process concession applications. This would be of significant benefit to our industry.

We need NESTF more than fast track

8. We can see the proposed fast track process having some limited application for larger telecommunications projects that require multiple consents and access to infrastructure corridors along highways. It may also be useful for some specific projects (such as building new mobile sites, laying fibre or new international submarine cables) with significant consenting complexities. We provide some examples below.
9. However, the fast track regime is not designed to address the consenting delays and difficulties the telecommunications sector faces. This is because of the size of our infrastructure, which tends to have a relatively small footprint but is still nationally and regionally significant in its importance. The networks we are operating are national networks, and our project construction is dispersed across New Zealand. Telecommunications projects are localised and not large, but bring significant economic benefits to users across the country.
10. To address consenting delays for telecommunications we need upgrades to the NESTF regulations under the RMA. Telecommunications network operators depend on these regulations to be able to build telecommunications infrastructure and provide connectivity

for New Zealanders. It is significantly out of date. The work to prepare the necessary changes is basically complete - it just needs to be prioritised by the Government.

11. We ask the Committee to recommend the updating of NESTF (as part of the phase two resource management reforms) when it reports the Bill back, because of the interdependencies between telecommunications infrastructure and the large scale infrastructure and development projects the fast track process is designed to support. The interdependencies are discussed later in this submission.

Examples of where the fast track process may apply to telecommunications

12. While the NESTF is the priority resource management reform for the telecommunications sector, the fast track process has potential to be used for some regionally and nationally significant telecommunications infrastructure projects. The Bill should ensure that these projects have the option of using the fast track process. Examples include:
 - a. Big fibre projects
 - b. Telecommunications networks, fixed line and wireless, being designed and integrated into new residential and business developments
 - c. Resilience work. For example, putting in alternative/back up fibre routes into a region that can be used in the event that a natural disaster damages the main cable or cables.

Changes needed to ensure that fast tracked projects have the critical infrastructure they need

13. There are interdependencies between different types of critical infrastructure that need to be considered and provided for in the design of the fast track process and reflected in the Bill. For example, telecommunications, electricity and water infrastructure is often situated along or under roads. Enabling housing and business developments requires access to telecommunications, roads and electricity. Airports and service stations need telecommunications to pump fuel. Everyone needs telecommunications in an emergency, as demonstrated by recent severe weather events.
14. The large scale infrastructure and development proposals contemplated under the Bill will require supporting infrastructure, such as telecommunications or access roads. Currently the Bill does not require applicants for fast track projects to consult or talk to infrastructure providers about what is needed and how and when it can be provided.
15. If proposers of fast track projects have not considered the necessary supporting infrastructure, then their proposal is not complete and should not progress without this critical information and input.

Some examples of the interdependencies between fast tracked projects and critical infrastructure

16. Here are some examples of the interdependencies between fast track projects and critical infrastructure:

- a. **Housing developments.** Residents expect their houses to have connectivity to enable internet access and the ability to make phone calls. Connectivity is needed to access social services and conduct business. To ensure connectivity is available the installation of telecommunications infrastructure needs to be considered at the beginning of the planning process, including when projects are fast tracked. If telecommunications is considered as an afterthought connectivity may not be able to be provided, reception may be unreliable, and there will be delays and disruptions for residents. These disruptions come in the form of new roads and berms being dug up to lay fibre and new cell-sites being constructed in front of new homes.
- b. **Roading/transport projects** being planned and delivered via fast track designations and consents. Roads are not just roads. They are infrastructure corridors. These corridors are home for water pipes, electricity lines and telecommunications. For telecommunications we need to install fibre optic cables under the road, and cell-sites and cabinets. All too often telecommunications infrastructure is not considered or included in major roading projects. A high profile example of this is Transmission Gully, where telecommunications was not factored into the project, and the result is a major highway with significant black spots. The cost of installing telecommunications infrastructure after the fact is prohibitive (it would also require major road closures). This is a major issue if motorists encounter problems or have an accident. It also limits our ability to improve the resilience of telecommunications networks, by missing the opportunity to install back up fibre routes that can be relied on in the event that other routes are damaged during a natural disaster.

Currently the industry has to rely on making submissions on major designations to get recognition of the need for new or additional telecommunication networks to be designed into the road. If there is no requirement for consultation with the telecommunication network operators (such as Spark, One NZ, 2degrees, Chorus, Tuatahi First Fibre, Enable Networks and North Power Fibre) then critical roading networks will potentially have no connectivity for users on these roads.

17. Not considering relevant infrastructure networks as part of the fast track process puts the fast track projects at risk of delay while infrastructure providers negotiate locations for their infrastructure and seek appropriate consents. The Bill as drafted has not considered the critical infrastructure required to support and enable fast track projects. This can be rectified with some relatively simple amendments to the provisions of the Bill concerning the information to be provided with an application, the groups that have the opportunity to comment on a proposal, and membership of expert panels.

18. We also submit that any supporting infrastructure should be included as part of the approval for a fast track project, to avoid consenting delays for the related infrastructure that the fast track project will depend on.

Recommended changes to the Bill

19. We submit that infrastructure network operators should be added to the following clauses in the Bill:

- a. **The requirement for an applicant to consult with others prior to lodging a fast track application (clause 16).** Relevant infrastructure network providers should be added to the list in Clause 16(1), with a requirement to be consulted either where that infrastructure is required for the delivery of the project, or the project otherwise may impact that infrastructure.
- b. **The information in the referral application concerning persons affected (clause 14).** Relevant infrastructure network providers should be added to the persons affected in clause 14(3)(h). A new sub-clause should be added under “proposal and effects including reverse sensitivity impacts” to require the applicant to identify the relevant infrastructure network providers affected by the project.
- c. **The information in the referral application concerning the description of the proposed project and the activities it involves (clause 14).** Clause 14(3)(a) should require a description of any supporting infrastructure that will be affected and the infrastructure required to support the delivery of the project, and information on the funding support that will be provided for that infrastructure. In other words, an infrastructure viability assessment, setting out what infrastructure is required, the ability to service, funding to provide the required infrastructure, and the timeline to provide it. We also submit that any related infrastructure should be included as part of the approval for a fast track project, to avoid consenting delays for the related infrastructure.
- d. **Eligibility criteria for a project (clause 17).** The eligibility criteria for projects should include a requirement to assess reverse sensitivity effects on infrastructure. Add under 17(3) *will have reverse sensitivity impacts on infrastructure*.
- e. **Who joint Ministers need to invite comments from before referring an application to an expert panel (clause 19).** Relevant infrastructure network providers infrastructure should be added to the list in clause 19(1).
- f. **Requirements for an Expert Panel to seek and consider comments from others (clause 23).** We recommend that clause 23(1)(d) be amended to specify relevant infrastructure network providers as part of persons or groups from whom the panel must invite submissions and provide draft conditions related to their specific network requirements.
- g. **The appointment, composition and expertise needed by the Expert Panel (schedule 3).** We recommend that:
 - i. Clause 2(1) of Schedule 3 be amended to clarify that relevant portfolio Ministers includes the ministers responsible for relevant infrastructure.

- ii. Clause 7(1)(b) of Schedule 3 should be amended to also include technical expertise concerning relevant critical infrastructure interdependencies.
- h. **The information required in applications for sub-division (schedule 4(15)).** Clause 15(1) should be amended to require information about relevant infrastructure network providers.
- i. **The persons who must or may be invited by an expert panel to provide comments on a listed or referred project (schedule 4(20)),** concerning the processing of consent applications and notices of requirement. Relevant infrastructure network providers should be added to the lists in schedule 4(20)(3) and (5).

Funding and resourcing

- 20. The success of the fast track process depends on adequate funding and other resourcing being made available to the responsible authorities and the EPA. Expert panels will need to be sufficiently resourced to do their job and enable them to engage expert advice.
- 21. Resourcing is also an issue for the parties affected by the process. We submit that such parties should be able to recover their costs associated with responding to proposals and providing reports. These costs could be considerable, especially when faced with a tight deadline.
- 22. There is scope to address this cost recovery issue under schedule 3 clause 14 which currently deals with the ability of a local authority, EPA or minister to recover costs from an applicant. While we do not expect to recover costs associated with general consultation, the reasonable costs to provide expert and technical advice for the purposes of the process should be covered. This could be achieved by adding a new sub clause to 14 providing that relevant infrastructure network providers may recover from an applicant the actual and reasonable costs incurred in supporting schedule 3 and 4 processes.
- 23. Recommended changes are that:
 - a. Schedule 3 clause 14 be amended to provide for the recovery of the actual and reasonable costs for relevant infrastructure providers in fulfilling any functions, duties, or powers under the Bill.
 - b. Amend Clause 15(1) of Schedule 4 (concerning, information required in applications for subdivision) to *require information about relevant infrastructure that is required to service the subdivision or will otherwise be impacted by the subdivision.*

Service of documents

- 24. Ensuring that related infrastructure receives timely notification of a fast track process that may affect it is especially important in an expedited process. We support service via email. We are aware of examples during the COVID-19 fast track process where critical infrastructure was served via post, with documents arriving too late in the process to enable input.

25. Clause 28 deals with the service of documents. We recommend this clause is reviewed to ensure it would apply to the service of documents on persons affected by the fast track process, such as related critical infrastructure.

An interpretation issue

26. We note that clause 17 sets out the eligibility criteria for projects that may be referred to a panel. Clause 14 talks about “eligible projects”. In the interpretation clause there is a definition of “eligible activity” - which is the meaning given to it in clause 17. There is not a definition for eligible projects. Clause 17 does not talk about eligible activities - but it does talk about projects.
27. Is there a difference between an eligible activity and an eligible project? Is an activity a sub-set of a project?

The TCF would like to be heard by the Committee

28. The TCF would like the opportunity to be heard by the Committee.
29. If there are any questions about this submission, please contact Kim Connolly-Stone (kim.connolly-stone@tcf.org.nz) in the first instance.