

19 April 2024

Environment Committee

Submitted online at [www.parliament.nz](http://www.parliament.nz)

Tēnā koe

## Canterbury Mayoral Forum Submission to the Environment Committee on the Fast-Track Approvals Bill

---

1. The Canterbury Mayoral Forum thanks the Environment Committee for the opportunity to provide a submission the Fast-track Approvals Bill.

### Background and context

2. The Canterbury Mayoral Forum comprises the mayors of the ten territorial authorities in Canterbury and the Chair of the Canterbury Regional Council (Environment Canterbury), supported by our chief executives. The purpose of the Forum is to promote collaboration across the region and increase the effectiveness of local government in meeting the needs of Canterbury's communities.
3. The eleven local authorities are: Kaikōura, Hurunui, Waimakariri, Selwyn, Ashburton, Timaru, Mackenzie, Waimate and Waitaki District Councils, the Christchurch City Council and Canterbury Regional Council.
4. The Forum's Mayoral Plan for Canterbury 2023-25 identifies three priority issues for leadership and advocacy, all of which intersect with the purpose and focus of the Fast-track Approvals Bill and underpin this submission:
  - a. **Sustainable environmental management of our habitats** (land, air, water and ecosystems) – focusing on land use and freshwater management
  - b. **Shared prosperity for all our communities** – focusing on building on our economic strengths and developing emerging sectors, growing, attracting and retaining a skilled workforce, improving the transport network and coordinating strategies for housing our communities

### *Mayors standing together for Canterbury.*

Secretariat, E: [secretariat@canterburymayors.org.nz](mailto:secretariat@canterburymayors.org.nz) W: [www.canterburymayors.org.nz](http://www.canterburymayors.org.nz)  
C/- Environment Canterbury, PO Box 345, Christchurch 8140 T: 03 345 9323

- c. **Climate change mitigation and adaptation** – reducing our carbon footprint, working together on climate action planning, building community resilience, and making our infrastructure as strong as it can be.

5. The following submission has been developed with input from across Canterbury Councils and focuses on matters of general agreement. Some of our Councils will make individual submissions, which while in general alignment with this submission, will be slightly different on some matters.
6. Please note that Ashburton District Council did not participate in the development of this regional submission and will be providing its own submission on the Bill.
7. The Forum acknowledges the significant amount of work the Government has undertaken in developing the Fast-track Approvals Bill in a short space of time. The Forum generally supports the need for an efficient and effective approval process to deliver much needed infrastructure projects that have national and regional benefit. It also sees merit in bundling the consideration and determination of multiple approvals for applicants and taking an integrated approach to related approvals. It notes the Bill creates opportunities to build critical infrastructure with less time, cost and impact on ratepayers.
8. Notwithstanding, the Forum has some concerns about the Fast-track Approvals Bill and considers that several important changes are required to address these concerns. The key changes requested are set out in the following section.
9. The Forum wishes to speak to the Environment Committee in support of this submission.

## **Key amendments requested**

### **Amend the Bill's purpose**

10. The Forum considers the Fast-track Approvals Bill could be improved by clarifying it is focused on creating expedient decision-making processes. As the Bill stands, it risks perception that project delivery will be prioritised at the expense of achieving key environmental objectives, which the Forum does not consider to be the intended balance.
11. While the Forum recognises the RMA has issues that need to be addressed, we consider there are significant risks if this and other key environmental statutes are completely 'skipped over' by the process laid out in the Bill.
12. Significant effects on the environment and subsequent, vocal public opposition could result if the Bill does not show how environmental objectives will be considered. This disruption could slow or complicate investment and development and impact social cohesion, thereby fettering Government's long-term social, economic and environmental goals.

## Reduce potential chokepoints for processing applications

13. The Fast-track Approvals Bill provides the Joint Ministers<sup>1</sup> with significant key roles in the approvals process including:
  - a. referring applications
  - b. determining referral applications from the Panel
  - c. determining substantive decisions on fast-track applications
  - d. selection of panel conveners and panel members
  - e. dismissing panel conveners
  - f. deviating from the panel's recommendation on a referral application.
14. The Forum considers the extent of Ministerial involvement will be practically difficult for the Joint Ministers to resource and administer given:
  - a. the size and complexity of national and regional scale developments
  - b. the multiple approvals required
  - c. the large number of approval applications that are likely to be lodged directly with the Joint Ministers.
15. This could create significant capacity issues for the Joint Ministers, lead to delays and therefore be contrary to achieving the purpose of the Bill.
16. As an alternative, the Forum considers there could be opportunities for Ministers to direct an independent authority that specialise in environmental approvals (e.g. the Environment Court, Environmental Protection Agency or Commissioners) to process and determine approvals.
17. If the Government wishes to pursue the Joint Ministers approach, the Forum requests that:
  - a. the Minister for the Environment is included to ensure environmental matters are given proper consideration
  - b. appropriate checks and balances are in place through the legislation to reduce perception of political bias, now and into the future
  - c. the Bill provides clearer parameters around when and how the Ministers can overturn the Panel's recommendation. The Bill should be specific about what analysis and/or evidence the Ministers must have to undertake to deviate from the Panel's recommendations, particularly if there will be significant environmental effects. The Forum is of the view that Ministers should only be able to deviate from the Panel's recommendations in extenuating circumstances where specific criteria or rationale have been met, including appropriate technical input.
18. We note that several members of the Canterbury Mayoral Forum have different perspectives on this issue and refer you to individual Councils' submissions.

---

<sup>1</sup> Ministers of: Infrastructure; Transport; Regional Development; Conservation; and Crown Minerals Act

## **Provide for public participation, with appropriate constraints**

19. The Forum is concerned about the limited role of public participation in the process laid out by the Fast-track Approvals Bill.
20. Very limited scope for public participation is provided for in the Fast-track Approvals Bill despite the national and regional significance of the projects that it relates to. Restrictions on public participation in the Fast-track Approvals Bill include:
  - a. no public or limited notification of applications is allowed
  - b. no requirement to hold hearings (although they can still occur)
  - c. no comment of parties allowed on the applicant's further information response
  - d. no appeal rights on the merit of the decision.
21. The Forum recognises that limits of public participation have been proposed as a compromise to increase the speed of decision-making. However, the Forum considers the proposed Bill 'overcorrects' by not retaining a necessary baseline of local democratic input. It runs the risk of disenfranchising communities and diminishing the effort the Council and community have put into their plans and policy statements.
22. The projects to which the Fast-track Approvals Bill relates will, by their nature, have significant potential effects on communities and the environment. An appropriate level of participation in matters that affect people is a key part of democracy, and will preserve private property rights, enjoyment and investment. It is our experience that not providing people who are affected by development with some form of participation rights in decision-making processes can create substantial discontent, which can slow or complicate that development.
23. It is also our experience that submissions from the local community provide useful information and evidence in relation to resource management matters. Further, it is appeal rights, not submissions, that slow down approval processes for major infrastructure and development projects. Given the Fast-track Approvals Bill does not have appeal rights on the merit of the decision and does not require hearings, the Forum considers it has addressed a factor that significantly slows the process.
24. With these matters in mind, the Forum considers that the Fast-track Approvals Bill should be amended to enable people can make a submission on a resource consent application, subject to constraints such as the submitters demonstrating they an interest in the project that is greater than that of the general public.

## **Clarify the significance criteria, particularly regarding national and regional benefits**

25. The Forum supports the inclusion of the eligibility criteria and particularly the inclusion of criteria that requires projects to have significant national/regional benefits<sup>2</sup>. However, the Forum has concerns about the drafting and application of the significance criteria.
26. The Forum's first and most particular concern is that the significance criteria are not mandatory matters for the Joint Ministers to consider. The issue this creates is that it provides Ministers with

---

<sup>2</sup> Section 17(3) Fast-track Approval Bill

unfettered autonomy as to what is considered nationally or regionally significant at any given time. This risks misalignment with national or regional strategies and may create uncertainty or a lack of transparency for those proposing projects. Accordingly, the Forum requests that the Fast-track Approvals Bill is amended so that the national and regional significance criteria under its section 17(3) are changed to be mandatory as opposed to discretionary consideration. The Forum also seeks involvement in the process of what counts as 'regionally significant' for Canterbury.

27. The Forum's second concern is about the terminology used in relation to projects that have '*significant national and regional benefits*'. This term is not defined and is therefore open to interpretation. The Forum considers a term such as 'long term significant national and regional public benefits' would be more appropriate. This distinguishes that the benefits should be public not private and acknowledges that it is inappropriate for the process to deal with projects that only have short term benefits. Conceivably, '*significant national and regional benefits*' could be interpreted as benefits applying to a private national or regional company or sector or occurring over a short duration.
28. The Forum also requests that it is involved in creating an operational definition for projects that are regionally significant for Canterbury. We have significant expertise and understanding of local and regional strategies and priorities, and would be concerned if a central definition of 'significant' were to come in over the top.
29. The Forum also considers that the use of the terms '*sector plan or strategy*' in Section 17(3)(a) is unclear and is open for interpretation. The Forum requests that this section only applies to identified priorities in central or local government plans or strategies.
30. The Forum also notes that the significance criterion 'support climate change mitigation, including the reduction or removal of greenhouse gas emissions'<sup>3</sup> could be interpreted to conflict with the significance criterion 'development of natural resource, including minerals and petroleum'<sup>4</sup>. The lack of a clear hierarchy or weighting between significance criteria could create confusion and uncertainty, and the potential conflict between these two in particular could complicate central or regional action on climate change mitigation and adaptation.

### **Eligibility criteria for prohibited activities**

31. Section 17(5) allows referral applications to be made for prohibited activities under the RMA. Prohibited activities are activities that have gone through a public plan making process and found to be inappropriate in a particular environment. The justification for prohibiting activities requires a high evidential basis and they are subject to extensive consultation with the community.
32. Accordingly, the Forum is concerned that prohibited activities are eligible for the referral application process. However, we also acknowledge that in certain circumstances it may be very difficult for major projects to avoid the inclusion of prohibited activities, and we recognise Government's intent to enable clear decision-making pathways.
33. With these matters in mind, the Forum requests that Section 17(5) of the Fast-track Approvals Bill is amended to only allow the consideration of prohibited activities in extenuating circumstances or when a project has a functional need to locate in that environment.

---

<sup>3</sup> Section 17(3)(g)

<sup>4</sup> Section 17(3)(f)

## **Improve the ineligibility criteria to reduce international reputational risk**

34. The Forum broadly agrees with the ineligibility criteria.<sup>5</sup> These could be augmented to include:
- a. world heritage areas;
  - b. nationally significant:
    - i. areas of significant indigenous vegetation and significant habitats of indigenous fauna;
    - ii. outstanding natural landscapes and features;
    - iii. historic heritage.
35. Any development that has impacts on these areas could potentially damage New Zealand's international reputation.

## **Ensure Panel Members are appropriately experienced**

36. The Forum supports the use of Expert Panels to consider approval applications. It also supports Councils being able to nominate elected members as it provides for local democratic input. Further, the Forum supports the ability to nominate non-elected panel members as it provides flexibility for Councils to ensure people with suitable expertise are nominated.
37. However, the Forum requests that the Expert Panel collectively has members that have a high level of knowledge, skills and expertise relevant to the parent legislation to which the approval relates. Presently, Clause 7 Schedule 3 only requires, amongst other things, the members of the panel to collectively have knowledge, skills and expertise relevant to the Fast-track Approvals Bill. While knowledge of the Fast-track Approvals Bill will be necessary, a high level of understanding and experience of the legislation to which the approvals relate (e.g. RMA, Conservation Act, etc.) will also be important to ensure impacts are understood.

## **Ensure timeframes for Council comment are realistic**

38. Although the Forum supports the objective of the Fast-track Approvals Bill to expedite decision making, it considers the 10 working day timeframe for Councils to comment on applications to be unrealistic. By their nature, projects of national and regional significance are large and complex projects that include significant documentation and reports. This takes time to review and often requires detailed reporting and assessment from multiple Council units and/or outside experts. Like any government process, reports must go through an accountability process to be approved which also takes time.
39. The Forum considers a more realistic timeframe for Council comment would be 20 working days. Further, it is not just Councils that find short statutory timeframes difficult to comply with. It is our experience in processing applications under the Covid-19 Recovery Fast Track Act 2020 that applicants found the short statutory timeframes provided by that Act were impractical. Accordingly, the Forum requests that the 10 working day timeframe for the Council's comment is replaced with a more realistic timeframe, being 20 working days. In the grand scheme of significant projects, we do not consider this extension would create undue delays for development.

---

<sup>5</sup> Section 18

## **Require an assessment of alternatives**

40. Despite the Fast-track Approvals Bill applying to nationally or regionally significant projects, which may have significant potential adverse effects on the environment, the Bill does not require applications to provide information about consideration of alternatives (except for discharges).
41. As site/route selection is the primary means of avoiding or mitigating adverse effects, the Forum requests that the information requirements for new applications under Schedule 4 of the Bill include a description of any feasible alternatives. This would include an assessment of alternative locations, routes and methods for undertaking the activity and should be accompanied by a requirement to demonstrate the preferred location, route or method is the best alternative to avoid or mitigate adverse effects on the environment.


## **Provide for the inclusion of a sunset clause**

42. The Forum considers the inclusion of a sunset clause or mandatory review period to put a time limit on this legislation is warranted. We would expect that the introduction of the new resource management structure and framework, once enacted, should do away with the need for bespoke fast-track legislation, as it is expected that this will be embedded as part of the new system.

## **Further information**

43. Our secretariat is available to provide any further information or answer any questions about our submission. Contact details are: Maree McNeilly, Canterbury Mayoral Forum Secretariat, [secretariat@canterburymayors.org.nz](mailto:secretariat@canterburymayors.org.nz), 027 381 8924.

Nāku, iti noa, nā



Nigel Bowen  
Chair, Canterbury Mayoral Forum  
Mayor, Timaru District Council