

Regarding the Fast-track Approvals Amendment Bill

Submission to the Environment Committee

November 2025



Submission of Taituarā – Local Government Professionals Aotearoa regarding the Fast-track Approvals Amendment Bill

Taituarā — Local Government Professionals Aotearoa (Taituarā) thanks the Environment Committee for the opportunity to submit in respect of the Fast-track Approvals Amendment Bill (the Bill). Taituarā would like to speak to this submission.

Who is Taituarā?

‘Taituarā’ is Aotearoa New Zealand’s leading membership network for professionals working in and for local government. As an independent, apolitical organisation, Taituarā works proactively on the professional, technical, and practical aspects of policy, legislative, and regulatory change. Active, genuine, and early engagement with Taituarā ensures the Government gets the best advice to make its policies work effectively and ultimately results in quality policy, legislation, and implementation.

Introductory comments

Taituarā has worked with planning and resource management managers, through our Resource Management Reform Reference Group, to review the Bill and to develop this submission.

We support the amendments to the Fast-track Approvals Act (FTAA) that provide greater certainty for grocery retailers regarding their qualification to use the fast-track process. We also support those technical amendments that will make the Act more workable.

However, we have concerns about the amendments that reduce consultation requirements, increase Ministerial powers, set tighter timeframes for processing applications and enable panels to set conditions that require third parties to provide the infrastructure required to support a project. We are generally concerned the system will become unbalanced if Ministerial powers are increased in the ways proposed in the Bill (e.g. GPS, directions to EPA, modifications to applications) because it will reduce the independence of panels and the EPA.

We have identified a number of matters we hope this Bill can address – in relation to integrated planning, cost recovery and lapse dates.

Changes to mandatory consultation requirements

The Bill, through clause 6, reduces the mandatory obligation to consult prior to the lodgement of a referral application and a substantive application for a listed project.

The FTAA currently requires consultation with local authorities, iwi authorities, hapū, Treaty settlement entities, administering agencies, and relevant land holders where a land exchange is proposed. The Bill proposes the requirement to consult is replaced with a requirement to notify these persons in writing. The requirement to consult would only apply to any relevant applicant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011 and (where relevant) ngā hapū o Ngāti Porou.

The changes mean the opportunity for meaningful, two-way engagement is stripped back, and the opportunity to make changes to a project and shape an application in response to the consultation is removed. The changes do not mean that engagement won't take place, but removing the requirement for mandatory engagement is of significant concern. Councils advise that the current requirement for consultation ahead of lodging a referral application (and under s29(1)(a) before lodging a substantive application is invaluable for both parties.

Recommendation:

1. **Delete** clause 6 and **retain** the current provisions in section 11 of the Fast-track Approvals Act, requiring an applicant to consult the relevant local authorities, iwi authorities, hapū, and Treaty settlement entities, including iwi authorities and tangata whenua and iwi groups listed before lodging an application

Restricting Panel's discretion to invite additional persons to comment on an application

Taituarā has concerns with clause 33 that amends section 53, proposing to restrict rights to comment on an application. Section 53 of the FTAA provides for a panel to invite comment from anyone it considers 'appropriate'. This includes NGOs and community groups.

Clause 33(2) of the Bill proposes that comments on a particular matter may be invited from any other person or group by allowing a panel to only invite such comments where a local authority or relevant administering agency does not 'intend' to cover a particular matter, or if their intended comments would not 'sufficiently' address the matter. This presumes the Panel

already knows the scope of comments other people will make and a local authority will cover those. The latter presumption is erroneous because a local authority will not always have the same views about the application as other people nor is it reasonable to consider a local authority should be presenting the views of another person, whether it agrees with them or not.

Taituarā does not consider it appropriate to restrict rights to comment as proposed in the Bill. There is an assumption that other parties would not provide relevant information about an application, and the local authority or relevant administering agency will have this fully covered. We know this is not always the case, with many examples of submitters providing information not previously known to the local authority, or additional detail that aids decision-makers.

Taituarā is concerned this will create challenges for non-referred applications where there is limited pre-engagement with the relevant territorial authorities and a need to try and determine all the issues that might be relevant or appropriate in a shorter space of time. This also potentially creates a further step in which councils will need to formally confirm what they 'intend to address' before formally making comments, so that the panel knows whether or not they need to invite comment from other parties. If this is done sequentially, after a council's comments are provided, it will create a time delay (that does not seem consistent with the Bill's stated intent).

The current provisions enable panels to invite comments from parties they consider to be relevant to their decision on an application. We consider it is critical to give panels this discretion and to retain the provisions as they stand.

We also note that clauses 6 and 14 of the Bill now require an applicant to notify a council of a project, not to consult ahead of lodgement. Councils will have less time to provide all relevant information on a proposal, and to do so on behalf of communities and NGOs.

Lastly, this Bill provides the opportunity to address the uncertainty about the scope of a council's comments under s 53 of the FTAA and we support this being addressed.

Recommendations:

1. **Delete** clause 33 and **retain** the current provisions in section 53 of the Fast-track Approvals Act.
2. **Provide certainty** about the scope of a council's comments in relation to an application

Timeframes

The Bill introduces shorter timeframes across the fast-track process. These include a 15-working day limit for setting up a panel, a 10-working day limit after appointment of the panel for inviting comments on a substantive application, and a 60-working day limit for issuing a final decision. The shorter timeframes have the potential to undermine the opportunity for thorough review and to rush decisions on projects that have a high environmental impact. Smaller councils, with have less capacity, report that the current timeframes are challenging to manage – with input sometimes being requested within a fraction of the stipulated timeframe. It does not follow that smaller councils have fewer fast-track applications. When external resource is brought in it is even more challenging to meet the requirement.

Recommendation:

1. **Delete** clause 33(2) and **retain** the current provisions regarding timeframes in the Fast-track Approvals Act

Appeal rights

Appeal rights are available under Section 99 against decisions only on questions of law. Clause 50 of the Bill further restricts who can appeal, to those who must have been invited to provide comment by a panel or by the Minister under sections 17(1), 53(2) or 35(1)(a)-(d).

We are concerned about this further restriction and question whether parties who are cut out of the process will challenge this through judicial review. These reviews can take several years to be dealt with via the courts, while project costs are escalating. High Court appeals have relatively limited cost awards to act as deterrents, particularly where matters at issue are considered to have public interest.

Recommendation:

1. **Delete clause 50** in the Fast-track Approvals Amendment Bill

Conditions relating to infrastructure

Clause 46 is poorly worded and is not clear in what is trying to achieve. It is open to two interpretations. It could be read as binding a third party to establish infrastructure that it does not have capacity or approval to establish, which brings with it a myriad of problems.

On the other hand, if the intention is to allow consents to be granted subject to pre-requisite infrastructure being provided to support a project, then the clause should be reworded so that it achieves its purpose.

Recommendation:

1. **Reword section 84A** so that its purpose is clear and is to enable the panel to constrain a project from starting until pre-requisite infrastructure is in place.

Membership of panels

Clause 56(2) amends Schedule 3 to provide that the panel convener, before appointing a panel, may consult the EPA and must notify the applicant and relevant local authorities of the names of prospective panel members. Subclause (2) inserts new clause 3A which allows applicants and local authorities who receive a notification under new clause 3(2) to raise issues concerning prospective panel members with the panel convener.

This proposal is at odds with the notion of panels being tasked with making independent decisions. Applicants should have no influence over the makeup of a panel. This is likely to provide another avenue for legal challenge.

Recommendation:

1. **Delete clause 52(2)** and retain the current provisions regarding membership of panels.

Increased Ministerial powers

Clause 48 of the Bill provides the authority to Ministers to issue directions in relation to the performance and exercise of functions, duties and powers under the FTAA. Increased Ministerial oversight is fundamentally at odds with independent decision-making. We do not support the provisions that enable increased Ministerial oversight and hold the view that these may in fact lead to legal challenge and thereby undermine the Government's intentions for faster processing of applications.

Taituarā also does not support the proposal that the Crown is able to amend aspects of the FTAA directly through Order in Council, bypassing Parliament. As a general principle, we do not support a process to change the law without allowing for public comment.

Clause 42 of the Bill proposes to give the Minister the power to approve a 'modification' to a substantive application after it has been lodged, if requested by a panel. This provides a pathway for a project to be significantly altered after it passes the referral gateway or after it has been listed in Schedule 2 of the FTAA. Modified proposals will be able to bypass the information requirements set out in section 13 of the FTAA and will not need to list persons or groups likely to be affected by the change or whether new aspects of the application are prohibited under the RMA. Further, they do not need to demonstrate that the fast-track process is necessary to facilitate delivery of the project or how it might affect the efficient operation of other fast-track approvals.

The Bill does not include constraints on the extent of a modification and therefore potentially encourages modest applications to be lodged, and substantial modifications proposed later.

Recommendation:

1. **Delete** clause 48
2. **Amend** clause 42 so that modifications cannot be approved that materially expand the scope of a proposal

Other matters

Taituarā has identified several matters that can be addressed by this Amendment Bill in relation to cross boundary matters, cost recovery and lapse dates.

Enabling integrated planning

Taituarā urges the Government to ensure this Bill enables integrated planning across local authority boundaries. This amendment bill presents the opportunity to resolve an issue that has been identified by several councils where a fast-track proposal has implications for an adjoining council regarding infrastructure connections and in respect of urban growth.

Currently, under section 4 of the Act a “relevant local authority” is defined as one whose region or district contains the project area, and in the case of marine consents, includes authorities adjacent to the site. This definition excludes councils from being considered a “relevant local authority” for fast-track projects located immediately outside its boundaries, even when these projects are functionally connected to another council’s infrastructure and in respect of urban growth.

Excluding an adjoining council from the definition of “relevant local authority” means:

- the applicant is not required to consult the adjoining council for referral applications under section 11
- the Minister is not required to seek comments from the adjoining council under section 17 of the Act
- the adjoining council may lose appeal rights due to clause 50 of the Amendment Bill

Taituarā recommends that the definition of “relevant local authorities” in section 4 of the FTAA be amended to define to include territorial authorities that have project areas that are within or outside of but adjoining their city/district’s boundaries.

Recommendation:

1. **Amend section 4** of the Fast-track Approvals Act to include territorial authorities with project areas outside but adjoining their city/district’s boundaries.

Cost recovery

There is uncertainty in the FTAA about cost-recovery for councils. This amendment bill provides a good opportunity to address this. Councils can recover their “actual and reasonable” costs for participating in fast-track processes, however there is uncertainty about what exactly that covers. The legislation should confirm the role of councils in providing comments on individual applications, including that those comments should be underpinned by technical expertise. We

hold concerns about the scope of regulations proposed to be made that will prescribe the scope of a council's assessment of an application.

Recommendations:

1. **Amend** the Bill to provide certainty for councils about cost recovery in relation to their participation on fast-track processes
2. **Work with councils** on the cost-recovery regulations signalled under clause 51

Lapsing of consents already approved under Fastrack Legislation

A number of projects previously approved under the Fast-track processes have been given two year lapsing provisions. The prevailing economic conditions have meant that some projects are delayed. In the meantime, the parent act has been amended (August 2025) to provide for a default lapsing of 5 years for any consents approved after that date. We consider the Fast-track Amendment Bill is a good and timely opportunity to ensure the value in those processes is not lost by existing consents lapsing, when, if they had been processed today would have had a default of 5 years.

We therefore seek an additional provision to deem any consent approved under any previous Fast-track legislation to have a 5 year lapse provision.

Recommendation:

1. **Amend** the Fast-track Approvals Act to deem any consent approved under any previous Fast-track legislation to have a 5 year lapse provision.



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