Ministry for Cities, Environment, Regions & Transport

Summary of Underpinning Analysis: Fast-track Approvals (Kaihiku Wind Farm) Order 2026

Agency responsible	Ministry for Cities, Environment, Regions & Transport
Portfolio	Infrastructure
Date finalised	8 September 2026
Identification Number	N/A

Good law-making: 9(i)

The importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation

Inconsistency identified?	N/A

Summary of agency analysis

The only persons directly and materially affected by the proposed legislation are the authorised persons for the project, who have sought the change. It is not necessary to consult with them on an amendment which they have sought.

Good law-making: 9(j)

The importance of carefully evaluating—

- **the issue concerned; and**
- **the effectiveness of any relevant existing legislation and common law; and**
- **whether the public interest requires that the issue be addressed; and**
- **any options (including non-legislative options) that are reasonably available for addressing the issue; and**
- **who is likely to benefit, and who is likely to suffer a detriment, from the legislation**

Inconsistency identified?	NO



Summary of agency analysis
The issue concerned – The issue at hand is that the project description and approximate geographic location in Schedule 2 of the Fast-track Approvals Act 2024 do not accurately reflect the project (through an error in the location, and through modifications to the project through detailed design). If this is not addressed the authorised person for the project will be unable to progress a substantial application for the project. *The effectiveness of any existing legislation and common law – The High Court found in its decision on a judicial review into the Environmental Protection Authority's (EPA) decision to find the Stella Passage project application complete and in scope, that they had erred in "reading in" additional material into the project description or location. There is therefore a material risk in relying on the EPA exercising any discretion to find the project "within scope" of the current description and location, since the Courts have set a precedent of narrowly interpreting the scope of a project in Schedule 2.* *Whether the public interest requires the issue be addressed – The project has been listed in Schedule 2 of the Act because it would deliver significant regional or national benefits, in this case delivering significant renewable energy to the national grid. Preventing the authorised person from lodging an application for, and therefore obtaining approvals for, the project would prevent those benefits, which represent a tangible benefit to the public, from being realised.* *Any options (including non-legislative options) that are reasonably available to address the issue – The other options available to the applicant are to seek approvals through the standard process, or to seek a Ministerial referral of the project to replace the listing. Seeking approvals through the standard process typically takes several years, as opposed to the approximately five months under the substantive process available to listed projects. It also has a less permissive decision-making regime. The referral process takes approximately three months and costs approximately $25,000. Both of these options place unreasonable time and/or cost burdens on the authorised person, when a legislative tool has specifically been put in place to address the matters relevant to the application.* *Who is likely to benefit, and who is likely to suffer a detriment, from the legislation – The authorised person is likely to benefit from the proposed legislation as they will be able to lodge an application for the project. Potential beneficiaries of the legislation may also be electricity users whose electricity supply or prices improve if the project obtains approvals. No parties are likely to suffer detriment from the legislation.*

Good law-making: 9(k)

The importance of the responsible agency identifying and developing effective arrangements for implementing the legislation	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

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No implementation is required for the legislation. The Parliamentary Counsel Office updated the listing in Schedule 2 following gazettal of the Order in Council, whereupon the authorised person is able to lodge an application for the updated project.

Good law-making: 9(l)

Legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons	
Inconsistency identified?	NO
Summary of agency analysis	

The costs of the legislation are limited to the wage/salary expenditure on Ministry for Cities, Environment, Regions & Transport and Parliamentary Counsel Office staff. This is expected to amount to approximately one week of full-time equivalent work, or a highest estimate of $4000. The benefits of the project are by definition regionally or nationally significant, and include an estimated 300 megawatts of electricity supply to the national grid (enough to power thousands of homes) and the employment of approximately 117 full-time equivalent permanent staff. The benefits clearly outweigh the costs.

Good law-making: 9(m)

Legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available	
Inconsistency identified?	NO
Summary of agency analysis	

As noted at 9(j), the alternative options would result in additional costs to the authorised person, and delays in the significant regional or national benefits of the project being realised. Legislation is therefore the appropriate response to the issue.

Rule of Law: 9(a)(i)

The law should be clear and accessible	
Inconsistency identified?	NO
Summary of agency analysis	

The legislation amends the description and approximate geographic location of a project in Schedule 2 of the Fast-track Approvals Act 2024. The users of that information are the authorised person who requested the amendment, and the EPA who are familiar with the legislation. The law is therefore clear an accessible to the users of it.

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Rule of Law: 9(a)(ii)

The law should not adversely affect rights and liberties, or impose obligations, retrospectively	
Inconsistency identified?	NO
Summary of agency analysis	

This legislation does not apply retrospectively.

Rule of Law: 9(a)(iii)

Every person is equal before the law	
Inconsistency identified?	NO
Summary of agency analysis	

The only person who is or can be affected by the law is the authorised person for the project who sought the amendment.

Rule of Law: 9(a)(iv)

There should be an independent impartial judiciary	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

This legislation does not impact on judicial appointments or independence from the Executive or Parliament.

Rule of Law: 9(a)(v)

Issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

This legislation does not delegate authority to an administrative body to resolve issues relating to legal rights and liabilities

Liberties: 9(b)

Legislation should not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of

property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person	
Inconsistency identified?	NO
Summary of agency analysis	

This legislation does not diminish any rights or liberties, and instead enables the authorised person to seeks approvals to carry out activity on their property.

Taking of property: 9(c)

Legislation should not take or severely impair, or authorise the taking or severe impairment of, property without the consent of the owner unless- • **there is a good justification for the taking or severe impairment; and** • **fair compensation for the taking or severe impairment is provided to the owner; and** • **the compensation is provided, to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or severe impairment**	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

This legislation does not involve the taking of property.

Taxes, fees and levies: 9(d)

The importance of maintaining consistency with section 22(a) of the Constitution Act 1996 (Parliamentary control of taxation)	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

This legislation does not involve taxation.

Taxes, fees and levies: 9(e)

Legislation should impose, or authorise the imposition of, a fee for goods or services only if the amount of the fee bears a proper relation to the cost of providing the good or service to which it relates	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

This legislation does not impose or authorize the imposition of a fee for goods or services.

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Taxes, fees and levies: 9(f)

Legislation should impose, or authorise the imposition of, a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both—

- **the benefits that the class of payers is likely to derive, or the risks attributable to the class, in connection with the objective or function; and**
- **the costs of efficiently achieving the objective or providing the function**

Inconsistency identified?	NOT APPLICABLE

Summary of agency analysis

This legislation does not impose or authorize a levy.

Role of courts: 9(g)

Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation

Inconsistency identified?	NOT APPLICABLE

Summary of agency analysis

This legislation does not limit access to courts

Role of courts: 9(h)

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review

Inconsistency identified?	NOT APPLICABLE

Summary of agency analysis

This legislation does not authorise a decision-maker to exercise an administrative power.

Departures from the Legislation Guidelines

Other unusual provisions or features