Submission of Clever Green Limited on the Fast-track Approvals Bill

SUBMITTER DETAILS

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Introduction

1. Remix Plastic to communicate science, policy and economic systems in a way that engages individuals to make sustainable changes and have a positive vision for the future. Our work includes workshops sharing skills to reduce waste, hands on plastic recycling and upcycling, consulting on waste reduction and facilitating conversations around Ōtautahi, Christchurch.

2. We strongly oppose the Bill.

3. The Bill purports to be a fast-track legal framework. It is not. Rather, it is an environmental destruction Bill . It rides roughshod over almost all the country's environmental protections and has no requirements to take into account or give effect to Treaty principles, or to uphold Te Tiriti itself.

4. A framework founded on sustainability is essential for businesses' social licence. Projects established under the Bill may be technically approved, but will not be sustainable and will not have any social licence. That is not good for industry or business.

5. The Bill places excessive and unfettered powers to approve projects in the hands of development Ministers and unjustifiably removes public participation and checks and balances.

Key concern #1: Too many harmful projects are eligible to enter the fast-track

6. Some projects will be explicitly listed in the Bill and proceed to consideration by a panel, without the need for any statutory assessment as to whether they are eligible for fast-track.[1]

7. There is a lack of transparency. No listed projects have been included in the Bill as introduced. This means that specific projects (potentially 100 or more) may remain completely unscrutinised by the public despite being included in the final law. That is not how law should be made. It is the Select Committee's role to examine the content of our law, based on detailed submissions from experts, stakeholders and the public.

8. I am deeply concerned that projects which end up being listed may include those that have been previously declined, proposals that are likely to have been declined under existing RMA processes, or proposals that have significant environmental effects that would otherwise have merited public consultation. It will be an insult to all those who participated in good faith in previous consenting processes, if those decisions are overturned by legislation.

[1] Clause 18 and 21.

9. The Bill also states that projects could be considered under the FTA Act that have significant environmental effects, that would generally merit public consultation.

10. There is no requirement to "take into account" or to "give effect to" the principles of the Treaty of Waitangi in the Bill. This is completely unacceptable.

11. In addition to listed projects, the Bill lets Ministers pick and choose projects for the fast-track process. Government can thus be the developer, the regulatory gatekeeper and the ultimate decision maker. This is an inappropriate distribution of power in the executive.

12. The eligibility criteria for referral ("significant regional or national benefits") are discretionary, open to Ministerial interpretation and too broad. They capture almost all activities. The Bill should be more targeted than this.

13. There are also only very few cases where projects are specifically *not* eligible to enter the fast-track for environmental reasons. One of the most concerning aspects is that prohibited RMA activities are specifically made eligible. These outright bans are for the most environmentally dangerous activities, which this Bill will enable.

14. There is also no requirement to stop the referral of projects that would increase greenhouse gas emissions, contribute to extinctions, pollute freshwater, cause risk to human health, pollute water bodies covered by water conservation orders, or even breach international law on marine dumping.

15. Although Ministers *can* refuse projects on environmental grounds, this is discretionary and is made in the context of the Bill's development-focused purpose.

16. It is also inappropriate that the "joint ministers" responsible for referral decisions are those for Regional Economic Development, Infrastructure and Transport, and do not include the Minister for the Environment (or the Minister of Conservation in the coastal marine environment).[2]

Key concern #2: The process and decision-making criteria for RMA approvals are inappropriate.

17. The Bill's process and decision-making criteria for RMA approvals are grossly inadequate. Once referred by Ministers, the fast-track process is little more than a rubber-stamping exercise for projects.

18. It is not appropriate that the development purpose of the Bill should take priority, and not be qualified by any consideration of the natural environment. The purpose and principles of the RMA, national direction, council plans and other RMA provisions are all second order considerations with less weight. The RMA and its instruments should not be slide lined.

19. Panels are not directed to consider the importance of reducing greenhouse gas emissions. They should have to in furtherance of New Zealand meeting its international emissions reduction commitments.

20. Ministers can choose to accept or reject panel recommendations and proceed down a different route. It is deeply problematic that Ministers (who do not have the expertise), rather than expert panels (who do), make the final decisions. It reduces panels to advisory bodies

[2] Despite that Minister being responsible for core legislation being overridden by the Bill.

that can be ignored. It is also inappropriate for development-focused Ministers to be the ones making these calls. It puts far too much power in unspecialised individuals.

21. Direct political decision-making on particular development projects leaves Ministers open to considerable legal and political risk. It is unclear how conflicts of interest are to be defined or managed.

Key concern #3: Public involvement and other checks and balances are absent

22. The Bill dispenses with almost all opportunities for the public to be involved in decisions having significant effects on New Zealand's environment and natural resources. This is undemocratic.

23. When making referral decisions, Ministers must invite written comment from local government, other relevant Ministers and various Māori entities.[3] There does not appear to be any requirement to notify owners or occupiers of land who potentially have property rights affected by a project. This is unfair and wrong.

24. Public notification is not allowed by panels either.[4] Panels must invite comment from a narrow range of people and groups and can choose to invite comments from any person that they consider "appropriate". But there is no requirement that the public be involved in the process. Nor is the Parliamentary Commissioner for the Environment – our independent watchdog – to be consulted or even informed. The Minister for the Environment, who is meant to be democratically accountable for environmental outcomes, is not a relevant Minister from which the panels must seek feedback.

25. All this is particularly concerning because the very projects that are likely to be referred to panels are also the ones that are likely to have significant adverse environmental effects and warrant the additional scrutiny provided through submissions and expert evidence from non-governmental organisations.[5]

26. Public participation in assessment of activities and consent applications is crucial to ensure not only our local iwi and hapu are involved in significant processes, but that the entire public can make their concerns or support heard. We must continue to have a way of governing which depends on the will of the people - This is the definition of democracy.

Key concern #4: Conservation protections are overridden

27. I am concerned that the Bill overrides key conservation protections.

28. Existing policies have been developed by the government to ensure appropriate management of our natural and historic resources (for example DoC Conservation Management Plan). This Bill undermines the groundwork that has been laid by both the government and organisations to ensure protections they include Te Tiriti principles and relevant focus and distribution of resources.

[3] Clause 19.
[4] Schedule 4, cl 20.
[5] Even prohibited activities – which by definition are environmentally harmful – are eligible for fast-tracking and therefore little public scrutiny.

29. The Bill allows for changes to how approvals under the Wildlife Act 1953 are made. The ability to provide for offsetting and even compensation[6] for impacts on wildlife is a major departure from the Act, which does not allow authorisation of harm to wildlife. There are no parameters around the extent of harm that can be caused – even to Threatened, Data Deficient and At-Risk species. The approach provided for in the Bill will increase the risk of species being pushed towards extinction where they inconvenience new highways, mines or dams.

30. There are numerous species that are endemic to New Zealand and rely solely on our government for protection. These include native birds, frogs, and geckos that already vulnerable to small environmental changes.

31. The inclusion of access arrangements under the Crown Minerals Act 1991 as an "approval" eligible for fast tracking under the Bill is also of significant concern. Such approvals allow for access to Crown owned conservation land for mining. This could enable mining to occur on stewardship land, conservation parks, forest parks, local reserves and other places without the public being notified. Most alarmingly, the Bill does not clearly prevent the referral of projects seeking to conduct open coast mining (eg for coal) in places like national parks or national reserves.

32. We strongly disagree with mining on conservation land and believe that protections for these areas should include complete prevention of disturbing the land as well as fauna and flora.

Key concern #5: The rationale for the Bill is weak

33. The Bill goes well beyond what is needed to address the problems for which there is actual evidence. I call attention to the Ministry for the Environment's statement that analysis was not as thorough as "*would usually be expected for a Bill of this significance*".[7] The Ministry also specifically advises against taking most of the key design measures in the Bill.

Concluding comments

34. The Bill represents a monumental shift in environmental consenting in this country. It is a radical disruption of the system which will undoubtedly lock in environmental degradation for decades to come. It bears little resemblance to existing fast-track processes, which are currently operating adequately. Fast tracking under the Covid-19 legislation, which went nowhere near as far as this Bill and is largely replicated in the current fast track process retained from the Natural and Built Environment Act, has shaved 18 months off the average consenting timeframe. There is simply no need for the Bill. It should not be passed.

35. I thank the Select Committee for the opportunity to submit on this Bill.

36. I do not wish to be heard in support of my submission.

[6] Schedule 5, cl 1(2)(e).
[7] Ministry for the Environment *Supplementary Analysis Report: Fast Track Approvals Bill* (2024) at 5.