

# Fast-track consenting: expert consenting panels, hearings, and decisions

The COVID-19 Recovery (Fast-track Consenting) Act 2020 (the Act) creates a new process to fast-track projects aimed at stimulating the economy. Expert consenting panels make decisions on resource consent applications and notices of requirement and can choose to hold hearings. Find out about expert consenting panels, decisions, and hearings under the Act.

## Expert consenting panels are appointed for every project

Expert consenting panels (“Panels”) are independent decision-making bodies and must be set up for each fast-track project. The Minister for the Environment has appointed a panel convener who is responsible for appointing the members of each panel. The size of a panel will depend on the circumstances and complexity of the matter, but is likely to be between three to five members. The EPA provides advice and secretariat support to the panel convener and panels.

Each panel must have a chair, who is a judge or retired judge or, in some circumstances, a suitably qualified lawyer with resource management law expertise. The panel convener appoints the chair.

Panel members must include:

- a person nominated by the relevant local authorities
- a person nominated by the relevant iwi authorities.

If more than one person is nominated, the panel convener decides which of those nominees to appoint.

Collectively, each panel must have knowledge, skills and expertise relevant to resource management issues, technical expertise relevant to the project, and expertise in tikanga Māori and mātauranga Māori.

If you are a relevant local authority or iwi authority, the EPA will contact you to ask for your nomination(s) for a panel member.

## Expert consenting panels have a range of functions and powers

Panels have a range of functions and powers, including:

- considering applications and notices of requirement and making decisions
- holding hearings, if they think there should be a hearing
- preparing reports on their final decisions
- appointing a special adviser or technical advisers to assist the panel
- requesting advice from local authorities
- inviting and considering comments from relevant parties
- directing the EPA to prepare or commission reports, or request information from applicants or others
- issuing certificates of compliance for permitted activities.

## Expert consenting panel procedures

Panels can regulate their own procedures. They may hold their meetings using remote access such as videoconferencing, and must keep a full record of their proceedings.

The EPA, in providing advice and secretariat support to panels, may be involved in administering processes and procedures for panels, including making administrative decisions.

## Holding hearings

A panel does not have to hold a hearing, but will if it is appropriate. Hearings must be completed within the 25 day time period of the panel receiving comments.

No person has a right to be heard, however an panel may decide to hear from:

- the applicant
- any person commissioned by the panel to write a report on the application or notice of requirement
- any person or group that provided comments in response to an invitation by the panel.

If a panel decides to hold a hearing, the EPA will issue a notice of hearing to the above parties, fixing the date, time, and place of the hearing, and it must be issued no less than five working days of the hearing. It must advise the invited parties that they may appear and be heard, and the parties must advise the EPA whether they will attend the hearing (within three working days after the notice of the hearing is given).

During hearings, panels must:

- avoid unnecessary formality
- recognise tikanga Māori
- receive evidence (written and spoken) in Māori
- not permit any person other than the chair or members of the panel to question a party or witness (unless the chair permits cross-examination).

Hearings can be held remotely. Remote access hearings must, if practical, be online, and be available live and free of charge. There must be an audio or video recording of the hearing (or a transcript) available online.

## Making decisions

The panel must make its final decision within 25 working days of comments being received from invited parties. In some circumstances, panels may extend this timeframe for a further 25 working days. A different time period may be specified in a referral order for a referred project.

See the fast-track consenting timeline at [www.epa.govt.nz/fast-track-consenting/about/](http://www.epa.govt.nz/fast-track-consenting/about/)

Panels consider a range of matters specified in the Act when making decisions on consent applications and notices of requirement for listed and referred projects.

Consideration of these is subject to Part 2 of the Resource Management Act 1991 and the purpose of the Act.

Panels must also act in a manner that is consistent with the principles of the Treaty of Waitangi and Treaty settlements.

For listed projects, panels can only decline consent applications or cancel notices of requirement on limited grounds. If the panel considers that granting a resource consent or designation, with or without conditions, would be inconsistent with any national policy statement, or inconsistent with the principles of the Treaty of Waitangi or any relevant Treaty settlement, then it may decline the application or cancel the notice of requirement.

The panel will provide a copy of its draft conditions to the applicant or requiring authority and every person who made a comment. There is a set period of time to comment on those draft conditions before a final decision is made by the panel.

A copy of the final decision is provided to the applicant or requiring authority, the relevant local authority, and every person invited to comment. It is also published on the EPA website.

The applicant or requiring authority, the relevant local authority, the Attorney-General, persons who provided a comment, and any person with an interest in the decision greater than the general public have a right to appeal the final decision to the High Court on a question of law.

## Get in touch

If you have a question about fast-track consenting, please phone 0800 080 065 or email us on [fasttrack@epa.govt.nz](mailto:fasttrack@epa.govt.nz)

Read more about the COVID-19 Recovery (Fast-track Consenting) Act 2020 at [www.mfe.govt.nz/rma/act-to-fast-track-projects](http://www.mfe.govt.nz/rma/act-to-fast-track-projects)

Read more about the listed projects, making an application, and the role of the EPA at [www.epa.govt.nz/fast-track-consenting/](http://www.epa.govt.nz/fast-track-consenting/)