

Submission

by

**THE
NEW ZEALAND
INITIATIVE**

to the Environment Committee

on the

Fast-Track Approvals Bill

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1 INTRODUCTION AND SUMMARY

- 1.1 This submission on the Fast-Track Approvals Bill is made by The New Zealand Initiative (the **Initiative**), a Wellington-based think tank supported primarily by major New Zealand businesses. In combination, our members employ more than 150,000 people.
- 1.2 The Initiative undertakes research that contributes to the development of sound public policies in New Zealand and we advocate for the creation of a competitive, open and dynamic economy and a free, prosperous, fair and cohesive society.
- 1.3 The Initiative's members span the breadth of the New Zealand economy; a well-functioning and efficient approvals regime for infrastructure and development projects is important to them. The views expressed in this submission are those of the author rather than the New Zealand Initiative's members.
- 1.4 In summary, we submit:
 - (a) The status quo of slow and costly consenting processes under the Resource Management Act (RMA) and other conservation legislation is undesirable. Reform is needed to reduce delays and costs for major infrastructure and development projects.
 - (b) The Fast-Track Approvals Bill is a necessary step to streamline decision-making for projects with significant economic benefits, and it should proceed. However, the Bill has some shortcomings that need to be addressed:
 - (i) Eligibility criteria for fast-tracking should include economic efficiency. Cost-benefit analysis should be used to prioritise competing projects.
 - (ii) Expert panels assessing projects should include expertise in economic analysis, in addition to their other skills and knowledge.
 - (iii) Ministers should have stronger disclosure requirements for contact with applicants, reasons for declining expert panel recommendations, and political donations. Alternatively, the Committee could consider whether expert panels should be made the final decision-makers.
 - (iv) The Minister for the Environment should be included as a joint decision-maker to ensure environmental considerations are given due weight.
 - (v) A sunset clause should make the fast-track process temporary until the RMA is replaced, to avoid it becoming entrenched.
 - (vi) Reconsenting of major existing infrastructure should be eligible for fast-tracking.
 - (vii) Interconnectedness of critical infrastructure should be factored into the fast-track process.
 - (c) The ultimate goal should be an RMA and conservation legislation that efficiently enables beneficial projects to proceed, while respecting property rights and protecting important environmental and conservation values. This should greatly reduce the need for a separate fast-track process.

2 THE CASE FOR FAST-TRACKING

- 2.1 The Government has introduced the Fast-Track Approvals Bill with the aim of reducing the time and cost of consenting major infrastructure and development projects.
- 2.2 There is a strong case for streamlining the current approvals process. A 2021 report for the Infrastructure Commission¹ estimated that consenting processes for infrastructure projects cost \$1.29 billion per year. This figure only considered RMA processes - it did not include the costs of other conservation-related legislation. Nor did it cover non-infrastructure projects such as housing, mining or aquaculture that could also benefit from fast-tracking.
- 2.3 Existing consenting processes are not only costly but also slow. The same Infrastructure Commission report found that the time taken to obtain resource consent for key projects had nearly doubled compared to five years earlier.
- 2.4 Regionally or nationally significant projects can be rejected or have onerous conditions placed on them under the RMA and conservation legislation, often on the grounds of managing adverse environmental effects. There are concerns that economic and social benefits of development are not given sufficient weight relative to environmental and conservation considerations.
- 2.5 The Bill aims to address this imbalance by establishing a fast-track process for projects deemed to have substantial economic benefits at a regional or national level. Around 100 projects could be automatically eligible, with further projects able to be referred by Ministers.
- 2.6 Assessed projects will encompass approvals under multiple legislation, including the RMA, Conservation Act, Wildlife Act, EEZ Act, Crown Minerals Act and Fisheries Act. This “one-stop shop” approach is supported.
- 2.7 The current fast-track process, saved from the repealed Natural and Built Environment Act, is not sufficient. It is not a “one-stop shop” and it does not place sufficient weight on economic and social benefits. Officials also noted that the saved provisions were only a short-term solution while a new permanent regime was developed. The provisions were also considered likely to have gaps that would be identified if they were retained in perpetuity².
- 2.8 Having a streamlined process for major infrastructure and development projects has merit given the problems with the status quo. The Fast-Track Approvals Bill is a necessary response to a pressing issue.

¹ *The Cost of Consenting Infrastructure Projects in New Zealand*, report by Sapere for the New Zealand Infrastructure Commission/Te Waihanga, July 2021.

² Ministry for the Environment’s Supplementary Analysis Report: Fast-Track Approvals Bill.

3 AREAS FOR IMPROVEMENT

- 3.1 Notwithstanding our overall support for the Bill, we have identified several areas where it could be improved.

Eligibility Criteria and Project Prioritisation

- 3.2 Three ‘joint Ministers’ will decide on referral of projects for fast-tracking³. The Bill emphasises regional and national economic benefits as key criteria for determining a project’s eligibility for fast-tracking. However, it is unclear how the joint Ministers will assess the relative merits of projects if there are more than 100 that could qualify.

- 3.3 **We recommend** that the Bill should be amended to include economic efficiency in the eligibility criteria. Projects should demonstrate their overall benefits exceed their costs. A transparent cost-benefit analysis, using a standardised methodology, would provide a rigorous way to prioritise competing projects. Environmental effects should be factored into the analysis.

- 3.4 Adding economic efficiency to the eligibility and prioritisation framework in the Bill would help ensure taxpayer funds and private investment are directed to the highest value projects. It would also make Ministerial decision-making more transparent and less susceptible to lobbying or political influence.

Composition and Powers of Expert Panels

- 3.5 Under the Bill, projects referred by joint Ministers will be assessed by an expert panel, which will provide recommendations back to the Ministers on whether to approve the project and what conditions to set.

- 3.6 The expert panels are expected to have collective knowledge and expertise spanning environmental law, the relevant project activities, Te Tiriti o Waitangi, te ao Māori and mātauranga Māori. These are all important, but conspicuously absent is knowledge and expertise in economics, cost-benefit analysis, and economic impact assessment.

- 3.7 **We recommend** that the Bill should be amended to require expert panels to include members with economic expertise. This would help ensure that economic and social benefits and costs are rigorously assessed alongside environmental considerations.

Final Decision-Making

- 3.8 Under the Bill Ministers will be the final decision-makers. This provides political accountability for decisions, but there are downsides, as identified by officials⁴. For example, it adds an extra step that could increase delays and costs. There is also a risk of Ministers departing from the panels’ technical advice, which could make the process vulnerable to judicial review, adding further delays and costs.

- 3.9 **We recommend** that if Ministers remain the final decision-makers, the process should include strong disclosure requirements to mitigate risks around lobbying and undue influence. Ministers should have to disclose records of their meetings and other contacts with applicants and other project stakeholders (for and against). They should provide a public explanation if their decision departs from the expert panel’s recommendation and their reasoning. Applicants should be required to disclose any political donations.

³ The joint Ministers are the Ministers of Infrastructure, Regional Development, and Transport.

⁴ Ministry for the Environment’s Supplementary Analysis Report: Fast-Track Approvals Bill.

- 3.10 The Committee should also consider whether the Bill should make the expert panels the final decision-makers on projects, rather than Ministers. This could streamline the process and increase certainty, as the panels' decisions would be based on technical expertise and would strictly follow the legislation.
- 3.11 Giving expert panels decision-making power would also require clear decision-making criteria and strong accountabilities. Panels should be required to have expertise in economics, cost-benefit analysis, and economic impact assessment. Panels should issue public reasons for their decisions and panel members should disclose records of their meetings and other contacts with applicants and other project stakeholders (for and against).

Environmental Safeguards

- 3.12 Another area of concern with the Bill is the perception that it could enable projects to proceed with inadequate consideration of environmental impacts. The Minister for the Environment will not be a decision-maker, criteria are weighted towards economic factors, areas of conservation land will be able to be developed, currently prohibited activities will be able to take place, and appeal rights will be constrained.
- 3.13 These are significant changes, but the Bill retains some important environmental safeguards. The most important conservation areas (such as national parks, wilderness areas, and nature reserves) will be excluded from the fast-track process. Environmental legislation and associated plans and policies will be considered by the expert panels. The panels will be able to recommend conditions to avoid, mitigate or remedy adverse environmental effects, and will also consider impacts on threatened species.
- 3.14 The Committee needs to consider these changes carefully to ensure risks are appropriately managed. This should include considering where the Bill differs from officials' preferred options⁵. To assuage concerns and achieve better balance, if Ministers remain the decision-makers **we recommend** that the Minister for the Environment should be included as a joint decision-maker. Given the Minister for the Environment's role encompasses the RMA, this would address a notable omission.

Duration of Fast-Track Process

- 3.15 One risk with the Bill is that the fast-track process becomes a permanent feature of the approval regime. Fast-tracking should be a short-term solution while more fundamental reforms to the RMA and conservation legislation are progressed.
- 3.16 The RMA's consenting processes need an overhaul, so they more efficiently enable infrastructure and development within reasonable environmental limits. Other conservation legislation also requires updating to better facilitate economic uses of resources.
- 3.17 To signal fast-tracking is temporary, **we recommend** that the Bill should include a sunset clause that specifies a date by which the legislation will expire unless extended by Parliament. This should be aligned with the timeframes for the upcoming phase 3 reform of the RMA and the creation of new replacement legislation.

5 Refer to the Ministry for the Environment's Supplementary Analysis Report: Fast-Track Approvals Bill. Examples include expert panels making decisions; primary focus on project delivery with secondary focus on sustainable management; weighting of other relevant legislation equally with fast-track purpose; RMA prohibited activities be ineligible; and one referral pathway only, just Minister referrals.

Additional Issues

- 3.18 Although not included in the Bill, we have two additional issues that should be considered by the Select Committee.
- 3.19 Firstly, **we recommend** that as well as new projects, re-consenting of major existing infrastructure should be considered for inclusion in the fast-track process. Reconsenting can be long, arduous, and very costly, such as reconsenting for hydro electricity generation, wastewater plants, and stormwater discharge.
- 3.21 Secondly, **we recommend** that interconnectedness of critical infrastructure should be factored into the fast-track process. For example, a consent for a housing development should include consenting for all associated network infrastructure (roading, water and wastewater, telecommunications, and electricity). The process, including consultation requirements, should reflect this.

4 CONCLUSION

- 4.1 The Fast-Track Approvals Bill is a necessary interim measure to reduce the delays and costs associated with consenting infrastructure and development projects under the current RMA and conservation legislation regimes. We support the Bill's objectives.
- 4.2 However, the Bill requires refinement to realise its objectives while mitigating valid concerns about Ministerial decision-making, economic scrutiny, and environmental safeguards.
- 4.3 Our key recommendations are for the Committee to:
 - Include economic efficiency in eligibility criteria and require cost-benefit analysis of projects.
 - Ensure expert panels include economic expertise.
 - Introduce stronger disclosure requirements for Ministers or make expert panels the final decision-makers.
 - Include the Minister for the Environment as a decision-maker.
 - Add a sunset clause to signal fast-tracking is a temporary solution pending wider RMA and conservation legislation reforms.
 - Include reconsenting of major existing infrastructure as eligible for fast-tracking.
 - Ensure interconnectedness of critical infrastructure is factored into the fast-track process.
- 4.4 Ultimately, the goal should be resource management and environmental laws that can efficiently consent projects with net positive impacts, while respecting property rights and protecting important environmental and conservation values. In such a framework, there should be much less need for a separate fast-track process.
- 4.5 We appreciate the opportunity to submit on this Bill. We hope the Environment Committee finds our submission constructive.

ENDS.