



NTT Tower  
Level 13, 157 Lambton Quay  
Wellington 6011  
New Zealand

Email: [info@infrastructure.org.nz](mailto:info@infrastructure.org.nz)

19 April 2024

# Infrastructure New Zealand's Submission to the Environment Committee – Fast-track Approvals Bill

---

## 1. About Infrastructure New Zealand

- 1.1 Infrastructure New Zealand (INZ) welcomes this opportunity to submit to the Environment Committee on the Fast-track Approvals Bill.
- 1.2 INZ is New Zealand's membership organisation for the infrastructure sector. We promote best practice in national infrastructure development through research, advocacy, and public and private sector collaboration. Our members come from diverse sectors across New Zealand and include infrastructure service providers, investors, operators, and owners.
- 1.3 This submission represents the views of Infrastructure New Zealand as a collective whole and may not necessarily represent the views of individual member organisations. We have also encouraged our members to make their own submissions raising those issues specific to their areas of interest or expertise.
- 1.4 INZ requests the opportunity to appear before the Select Committee in due course to present our submission.

## 2. General Remarks

### INZ supports a fast-track approach

- 2.1 INZ supports the proposed Fast-track Approvals Bill and recommends that the Bill proceeds, with some suggested amendments to improve its workability, while noting that this is a standalone Bill.

### Consenting infrastructure takes too long and costs too much

- 2.2 It is well recognised that New Zealand faces urgent challenges that require, among other things, a paradigm shift in how the planning system provides for infrastructure. As a country we have a significant infrastructure deficit of \$210 billion.
- 2.3 Consenting major infrastructure and other projects in New Zealand takes too long, costs too much and places insufficient value on the economic and social benefits of development relative to other considerations. At the moment a single project can require multiple approvals under the Resource Management Act 1991 (RMA) as well as conservation, reserves or heritage legislation. It is not uncommon for a Department of Conservation (DOC) approval to take over six months.
- 2.4 A 2021 report for the New Zealand Infrastructure Commission<sup>1</sup> Te Waihangā estimated that current consenting processes for infrastructure projects costs \$1.29 billion per year and that it took nearly twice as long to get a resource consent for key projects as it did five years before.
- 2.5 The Infrastructure Commission also found that projects valued under \$1 million are spending between 13% and 16% of their project budgets on resource consenting. These consenting costs are primarily incurred by applicants having to seek external expert advice, with nearly 70% of consent-related expenditure going to external experts and legal costs. The delay and cost do not often result in better decision-making or environmental, social and economic outcomes.

### INZ supports the purpose and aim of the Bill

- 2.6 INZ supports the stated purpose of the Bill: to provide a streamlined decision-making process to facilitate the delivery of infrastructure and development projects with significant regional or national benefits. We also strongly support the Bill's aims to reduce both the time and costs associated with planning approvals for significant infrastructure and development by providing a one stop-shop for consents and approvals, as well as speeding up the overall consenting process timeframes.

<sup>1</sup> The Cost of Consenting of Infrastructure Projects in New Zealand, July 2021, Sapere report commissioned by the Infrastructure Commission.

2.7 The one stop-shop that the Fast-track approvals process promises has the potential to help remove the uncertainty and productivity loss the current process causes. But it is important that the actual causes of the current approval delays are also addressed, as the solution could be additional funding and resources to support agencies such as DOC to process concession applications or streamlining of internal processes such as the Crown Mineral Act processes. This would be of significant benefit to the infrastructure sector.

## **INZ also supports further reform of the resource management system**

2.8 We do recognise that this legislation won't address all the consenting delays affecting critical infrastructure. This is especially the case for those with small footprints such as telecommunications infrastructure or those with more locally targeted benefits such as wastewater treatment plans.

2.9 INZ on behalf of its members (along with the Property Council, Business New Zealand, the Employers and Manufacturers Association and the Environmental Defence Society) has long advocated for a change to the current overly complicated, expensive, and time-consuming RMA. We maintain that a wholesale RMA replacement that supports development and safeguards the environment, should still be the primary focus for the government.

## **We do have some concerns about the Bill**

2.10 As noted above, INZ supports the Bill proceeding but we share some concerns on certain elements of the Bill with other submitters. Such as the fact the Bill gives significant powers to Ministers, both in referring projects to the Expert Panel and deciding whether projects can proceed.

2.11 We have made several suggestions to improve the Bill, which we outline in this submission. While there is an obvious need to progress critical infrastructure projects in a timely and cost-effective manner, there is also a need to maintain transparency of the process, uphold environmental standards, and ultimately maintain the sector's social licence. This is critical to the overall success of the Fast-track approach and the delivery of world class infrastructure.

## **Process to Identify and Select Fast-track Projects**

2.12 INZ notes that the Government has now established a Fast-Track Advisory Group to make independent recommendations to Ministers on the projects to be included in the Fast-track Approvals Bill. Whilst understandable, the parallel timing of this process to identify and include projects in Schedule 2A or 2B of the Bill, means that consideration of the potential application of the legislation is difficult and lacks transparency at this stage in the process.

## **Inclusion of previously rejected projects**

- 2.13 We note that it will be possible for previously rejected projects to apply for the Fast-track approvals, including projects where these have been successful appeals processes.
- 2.14 There is a significant risk that the community and general public will lose faith in the Fast-track process if this is used to overturn previous decisions. It could be viewed as riding roughshod over rights, especially when decisions not to proceed with some projects have been upheld court, including the Supreme court.

## **Strategic Integration and Infrastructure Interdependency**

- 2.15 There can be a risk that the fast-tracking of an individual project in isolation may not be able to proceed even if approval is granted. This can be because of a lack of strategic integration as council's or other organisations may not be able to deliver other supporting infrastructure (for example electricity, water services infrastructure, transport connections) within the two-year timeframe. The potential for funding and timing mismatches between dependent infrastructure is also heightened within this short timeframe.
- 2.16 INZ recommends that the consideration of Future Development Strategies (as required under the National Policy Statement on Urban Development), City and Regional Spatial Plans and Iwi Planning Documents are mandatory considerations for establishing significance and entry for the Fast track approvals process.
- 2.17 The Bill directs that the joint ministers *may consider* priority projects identified in local government strategies and consistency with local planning documents, including spatial strategies. INZ is supportive of the consideration of these documents but recommends that these are shifted into the "must consider" criteria list.
- 2.18 The Bill should also include a framework to tie Future Development Strategies and Regional Land Transport Plans into defining what is considered regionally significant.
- 2.19 Infrastructure projects also often heavily rely on access to a local supply of construction materials. An important element of infrastructure construction and delivery is the need to access construction material as provided through quarrying activities. In the absence of mandatory regional spatial plans outside Auckland, there needs to be recognition within the Fast-track process that supply chain activities like construction material quarrying also need to be included as part of the approvals process in some cases.

## **Timeframes**

- 2.20 Despite the legislation being labelled as Fast-track, the legislation contains no overall timeframes. Given the nature of the one-stop shop and wider approvals process, INZ questions whether the process would be quicker than the current direct referral process for example. We

recommend that the legislation is amended to be timebound for decisions. A realistic timeframe could be determined based on the COVID-19 Recovery Fast-track process with some realistic allowance included for additional approvals being sought. There should also be a specified time for Ministerial decision-making.

## **Implementation**

- 2.21 Successful implementation of the Bill will require adequate ongoing resourcing of the Environmental Protection Authority (EPA) as well as the other organisations who have a role to play in the wider approvals process (such as Heritage New Zealand, and Department of Conservation). The 2022 independent funding review of the EPA showed that they were funded \$30 million over four years but needs \$94 million over this period to maintain business as usual operations. The EPA's ongoing role now in this Fast-track Approvals process must be adequately funded.
- 2.22 The transparency of the information on applications and their stage of processing or development provided for as part of the COVID-19 Fast-track consenting process has been very helpful. INZ strongly support this type of transparency continuing and the public having access to information on the type of applications etc.

## **3. Specific comments and recommendations**

- 3.1 The remainder of this submission outlines the provisions we support, as well as some specific concerns and recommendations on different clauses in the Bill. We address these from a broader INZ perspective on where the Bill could be improved before it is passed into law. A full list of our recommendations is included in Appendix 1.

### **Part 1 Preliminary provisions**

#### **Purpose (Clause 3)**

- 3.2 INZ supports the purpose of this Bill. While recognising that this legislation has a singular focus, we do note that this is a stop gap measure in the interim before the entire RMA regime is replaced within this Parliamentary term.
- 3.3 However, INZ suggests the following amendment to reflect the concept of sustainability and our United Nations obligations to support 2030 Agenda for sustainable development.

### **Recommendation 1**

- 3.4 Infrastructure New Zealand recommends that the word “sustainable” be added to the purpose as indicated: definition of infrastructure.

*The purpose of this Act is to provide a fast-track decision-making process that facilitates the delivery of **sustainable** infrastructure and development projects with significant regional or national benefits.*

### **Interpretation (Clause 4)**

- 3.5 The RMA is administered by the Ministry for the Environment and whilst the Fast-track Approvals Bill stands alone, there will inevitably be many interactions with the current planning system. It is important that both economic and environmental interests are considered appropriately within the process and the addition of the Minister for the Environment to the Joint Ministers group would strengthen this aspect.

### **Recommendation 2**

- 3.6 Infrastructure New Zealand recommends that consideration be given to including the Minister for the Environment within the **Joint Ministers** group for decision-making process alongside the Ministers of Infrastructure, Regional Development and Transport.

## **Part 2 Fast-track approval process for eligible projects**

### ***Subpart 1 – Application of this Part to approval processes in other legislation***

#### **Application of this Part to specified approval processes (Clause 10)**

- 3.7 Reconsenting and the renewal of designations for nationally or regionally significant infrastructure or development can take an unreasonable amount of time and cost. These types of activities should also be included within Clause 10 (1). The renewal process for infrastructure can sometimes be overly slow and cumbersome, particularly for existing structure which are not realistically going to be removed, for example a hydro dam scheme. The Fast-track approvals process should also be available for these types of activities as well.

### **Recommendation 3**

- 3.8 Infrastructure New Zealand recommends that consideration be given to amending clause 10 and other relevant clauses to make it clear that consent or designation renewals are also able to use the Fast-track approvals process.

### **Consultation requirements for applicants for approvals (Clause 16)**

- 3.9 The value of good proactive engagement prior to the lodging of an application has been demonstrated as part of the Covid-19 Recovery Fast-track process. Infrastructure network providers are critical to many developments and should be consulted ahead of other infrastructure or development applications.

### **Recommendation 4**

- 3.10 Infrastructure New Zealand recommends that clause 16(1) be amended to also include *relevant infrastructure network providers*.

### **Eligibility Criteria for projects that may be referred to panel (Clause 17, clause 21 and Schedule 4 (clause 32))**

- 3.11 Sustainability and Te Tiriti o Waitangi principles are important for our infrastructure sector. Reducing our impact on the natural environment and operating with the principle of sustainable management is a critical for our members. The concept of sustainable management needs to be incorporated into the Bill.

### **Recommendation 5**

- 3.12 Infrastructure New Zealand recommends consideration of the following amendments to address sustainable management in the Bill:

- a. Amend clause 17(2)(a) to read - “whether referring the project is consistent with the purpose of this Act *and sustainable management*”.
- b. Amend Clause 21(1)(a) to read - “referral of the project to a panel is inconsistent with the purpose of this Act *and sustainable management*”.
- c. Amend Schedule 4 clause 32(1)(a) to read - “the purpose of this Act *and sustainable management*”.

## **Schedule 3      Expert Panel**

### **Memberships of Panel (Clause 3)**

- 3.13 We would expect to see that the expert panel also contains members with environmental management skills and experience. Expertise in drafting consenting conditions and enforcement of these would also be recommended.
- 3.14 Given that the Joint Ministers will ultimately make the decision then the Panel convenor should have full responsibility for the establishing the membership of the panel. We would expect this to reduce time delays which have been experienced when Ministers have been establishing Board of Inquiry members etc.

### **Remuneration of panel convenor and panel members Clause 8**

- 3.15 One of the biggest impediments to the success of this Fast-track Approvals process will be securing the expert professionals with the right level of skills and experience for the Expert Panels.
- 3.16 We know that establishing the expert panel can take several months. There is a significant time commitment for members and the current remuneration rates are also a barrier. Expert panel remuneration is lower than EPA staff charge out rates and for a day's work would equate to a graduate employee rate, not an industry expert.
- 3.17 While they were tolerated during the COVID-19 Recovery Fast-track consenting regime, the levels of payment are not sustainable and will not attract the expertise that is required for such important decision-making process.
- 3.18 The reality is that people will not sit on panels if they are not compensated at market rates. While the legislation refers to the Crown fees framework – we strongly recommend that this framework is reviewed and updated to reflect appropriate market rates for the professions being sought to appoint to these expert panels.

### **Recommendation 6**

- 3.19 INZ recommends that the Bill is amended to ensure that appropriate market rates are paid to panel members, or the Crown fees framework is reviewed and updated appropriately.



## **Schedule 4 Process for approvals under Resource Management Act 1991**

3.20 When making decisions, the purpose of the Fast-track Approvals Bill takes precedence over considerations in other legislation and planning instruments, including national direction under the RMA.

3.21 Conflict between Statutory Instruments which still apply to the assessment process such as the National Policy Statement on Indigenous Biodiversity may be disregarded in the decision-making process. This will lead to a waste of time and money for investigations with policy analysis largely redundant.

### **Recommendation 7**

3.22 INZ recommends that the relationship between decision making processes and schedule 4 be tightened throughout the Bill.

### **Information required to assess environmental effects (Clause 13)**

3.23 The Bill does not currently require that persons affected by the activity be consulted. INZ is concerned that our member's existing activities could be impacted. For example through reverse sensitivity effects if sensitive activities are allowed to develop close to existing sites such as quarries, construction materials production facilities/plants or landfill sites).

3.24 We believe there is a balance to be struck between the need to consult, and property rights of existing sites. We recommend that the requirement for applications to consult with affected parties be strengthened.

### **Recommendation 8**

3.25 INZ recommends amending Schedule 4, clause 13(e) to require that applications must include evidence of consultation with affected parties (or attempts to consult if no response has been received).

### **Conditions applying to resource consents (Clause 37)**

3.26 Negotiating consent conditions across different parties can be extremely time consuming. One approach to speed up this part of the process may be to enable informal conferencing so that the inevitable back and forth, and cross-party discussions, can be held efficiently.

3.27 It is important that the starting premise for the negotiation is that this application is going to be granted and then the discussion is around establishing the best conditions to achieve the

economic and environmental outcomes. Having a time-bound session requirement is also critical to keeping the process moving and reaching agreement.

### **Recommendation 9**

- 3.28 INZ recommends that where there are a number of submitters on an application, the ability to hold an information conferencing time-bound session to negotiate the consent or approval conditions be permitted to reach agreement on consent and approval conditions.
- 3.29 There is a benefit from the provision of independent facilitation and appropriate resourcing being provided to the submitters to ensure a constructive and timely participation. This will provide for more transparent and publicly acceptable outcomes in the long term.

### **Panel to make recommendations - Lapse provision subclause (Clause 39(9))**

- 3.30 Infrastructure is a long-term asset which, for nationally and regionally significant projects requires a lot of pre-planning work to secure funding, design, route protection, and property acquisition. A two-year lapse period is too short.
- 3.31 This provision should be consistent with the RMA's five-year period otherwise this could create an unnecessary impediment to using the Fast-track approvals process.
- 3.32 While the full review and replacement of the RMA is expected within this Parliamentary term, we don't believe that the timeframe for the Fast-track approvals should be restricted to two years.

### **Recommendation 10**

- 3.33 INZ recommends that the lapse period is amended from two years to five years, consistent with the RMA.

## **4. Conclusion and recommendations**

- 4.1 INZ acknowledges the effort that has gone into developing this Fast-track Approvals Bill in a relatively short period of time. We consider that this one stop shot accelerated approvals approach is necessary in the absence of a replacement for the RMA.
- 4.2 INZ wishes to see bipartisan approach to the development of a replacements for the RMA that will provide an enduring regime that provides for better environmental outcomes and well as facilitating sustainable development of infrastructure to meet this country's needs.

4.3 We thank the Environment Committee for the opportunity to submit on the Fast-track Approvals Bill and wish to appear before the Committee to present our submission.

Michelle McCormick  
 Policy Director  
 Infrastructure New Zealand

### Annex 1: Full summary of recommendations

#	Reference	Recommendation
1	Clause 3	<p>Infrastructure New Zealand recommends that the word “sustainable’ be added to the purpose as indicated: definition of infrastructure.</p> <p><i>The purpose of this Act is to provide a fast-track decision-making process that facilitates the delivery of <b>sustainable</b> infrastructure and development projects with significant regional or national benefits</i></p>
2	Clause 4	<p>Infrastructure New Zealand recommends that consideration be given to including the Minister for the Environment within the <b>Joint Ministers</b> group for decision-making process alongside the Ministers of Infrastructure, Regional Development and Transport</p>
3	Clause 10 and others	<p>Infrastructure New Zealand recommends that clause 10 and other relevant clauses are amended to make it clear that consent or designation renewals are also able to use the Fast-track approvals process.</p>
4	Clause 16	<p>Infrastructure New Zealand recommends that clause 16(1) be amended to also include <i>relevant infrastructure network providers</i>.</p>

5	<p>Clause 17</p> <p>Clause 21</p> <p>Schedule 4 Clause 32 (1) (a)</p>	<p>Infrastructure New Zealand recommends consideration of the following amendments to address sustainable management in the Bill:</p> <p>a. Amend clause 17(2)(a) to read - “whether referring the project is consistent with the purpose of this Act <i>and sustainable management</i>”.</p> <p>b. Amend Clause 21(1)(a) to read - “referral of the project to a panel is inconsistent with the purpose of this Act <i>and sustainable management</i>”.</p> <p>c. Amend Schedule 4 clause 32(1)(a) to read - “the purpose of this Act <i>and sustainable management</i>”.</p>
6	<p>Schedule 3 Clause 8</p>	<p>Infrastructure New Zealand recommends that the Bill is amended to ensure that appropriate market rates are paid to panel members, or the Crown fees framework is reviewed and updated appropriately.</p>
7	<p>Schedule 4</p>	<p>Infrastructure New Zealand recommends that the relationship between decision making processes and schedule 4 be tightened throughout.</p>
8	<p>Schedule 4 Clause 13 (e)</p>	<p>Infrastructure New Zealand recommends amending Schedule 4, clause 13(e) to require that applications must include evidence of consultation with affected parties (or attempts to consult if no response has been received).</p>
9	<p>Schedule 4 Clause 37</p>	<p>Infrastructure New Zealand recommends that where there are a number of submitters on an application, the ability to hold an information conferencing time-bound session to negotiate the consent or approval conditions be permitted in order to reach agreement on consent and approval conditions. This issue would benefit from provision of independent facilitation and appropriate resourcing being provided to the submitters to ensure a constructive and timely participation. This will provide for more transparent and publicly acceptable outcomes in the long term.</p>
10	<p>Schedule 4 Clause 39 (9)</p>	<p>Infrastructure New Zealand recommends that the lapse period is amended from two years to five years, consistent with the RMA.</p>