

Covid-19 fast-track consenting: climate change legacy key to success

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With the aim of boosting the economy in the wake of the downturn created by Covid-19, Environment Minister David Parker has announced that some large, “shovel-ready” projects will begin sooner than planned, bypassing public consultation processes under the Resource Management Act (RMA).

The Government’s new fast-track process and supporting legislation for major projects will need careful drafting to balance the vital short-term gains of employment generation with the long-term effects on climate change and the environment.

There are matters of concern in Minister Parker’s announcement, perhaps the most unfathomable being that no appeals will be allowed to the highest court in the land – the Supreme Court.

On the other hand, Minister Parker has indicated that the sustainable management principles of the RMA and Treaty rights will be upheld. This will be cold comfort to the many New Zealanders who have successfully campaigned to remove the provisions in the RMA that prevent climate change from being considered. The welcome amendments to the RMA to address climate change as a result of this effort will not come into force until 2022. By that time, many of the decisions under the Covid-19 recovery law will most likely have been made, and without consideration of the legacy effects on climate change.

On the positive side, Minister Parker has indicated that RMA national directives, such as the New Zealand Coastal Policy Statement, will be applied in the decision-making. But this will not alleviate the concerns of surfers who went to the High Court to prevent damage to the nationally significant Mangamaunu surf break by a proposed cycleway, a late addition to the northern corridor approved under post-Kaikoura earthquake fast-track provisions without due consideration of the effects on surfing activity.

As the National Government experienced similar challenges in Christchurch over subdivision approvals under earthquake recovery legislation, there is unlikely to be much testing of those aspects of the legislation dealing with public input to decisions made. The broad purpose of the Covid legislation means appeals, such as the appeal of Mangamaunu, would have little chance of success.

The drafting of the legislation should ensure that the process allows for public submissions and hearings. These were much constrained under post-quake response legislation.

The current RMA processes enable decisions that are well-informed, with affected people providing information through the submissions process and often influencing final decisions. Local people are often far more knowledgeable about their socio-economic and biophysical environments than experts brought in to assess a particular project, especially in fast-track situations.

When working for a proponent, experts will be constrained in the information they have time to gather or present within the fast-tracked process. Local residents, farmer groups, recreation organisations, tourism operators, fishers, hunters and environmental groups, as well as individual landowners, have all made use of the RMA processes to test information and ensure the decision-makers are well-informed. That includes understanding the values attached to aspects of the environment.

For major projects, this means a slower process due to much more extensive assessment of significant impacts. These projects, often involving new infrastructure, need well-informed decision-makers, and the risk with fast-track processes is that key information will not be heard.

Covid-19 recovery is not like the recovery from the Kaikoura and Christchurch earthquakes, where major infrastructure and homes needed urgent repair. It is a crisis without damage to infrastructure and has been well-managed so far to minimise the loss of life. The damage this time is more around social services, livelihoods and social-psychological impacts.

The economic packages provided by the government have meant that most businesses are now, to some extent, reliant on the government. This has revived memories of the 1970s when the Government owned most of the major employment industries. Then, as now, fast-track legislation was introduced (the National Development Act), to provide “think big”, turnkey projects with a smooth route through the process of considering environmental and social impacts.

The Mackenzie Country, Clutha and Waikato River Hydro-Electric Power Schemes and fast-tracked projects of the 1970s, after many short-term environmental and social effects, have left us with much appreciated valuable amenities and renewable energy resources in the longer term. The cumulative costs to the environment such as on hydrogeology or coastal morphology, or cultural resources such as mahinga kai are less apparent and often have faded in significance as each new generation grows up in a much modified reality.

However, this time, our inability to consider the impacts on the environment and climate change may haunt us much more profoundly if not well-integrated into decision-making.

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