

SUBMISSION GUIDE: OPPOSING THE FAST-TRACK APPROVALS BILL



**Forest
& Bird**
TE REO O TE TAIAO
Giving Nature a Voice

1. Thank you for considering submitting against the Fast-track Approvals Bill (the Bill). Because the Bill could have such a widespread impact on across New Zealand's environment and communities, it's crucial to that Parliament's Environment Select Committee hear a wide range of voices. Please consider asking to be heard in support of your submission (it is possible to be heard online).

Submissions close 11.59pm Friday 19 April and can be made to Parliament's Environment Committee [here](#).

2. The guide below sets out our key concerns with the purpose of helping you shape your submission. These are potential points to include in your submission. However, the benefit will come mainly from your own ideas, information, experience, and concerns. There will plenty of organisations putting in technical submissions; instead, you should focus on where are you from, areas that matter to you, and developments you don't want to see be rubber-stamped through this process.
3. The key points in your submission are:
 - Where you are from
 - Why nature matters to you
 - Any personal experience or expertise that is relevant
 - Call for the Bill to be **rejected**
 - Give your reasons
 - We recommend you ask to speak to your submission. You can always decline later.

WHY SHOULD THE FAST TRACK APPROVALS BILL BE REJECTED?

4. The Bill is not a genuine fast-track process but instead an attempt to override environmental protections in a range of laws. The main grounds for rejecting the Bill are:
 - a. ministerial decision making;
 - b. criteria for decision making, which give primacy to economic considerations.
5. The Bill will allow for ministerial approval of projects that have failed to get consent under existing environmental and conservation laws. This includes projects that have been declined through existing processes, such as the open cast coal mine at Te Kuha and the Ruataniwha Dam.
6. The Government can already fast-track significant infrastructure projects through the fast-track provisions of the Natural and Built Environment Act 2023.

In your submission you could say: This Bill is an attempt to override environmental protections, and the Government should instead use existing fast-track legislation.

What does the Bill do?

7. The purpose of the Bill is to "facilitate the delivery of infrastructure and development projects with significant regional or national benefits". This purpose overrides the

environmental and conservation purposes and principles of the Resource Management Act, Conservation Act, Wildlife Act and other laws.¹

8. The Bill provides for listed and referred projects. Listed projects are to be listed in the Act after it is passed into law. However, they are not listed in the Bill, depriving the public of an opportunity to comment on whether or not they should be included. This is cynical (as many of the projects would likely face stiff opposition and the failure to list the projects avoids this opposition) and undemocratic (as it deprives the public of the opportunity to comment).

In your submission you could say: The public needs to have the opportunity to submit on whether listed projects should get a fast track.

9. Listed projects do not need to even meet the weak criteria other projects that are referred later must pass through. This means, for example, that listed projects in national parks could be approved.

In your submission you could say: All projects should have to meet the same criteria.

10. The Bill (at clause 18f) also allows mining projects in areas with the highest conservation status, including national parks, scientific reserves and wilderness areas, to be referred to a fast track process and approved.

In your submission you could say: No fast-track projects under any legislation should take place on conservation land, let alone national parks.

11. A critical problem with referred projects is that the criteria for referral do not include environmental considerations. This means that any project, no matter how environmentally damaging, can be given a fast-track, provided it has significant regional or national benefits. The Bill expressly allows for prohibited activities under the RMA to be fast-tracked. Probable fast-track projects include open cast coal mines, seabed mining and irrigation dams.

In your submission you could say: The criteria for referral are inappropriate because they do not include environmental criteria, which would exclude the most damaging projects.

12. Fast-track projects are referred to an Expert Panel for consideration. The Expert Panel's consideration involves seeking comment from identified parties, including tangata whenua, Councils, Ministers and affected landowners. There is no requirement to consult with interest groups like Forest & Bird. This can be compared with the Covid Fast Track legislation which expressly provides for comment from groups, including Forest & Bird.

¹ The full list of approval that are provided for in the Fast Track Bill are:

- resource consents, notices of requirement, and certificates of compliance under the Resource Management Act 1991:
- concessions under the Conservation Act 1987:
- authority to do anything otherwise prohibited under the Wildlife Act 1953:
- approvals under the Freshwater Fisheries Regulations 1983:
- concessions and other permissions under the Reserves Act 1977:
- an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014:
- marine consents under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012:
- Crown Minerals Act 1991 (section 61 or 61B land access provisions):
- aquaculture activity approvals under the Fisheries Act 1996

In your submission you could say: That the exclusion of interest groups is inappropriate.

13. The Expert Panel then makes a recommendation to ministers. This recommendation is based on criteria which prioritise economic considerations over the environment. In doing so, they override environmental protections in existing legislation. An appeal to the High Court is only possible on points of law by a limited range of persons.

Why is Ministerial decision making inappropriate?

14. This Bill empowers Ministerial decision making at both the referral and final decision-making stage. That is, ministers decide if a project gets a fast-track and whether it is approved. Ministers have enormous leeway to approve whatever project they like with next to no legal accountability for their decisions. This includes approving projects that courts have already rejected or would reject.
15. Ministerial decision making is highly controversial. This concern is that ministerial decision making allows for developers to lobby ministers to obtain approval for projects, avoiding the scrutiny that projects would be subject to if they went through the standard process. This kind of process risks what is called “pork barrel politics” as it allows political considerations to take precedence over environmental considerations.

In your submission you could say: That ministerial decision making is inappropriate and that Expert Panels, not ministers, should make decisions.

Criteria for decision making

16. For RMA approvals, for example, the Bill specifically disallows a section of the RMA that prevents ‘non-complying’ activities from being given consent if the effect on the environment is more than minor or is contrary to plan objectives and policies. This means that activities listed in local government plans as non-complying, where consents should only be granted in exceptional circumstances, can essentially be rubber stamped by Ministers. The Bill also allows consent to be granted for prohibited activities.
17. The Bill also, through Schedule 5, disapplies sections of the Conservation Act so that concessions no longer need to be consistent with conservation management strategies or plans, for example.

In your submission you could say: The Bill should only allow for approving projects that would also be approved under the existing legislation. Put another way, the decision-making criteria should not be changed from that in the existing legislation.

PERSONALISE YOUR SUBMISSION

18. The contents of this submission guide are intended to highlight key concerns with the Bill. Your submission will be much more effective if you personalise it so that you focus on key concerns for you and explain those in your own words.

19. It will be even better if you can refer to possible fast-track projects that you are concerned about or might affect you. Some projects that we have identified as potentially being fast-tracked and having particularly damaging effects include:
- a. Te Kuha opencast coal mine near Westport. This was declined by the Environment Court due to the effects on the exceptionally high ecological values present. The mine has also failed to get access arrangements from DOC and Buller District Council.
 - b. Trans Tasman Resources seabed mining in South Taranaki Bight. This activity will have severe effects on outstanding areas of rocky reefs and impact on a population of blue whales.
 - c. Ruataniwha Dam in the Hawkes Bay. This failed to get DOC approval following a successful challenge from Forest & Bird that ended up in the Supreme Court. The Bill reverses the Supreme Court decision.
 - d. Open cast mining on the Denniston Plateau. The Denniston Plateau has unique ecology and allowing open cast mining will remove these values.
 - e. Oceana Gold mine in Coromandel. This is home to the critically endangered Archey's frog.