Committee Secretariat
Environment Committee
Parliament Buildings
Wellington

By email: en.legislation@parliament.govt.nz

17 November 2025

Royal Forest & Bird Protection Society of New Zealand Inc.
PO Box 631
Wellington
Contact: Erika Toleman
e.toleman@forestandbird.org.nz

Submission by the Royal Forest and Bird Protection Society of New Zealand Inc on the Fast-track Approvals Amendment Bill 2025

1. The Royal Forest and Bird Protection Society of New Zealand Inc (Forest & Bird) has been Aotearoa New Zealand's independent voice for nature since 1923. Forest & Bird's constitutional purpose is:

   > To take all reasonable steps within the power of the Society for the preservation and protection of the indigenous flora and fauna and the natural features of New Zealand.

2. Forest & Bird is a key participant in resource management processes relating to indigenous biodiversity, freshwater, coastal environment and natural landscapes across New Zealand. It is a staunch defender of legislative requirements to sustain the life-supporting capacity of ecosystems, maintain biodiversity and protect significant indigenous vegetation and significant habitat of indigenous fauna. In addition, it has over 100,000 members and supporters who are passionate about enhancing, restoring and protecting nature in rural and urban areas throughout the country.

3. Since the Fast-track Approvals Act 2024 ("FTAA") came into force, Forest & Bird has commented on 5 fast-track projects:

   a. Maitahi Village (housing development)

   b. Tekapo Power Scheme (hydro scheme reconsenting)

   c. Waihi North (gold mine project)

   d. Kings Quarry

e. Trans-Tasman Resources (seabed mining project).

4. Forest & Bird's comments have contributed to the quality of Panel decisions:[1]

   a. In the Maitahi Village decision, the Panel stated that Forest & Bird "provided helpful comments designed to assist the decision-making by the Panel and to support the development of improved consent conditions to address adverse impacts of concern".[2] For example, Forest & Bird's comments on flocculation and dosing systems (used to treat sediment-laden water) were accepted by the Applicant in that process,[3] and changes were made to address these, leading to better environmental outcomes for the Maitai River.

   b. In the decision on the Tekapo Power Scheme, the Panel recorded that Forest and Bird "engaged constructively in the process providing submissions and evidence in relation to matters of relevance to our decision making" and provided "thoughtful and comprehensive information".[4]

5. In that context, it is of major concern that changes proposed in the Bill are likely to exclude the potential for Forest & Bird to participate in decisions on future fast-tracked applications. This is a very significant change that will result in the loss of an independent voice for nature, poorer quality decisions, and worse outcomes for the environment.

6. The Bill hands excessive power to Ministers, weakens public participation and legal oversight, risks significant, untested environmental harm, allows applicants influence over who is appointed to decide whether their application is granted, and undermines democratic process and the rule of law.

Process

7. Cabinet decided that the scope of the Bill should be limited to grocery retail sector competition, and machinery and technical amendments to streamline the FTAA.[5] An exemption from the requirements for a Regulatory Impact Assessment was obtained on the grounds that the economic, social or environmental impacts were limited and easy to assess.[6]

8. Subsequently, changes were made to the proposals to be included in the Bill, including:

   a. Restricting Panels' ability to invite comments from "any other person the panel considers appropriate."[7]

   b. Preventing persons inviting under this clause from appealing errors of law in Panel decisions.[8]

9. There is no analysis of those changes in the proactively released Briefings. They are clearly well beyond a technical amendment to streamline the FTAA, and instead make major changes to participation rights. They are most likely to impact environmental non-governmental organisations like Forest & Bird, and also individuals who are directly affected by a proposed development but not an adjacent landowner – who would also risk being shut out of the process by these changes. For example, the 200 people with homes downstream of the 8.2 million m^3

---

[1] The remaining projects that Forest & Bird has commented on have not yet proceeded to a decision.
[2] Record of Decision of the Expert Consenting Panel (Maitahi Village) dated 18 September 2025 at 28
[3] Maitahi Village decision at 326 and 332
[4] Record of Decision of the Expert Consenting Panel (Tekapo Power Scheme) dated 3 November 2025 at 7.
[5] BRF-6601 dated 7 August 2025
[6] BRF-6601 dated 7 August 2025
[7] Section 53(3) FTAA as amended by clause 33 of the Bill
[8] Section 99 FTAA as amended by cl 50 of the Bill

water storage dam consented by the Environment Court in the *Eyre* decisions,[9] whose input into the consenting process was essential for the safety of the scheme. It is nonsensical to suggest that the Bill has "limited and easy to assess" impacts, when it changes the participation rights of directly affected people and public interest NGOs in this manner.

10. It is very disappointing that the public has been given only 6 working days to make submissions to the Environment Committee on these changes when the changes have been under development since August 2025.

Amendments to deem projects regionally or nationally significant

Government Policy Statement

11. New cl 5 would enable the Minister to issue a Government policy statement[10] stating the Government's policies about the regional or national benefits of certain types of infrastructure or development projects.[11] These policy statements will have a significant influence on Panels' fast-track decisions through the requirement for Panels to consider a relevant Government policy statement.[12]

12. When the FTAA was initially proposed, government intended for Ministers to make decisions on fast-track approvals. This was resoundingly opposed by the public, and in response a significant change was made to require independent Expert Panels to make these decisions, with Minister Bishop describing this as a "sensible change".

13. "Making a decision" not only involves assessing the environmental, social and cultural effects of a project, but also analysing its benefits (economic or otherwise). By specifying the Government's policies on what benefits projects are deemed to have, and requiring that policy to be considered by Panels (rather than Panels themselves assessing benefit), the Bill gives Ministers far more control over decisions on fast-track applications.

14. Requirements for preparation of Government policy statements are minimal: there is no provision for public input, the Minister must only consult the "relevant portfolio Ministers".[13] "Relevant portfolio ministers" is defined for the purpose of a proposed Government policy statement as "a portfolio that is directly related to the subject of the proposed Government policy statement".[14] Given the specified subject of the Government policy statement, Ministers with environmentally-focussed portfolios will be excluded from any input into Government policy statements.

15. Forest & Bird recommends that provision for Government policy statements is removed.

Amendments to Schedule 2

16. A related amendment would specify in Schedule 2 that listed projects are "projects with significant regional or national benefits".[15] That should be a matter for the panel to assess, in the same way that panels assess other aspects of substantive applications.

---

[9] *Eyre Community Environmental Safety Society Inc v Canterbury Regional Council* [2016] NZEnvC 178, [2019] NZEnvC 71 and [2020] NZEnvC 138

[10] Defined by amended s 4 (cl 4) as a statement issued under s 10A FTAA.

[11] New s 10A as inserted by cl 5 of the Bill

[12] Section 81(aab) FTAA as inserted by by cl 41(a) of the Bill. Government policy statements are also a relevant consideration for Ministers' referral decisions.

[13] Cl 10A(3)

[14] New s 4(1) FTAA as inserted by cl 4(7)

[15] Schedule 2 FTAA as amended by cl 55

Consultation requirements for referral and substantive applications

17. The Bill will remove the requirement for the applicant to consult councils and relevant government agencies, and iwi authorities, hapū and Treaty settlement entities, including those who are party to a relevant Mana Whakahono ā Rohe (participation agreement) before lodging a referral application[16] or substantive application.[17] Instead, the applicant will only be required to "notify" those persons. The Crown's obligations under the Treaty include making provision for Māori to be actively involved in decisions about their taonga. A legislative requirement to "notify" iwi and hapū of projects that could significantly impact their rohe is inconsistent with that obligation. Forest & Bird recommends that the government have particular regard to the views of its Treaty partners on these clauses.

Comments on referral application

18. The timeframe for government departments such as DOC and local councils to comment on a referral application is reduced from 20 days to 15. Forest & Bird is concerned that this may be insufficient time for those entities to provide comprehensive comments. Given many of those entities have statutory functions involving protection of the environment, this change chips away further at the minimal, residual environmental safeguards in the FTAA.

Comments on substantive application and removal of right of appeal

19. As indicated above, the proposed changes to s 53(3)[18] to limit panels ability to invite comments from "any other person or group the panel considers appropriate" is strongly opposed. The changes would:

    a. Provide that panels may invite comments "on a particular matter" rather than allowing an invited person or group to determine which parts of an application they consider it most relevant to comment on.

    b. Require panels to check with councils and government departments what they intend to comment on and only invite additional persons to comment if the panel considers that the comments those entities intend to provide will not enable the panel to sufficiently address the matter.

20. The reasons why these changes are opposed are:

    a. They have no prospect of shortening the decision-making timeframe, so they are irrelevant to the Bill's purported purpose.

    b. They complicate the decision-making process in ways that are likely to lead to legal challenges. The "check" on what councils and departments intend to cover, and the panel's decision on whether that is sufficient, must both happen within the 10 working day timeframe for issuing invitations. Panels are unlikely to be able to form a proper opinion about what information they are likely to need to determine the application when they are getting to grips with the application material themselves. Panels will be required to make assumptions about what information they might get from other people or groups, without hearing from those people or groups. Panels' decisions on whether Councils and government departments' comments will be "sufficient" are subject to judicial review, and will be highly vulnerable given the process limitations just outlined. Forest & Bird is willing to challenge decisions that exclude it from participating in the consideration of applications with significant adverse environmental effects, including

[16] Section 11 FTAA as replaced by cl 6(2)
[17] Section 29(1)(a) FTAA as replaced by cl 14
[18] Cl 33 FTAA

by seeking interim orders preventing the project from being considered further in the meantime. Overall, these changes are likely to significantly slow the decision-making process.

c. They will lead to poorer decisions. As set out above, Forest & Bird has been commended for the quality and usefulness of the information (including expert evidence, legal submissions and comments on conditions) that it has provided to Panels on fast-track applications to date. Excluding groups such as Forest & Bird will simply mean that relevant issues are not raised, and relevant evidence is not provided to panels.

d. If a Council or government department says that it will address a topic but then does not, there is no ability for the panel to revisit its decision not to invite additional persons to comment. This is an entirely feasible scenario (for example, a council may intend to provide expert evidence on a topic, but its intended expert may become unavailable) which will also lead to poorer quality decisions.

e. It is fundamentally unfair to exclude directly affected persons from participating in decisions that affect them.

f. New Zealand is a signatory to the 1992 Rio Declaration[19], by which it **committed** to the principle that environmental issues are best handled with access to appropriate information about the environment, with the participation of all concerned citizens at the relevant level, and that states should facilitate and encourage public awareness and participation, and provide effective access to judicial and administrative proceedings, including redress and remedy.[20] The changes breach New Zealand's international law commitments.

21. The FTAA provides for appeals on questions of law only. The Bill would continue to allow applicants to appeal where they consider a Panel has made an error of law, but would prevent persons and groups invited under the "any other person" ground from appealing an error of law:

    a. by the Director-General of Conservation, in their report on a land exchange;

    b. by a panel, on a substantive application.[21]

22. There is no reasonable basis for giving some parties a right to challenge errors of law, but not others. The proposed limitation breaches natural justice as well as the international law commitments referred to above. The proposed limitation will lead to increased use of judicial review.

23. Forest & Bird seeks that the Committee recommend against clauses 33 and 50.

Modification of substantive application

24. New sections 68A and 68B[22] would enable an applicant to modify a substantive application after it has been lodged.

25. This has the potential to undermine the process involved in a referral decision. The project that people and groups commented on at the referral stage, and which the Minister considered before deciding to refer the application to the fast-track, may be modified in ways that would

---

[19] Rio Declaration on Environment and Development, in the Report of the United Nations Conference on Environment and Development. UN Doc. A/CONF.151/26 (Vol. 1), 12 August 1992
[20] Principle 10, Rio Declaration
[21] Section 991)(d) as amended by cl 50 FTAA
[22] Clause 42.

have elicited different comments and a different decision. Yet there is no process for input from those people and groups on whether the modified application should still be referred.

26. If the modification happens after comments have been made on the substantive application, there is no provision for further comments on the modified application. The Minister is only required to notify persons invited to make comments (but not to invite them, or for the Panel to invite them, to make further comments). There is no provision for different persons or groups to be invited to comment, even though there may be different environmental effects, or different effects on people and communities, as a result of the modifications. This is unfair and will lead to bad decisions.

27. Forest & Bird does not oppose the FTAA providing for modifications to decisions, but recommends that the process followed should be changed to provide for:

    a. Comments from persons entitled to comment on the referral, on whether the modified application should be referred.

    b. Further comments from persons entitled to comment on the substantive application, if the application has been modified after comments have closed.

Timing of panel decisions

28. Specifying a maximum period of 60 working days for panel decisions (after the date for receiving comments)[23] is unreasonable and will not enable good decision-making by panels deciding complex applications. The panels who have determined applications to date have clearly worked hard to assimilate large volumes of information and to decide competing issues using processes such as peer reviews, expert witness conferencing and issue hearings. Panels are regularly faced with applications that run to thousands of pages. These are significant projects with major environmental impacts, seeking approvals across a range of legislation. They require careful analysis and appropriate conditions.

29. The projects that are approved under the FTAA will be in place for decades and may have permanent environmental effects. It is worth allowing panels a reasonable and appropriate time period to make their decisions. The Panel Conveners are best placed to assess what is an appropriate period. Shortening the decision period arbitrarily may well increase the likelihood of panels making legal errors which could have been avoided if they were not so rushed.

Directions to EPA

30. The Bill proposes to create a new power for the Minister of Infrastructure to "give a general direction to the EPA in relation to the EPA's performance and exercise of its functions, duties and powers".[24] The EPA is a Crown entity (Crown agent) and as such must give effect to government policy when directed by the responsible Minister, which is the Minister for the Environment.[25] However, the Crown Entities Act contains provisions to safeguard the independence of Crown entities. They may not be directed by a Minister in relation to a statutorily independent function or to require the performance or non-performance of a particular act, or the bringing about of a particular result, in respect of a particular person or persons.[26] The framing of cl 48 of the Bill is inconsistent with the safeguards for Crown entity independence enshrined in the Crown Entities Act.

---

[23] Section 79(2)(b) FTAA as amended by cl 44
[24] New s 93A FTAA, as inserted by cl 48
[25] Environmental Protection Authority Act 2011, Crown Entities Act 2004 (Part 1, Schedule 1).
[26] Section 113 Crown Entities Act 2004

Order in Council to amend Schedule 2 description

31. The project descriptions in Schedule 2 set the scope for a project that has been listed in the FTAA. Enabling changes to the FTAA through an Order in Council (secondary legislation) is constitutionally inappropriate. The Order in Council may change the project description or even its geographical location, meaning the project that is considered under the FTAA may be very different to the project that was listed by Parliament on the advice of the Fast-track Advisory Group. Any façade of proper process in the identification of projects for listing in the FTAA is undermined by this proposal. Forest & Bird recommends that cl 54 should not proceed.[27]

Applicant vetting of prospective panel members

32. Clause 56 would require the panel convener to give names of prospective panel members to the applicant and relevant local authorities. It is highly improper for an applicant to have input into the choice of people who will determine their application. A fundamental tenet of natural justice is that decision-makers are unbiased and hold no personal interest in any particular outcome. There are already examples of applicants seeking to have their preferred decision-makers appointed to Panels,[28] and the proposal to enable applicants to raise concerns about panel members encourages this "panel-shopping" approach further.

33. The FTAA already lacks public license because it overrides environmental protections and excludes public participation in approvals for major developments with significant adverse effects. Allowing applicants to influence the appointment of the "independent" expert panels appointed to determine their applications strips away any last vestiges of proper process and confirms the intention for the FTAA to be a rubber stamping exercise rather than a real environmental consenting process.

Considerations for land exchanges

34. The criteria for consideration of land exchanges (of private land for conservation areas or Council reserves) include consideration of the comparative environmental values of the private land and the conservation or reserve land. The panel must not grant the approval unless satisfied that the land exchange will enhance the conservation values of land managed by the Department of Conservation.[29] The Bill would change this to:[30]

> … unless satisfied that the land exchange will enhance the conservation values of ~~land managed by the Department of Conservation~~ conservation areas and Crown-owned reserves considered as a whole

35. Forest & Bird understands that the purpose of this change is to align it with the scope of the land exchange provisions, which may apply to Council reserves and not only land managed by the Department of Conservation.[31] However, it is not clear that "Crown-owned reserves" would cover Council reserves as Councils are not generally considered to be part of the Crown. It also has the effect of significantly broadening the comparison required, so that a panel will need to consider how a particular land exchange will enhance the entirety of conservation values in both conservation areas and Crown-owned reserves. As it is not clear exactly what this clause is

---

[27] New section 117A as inserted by cl 54

[28] For example, the lawyer for Oceana Gold wrote to the panel convener to request the appointment of Rob van Voorthuysen to the panel appointed to decide Oceana Gold's substantive application for the Waihi North gold mine. The correspondence is addressed in and attached to Forest & Bird's comments on the project, available here: https://www.fasttrack.govt.nz/__data/assets/pdf_file/0015/10941/Forest-and-Bird-comments_Redacted.pdf

[29] Clause 29(2), Schedule 6 FTAA

[30] Clause 29(2), Schedule 6 FTAA as amended by cl 58(11) of the Bill

[31] Briefing BRF-6559 p 21

trying to achieve, we recommend that the Committee asks the Department of Conservation for clarification.

36. The proposal to discount the extent to which the conservation values of the private land are affected by anything registered or noted for conservation purposes on the record of title for that land is supported in principle as it avoids developers "double dipping" and lack of any environmental benefit where a protective mechanism has been imposed to address a previous impact. As explained in Briefing BRF-6601:

> Clause 29(2) does not account for situations where land offered in an exchange is already under permanent legal protection (e.g. covenant-protected private land). In such cases, the "net benefit" test could be met solely by bringing the land into Crown ownership, even if this does not result in an actual increase in the overall area of protected land … If this is not corrected then, for example, a developer could enter into council covenants to satisfy conditions of resource consent, and then exchange that covenanted land with DOC in later years, with the exchange essentially being a "double-dip" on the use of the protected areas …

37. However, the proposed clause is limited to mechanisms registered on the title, where-as there are other forms of legal protection that would not be registered, and where the same double dipping issue would arise. The language of the amendment could also be made clearer. Forest & Bird recommends the following amendment:

> (12) In Schedule 6, after clause 29(2), insert:
>
> (2A) When considering the conservation values of the land to be acquired by the Crown, for the purpose of forming its view under subclause (2), the panel must discount conservation values to the extent they ~~to which the conservation values of that land~~ are already under any form of legal protection, including as a result of ~~affected by~~ anything registered or noted for conservation purposes on the record of title for that land.

Schedule 7 amendments

38. Forest & Bird does not support fast-tracking approvals to liberate wildlife, or export bats, birds and reptiles from New Zealand, both of which cl 59 of the Bill would allow.[32] These are weighty decisions requiring careful consideration and proper public input. There has been no analysis of this change other than to say that it was intended that all wildlife approvals would be covered.

39. Forest & Bird does not support the proposal to enable transfers of wildlife permits[33] because the suitability of the person seeking the permit is part of the consideration of granting a permit.

Request to be heard

40. Forest & Bird would like to be heard in support of its submission.

[32] Clause 1 of Schedule 7 FTAA, as amended by cl 59 of the Bill
[33] Schedule 7 FTAA as amended by cl 59