

## **Submission on: the Fast-track Approvals Bill**

### **Submitted by:**

Nature and Climate Group of the Nelson Tasman Climate Forum

19 April 2024

We wish to speak to our submission.

### To the Environment Select Committee:

Thank you for the opportunity to provide a submission on the Fast-track Approvals Bill for your consideration. We appreciate that you have been tasked with carefully considering the environmental consequences of this proposed legislation, and we trust that with your collective wisdom and experience, you will make decisions that ensure the environment, ecosystems and ecosystems services on which we are wholly dependent will be protected in the short, medium and long term. We hope that the information we provide in this submission will help you in your decision-making processes.

### **Introduction**

This submission has been prepared by members of the Nature and Climate group of the Nelson Tasman Climate Forum. Our group is composed of restoration ecologists, research scientists, educators, environmental managers, horticulturists, health professionals and hands-on volunteers who plant, and weed, and trap pest species.

We have a deep understanding of the twin, interlinked crises of climate change and biodiversity loss that result from past and ongoing degradation of the natural environment. Through our activities to educate, empower and encourage local communities, Councils and the wider populace, we work to support the vital mahi required to protect, restore and enhance the natural environment we are privileged to call home.

We understand that as people, we are but one species on this planet and like all species, we are wholly and utterly dependent on the natural environment for our very existence. We cannot survive without the life support provided by a healthy, flourishing environment. We need clean water, clean air, nutritious food, functioning ecosystems and a stable climate in order to live. If we degrade our environment to the point where it cannot provide us with these essentials, then no amount of infrastructure or development will save us.

### **Our Concerns**

We strongly oppose the Fast-track Approvals Bill (the Bill).

We do not accept that large-scale development and infrastructure projects should be judged solely on narrow economic merits without reference to their broader economic, environmental and social impacts, in the short, medium and long term.

We do not support legislation which seeks to overturn decades of environmental protections, both legislative and judicial. We do not support legislation that allows activities

prohibited under the RMA. We do not support legislation that allows projects that have already failed to gain consent under existing environmental and conservation legislation. We do not support legislation that will allow large-scale development and infrastructure projects that may:

- Significantly increase greenhouse gas emissions;
- Cause or contribute to the extinction of indigenous species;
- Destroy indigenous biodiversity and ecosystems;
- Pollute freshwater and/or degrade wetland ecosystems;
- Degrade waterbodies covered by a Water Conservation Order;
- Breach international law, such as projects in the coastal marine area that are prohibited under the London Dumping Protocol;
- Cause serious risk to human health and safety;
- Cause long-term harm to the environment and/or to society.

We do not support legislation that allows for large-scale development and infrastructure projects on public land to be approved without public consultation – this is undemocratic.

We do not support a legislative process that prevents scrutiny of the full legislation by both the public and Select Committee before it becomes an Act. In the current version of the FTA Bill on the parliamentary website, Schedules 2A and 2B are empty of projects, despite the understanding that selected projects are to be listed in the Act after it is passed into law, meaning that potentially 100 projects, or more, are provided with a preferential consenting pathway via Schedules to the Bill. Withholding of this key information from the public and the Environment Select Committee is arguably unconstitutional and undermines the democratic functioning of government and the right of the electorate to comment on all aspects and impacts of legislation prior to its passage into law.

We do not support legislation that prohibits public consultation on projects that affect local communities. We do not support such an extraordinary lack of transparency.

We do not support legislation that empowers the Ministers for Transport, Infrastructure and Regional Development to refer projects, determine the composition of the expert panels which make recommendations on the projects, and make the final decisions on project approvals. By placing excessive and unfettered powers in the hands of these Ministers, with no obligation to consult with the Ministers for the Environment, Conservation and Climate Change in many instances, this structure risks the taint of corruption and the perception of corruption.

We do not believe there is a need for a new fast-track bill as there are existing processes in place that are operating adequately.

We believe the Bill in its current form will be:

- Economically damaging;
- Environmentally damaging; and
- Socially damaging.

**We urge you to withdraw the Bill and to replace it with legislation that:**

- honours Te Tiriti O Waitangi;
- employs apolitical, evidence-based decision-making processes;
- allows for public scrutiny and consultation for each project under assessment;
- operates in conjunction with existing legislation and court judgements that protect the environment and cultural assets;
- promotes sustainable development, with sustainability being judged on economic, environmental and social impacts in the short, medium and long term;
- results in the reduction of greenhouse gas emissions;
- empowers expert panels to make the final decision to grant or withhold approval for each project, with the proviso that these panels are made up of appropriate, nonpartisan experts and are given sufficient time and resources to make a comprehensive assessment of the worth of each project.

**Ecosystem Services**

The natural environment provides a range of ecosystem services that are critical to maintaining the economic and social prosperity of this country. These ecosystem services underpin the primary production sector: agriculture, horticulture, viticulture, forestry, aquaculture and fisheries. They underpin human health and well-being. They provide our food. They enable us to generate renewable electricity, allow us to enjoy clean air, clean water, birdsong and swimming in the sea. These services are provided by healthy, flourishing ecosystems in terrestrial, freshwater, coastal and marine environments and include:

- a stable climate;
- carbon sequestration by healthy, intact forests, wetlands and other ecosystems;
- healthy, productive and stable soils;
- erosion control;
- waste decomposition and nutrient processing;
- reliable supplies of clean water;
- attenuation of high flows of water during intense rainfall events and low flows during droughts;
- protection of coastal assets during high seas and storm surge events;
- pollination;
- insect pest control through natural predators;
- kai and kai moana;
- healthy, sustainable fisheries;
- forest products, including non-timber products such as honey;
- renewable electricity generation;
- clean air;
- medicinal products;
- cultural, spiritual and aesthetic benefits;
- mental health and well-being benefits;
- recreation.

## **Economic Implications**

### In Summary

Projects approved under the Bill have a high likelihood of decreasing economic returns from:

- primary industries;
- fisheries; and
- tourism.

Projects approved under the Bill have a high likelihood of increasing costs to the government, tax-payer, rate-payer and business through:

- increased costs to secure credit due to perceptions of corruption;
- increased risks to Free Trade Agreements resulting in increasing costs and/or decreasing market access for exporters;
- increased risks to businesses undertaking the projects with a change in government, which may halt projects mid-stream;
- business risks of stranded assets in the fossil fuel industry as the rest of the world moves on;
- requirement for government (tax-payers) to pay for the clean-up of pollution and environmental damage;
- requirement for local government (rate-payers) to pay for all monitoring and compliance costs associated with projects, despite approval decisions being made by central government;
- increasing costs to individuals, businesses, local and central government from an increasingly unstable climate and more frequent climate disasters due to excessive greenhouse emissions;
- requirement for tax-payers to pay for carbon liabilities over and above our NDC from emissions created by fast-tracked projects.

### Primary Industries

Primary production is a cornerstone of the economy of Aotearoa New Zealand, and essential to our economic and social prosperity. Sustainable primary production relies on the provision of many of the ecosystem services listed above, such as healthy, stable soils, clean water and a stable climate.

There is a high likelihood that projects approved under the Bill will jeopardise the supply of these essential ecosystem services through activities that result in water pollution, excess nutrient generation, increased rates of erosion and sedimentation, destruction of healthy soils, decreased waterway and wetland health, decreased terrestrial and marine biodiversity, and increased climate instability.

### Fisheries

Harvesting the bounty of the sea involves a delicate balancing act between meeting market demands and ensuring the long-term sustainability of fisheries. Although the current Minister for Regional Development does not appreciate that marine ecosystems, like those on land, are complex with a myriad of inter-dependent relationships between species, physical and chemical components, this is the reality. All species have a role to play in the

ecosystems, even sea lions. The loss of one or two species can be sufficient to destroy ecosystem balance and potentially destroy important fisheries.

Projects that impact on marine ecosystems, such as intensive aquaculture and fishing, intensive and inappropriate coastal development, and seabed mining run significant risks of seriously harming our current fisheries and the fishing industry dependent on them.

### Tourism

A significant contributor to our economy, the tourism sector markets Aotearoa New Zealand as a “clean, green” destination where you can explore untouched wilderness, climb rugged mountains, encounter amazing, unique flora and fauna, all the while enjoying top quality food and wine produced by local, sustainable growers. As the adventure capital of the world, our reputation as a destination is dependent upon a healthy environment, with clean water, flourishing biodiversity and spectacular scenery.

Tourists are not going to make the long and expensive trip to Aotearoa New Zealand to visit new roads, coal mines or other large infrastructure. They come here for the nature.

Increasingly, travellers are weighing up the environmental costs of their travel and the environmental credentials of the places they visit. Trashing our international reputation for sound and effective environmental protection will do nothing to entice travellers here.

If we allow the Bill to pass and allow new development and infrastructure projects to be approved without limitations on the environmental damage they can do, tourists won't come. Overturning decades of environmental protections in order to fast-track these projects will seriously harm our tourism industry.

### Corruption

One of the major failings of the Bill is that it places unfettered and excessive powers in the hands of three Ministers to approve projects potentially worth many millions of dollars, with very little oversight. The Bill allows Ministers to refer projects to the fast-track process **and** to make the final decisions to approve or not, thereby effectively giving these Ministers the power to consent large projects without the checks and balances currently in the consenting system. Instead of a transparent, comprehensive assessment of the full merits and implications (including environmental implications) of large-scale development and infrastructure projects, the Bill proposes to over-ride the current consenting process with Ministerial powers of consent.

The role of appointed expert panels in assessing each project is to make recommendations, which the Ministers can choose to accept or reject. There is no requirement for consultation with the other relevant Ministers, including the Ministers for the Environment, Climate Change and Conservation (except in limited cases); the public, even if the project will impact public land; nor with experts and environmental groups that have relevant expertise and knowledge of potential environmental impacts.

Vesting consenting authority in three Ministers, with no right of appeal, is a textbook example of a process that is open to corruption.

Analysis of the Bill by political analyst Bryce Edwards (Democracy Project, Substack, 8 March 2024) has concluded that the new consenting rules will incentivise increased political donations and lobbying to grease the wheels of the new Beehive consenting mechanisms. Vested interests will have every reason to find ways to influence whoever is in the Beehive because the absolute power to give development consents will lie with just three Ministers.

Edwards quotes National Party pollster David Farrar saying that a “legitimate concern is the potential for corruption” flowing from the new rules, and he worries that there are no safeguards to prevent bribery being used by developers to get consents from whichever politicians are in charge of the process.

The authoritative Corruption Perception Index (CPI) produced annually by the respected NGO Transparency International tracks perceptions of bribery, diversion of public funds, use of public office for private gain, nepotism in the civil service and state capture, many of which are relevant to this Bill.

In 2022, NZ was ranked No. 2 in the world for freedom from perceptions of corruption. This high CPI ranking will be lost if the Bill becomes law, as the prospects of bribery, state capture and use of public office for private gain will all become reasonable perceptions by a neutral, informed observer. Perceptions are all.

This will result in poorer economic outcomes, including a higher cost of credit for those borrowing money off-shore (including businesses and government) for the country as a whole, which will greatly outweigh the short-term economic boost that some businesses and individuals will receive from these projects (assuming that future governments permit them to proceed).

Sychowiec *et al.* (Business and Politics (2021), 23, 364–382) state that “during the last few decades, international organisations, policy makers, and experts have expressed an increased concern about the negative economic effect of corruption. While early studies seem to indicate that corruption may help business navigate red tape and thereby improve economic performance, the balance of evidence to date suggests that the negative economic consequences outweigh any potential benefits. Corruption reduces government revenue from taxable sources, increases government expenditures by reducing the productivity of government spending, decreases the rate of growth, and increases public deficits and public debt. International credit rating agencies, such as Standard & Poor’s and Moody’s, have also been sensitive to the fact that “institutions matter” for economic performance, and some agencies even incorporate widely used cross-country comparative measures of corruption in their sovereign credit rating indices. Studies suggest that corrupt countries receive lower credit ratings, which increases the cost of borrowing”.

In summary, New Zealand as a whole will suffer from the perceptions of corruption that the Bill will cause. It will result in a downgrade in New Zealand’s ranking in TI’s Corruptions Perception Index, doing immeasurable harm to the country’s image as a good place to do business. This in turn will have long-term negative economic consequences for the country that will far outweigh the private benefits that will accrue to the favoured economic actors who will directly benefit from the new law.

### Free Trade Agreements

Aotearoa New Zealand has entered into a number of Free Trade Agreements, most recently with the UK, the EU and several Pacific nations in the CPTPP. These agreements are designed to facilitate trade between the signatories and are vitally important for our exporters to ensure their ongoing access to foreign markets.

The Bill potentially jeopardises several clauses in these agreements, including:

- Best endeavours commitment to provide for a high level of environmental protection and continue to improve environmental protections;
- Obligation not to weaken, reduce, waive, or otherwise derogate from environmental laws to encourage trade or investment;
- Requirement for evidence-based decision-making;
- Transparency obligations;
- Requirement to ensure that all interested persons, including non-governmental organisations, have an early and effective opportunity, and an appropriate time period, to participate in the environmental impact assessment as well as an appropriate time period to provide comments on the environmental impact assessment report, for activities related to the production of energy, goods or raw materials;
- Requirement to effectively implement the multilateral environmental agreements to which New Zealand is a party;
- Requirement to effectively implement the United Nations Framework Convention on Climate Change and the Paris Agreement, including commitments with regard to nationally determined contributions, which includes the obligation to refrain from any action or omission that materially defeats the object and purpose of the Paris Agreement;
- Commitments to fossil fuel subsidy reform;
- Best endeavours commitment to protect and conserve endangered species and promote the conservation and sustainable use of biological diversity;
- Best endeavours commitment to promote sustainable agriculture and reduce agricultural emissions;
- Best endeavours commitment to promote the conservation and sustainable management of forests;
- Requirement to implement a precautionary, science and ecosystem-based fisheries management system, consistent with international best practice.

We direct the Select Committee to Annexure 1 of the EDS submission for a comprehensive analysis of these international commitments and the potential impact of the Bill on these commitments.

However, we posit that there is a high likelihood that projects approved under the Bill will not meet these international obligations, significantly risking market access and economic gains for exporters.

### Change of Government

We also posit that there may be significant economic risks to businesses undertaking the development and infrastructure projects if a change of government results in projects being

halted before completion, with the concomitant withdrawal of consent without compensation. To mitigate these potential costs, it is likely project owners will inflate costs at the outset, as a contingency against this possibility, resulting in higher costs for all.

Because the Bill employs a process of Ministerial sign-off of consents, then equally it opens the door to Ministerial cancellation of those consents.

The risk of this happening is magnified because the projects to be covered by the Bill are large-scale in nature and therefore likely to have long development times, spanning electoral cycles.

### Stranded Assets

There is also a substantial risk to businesses seeking consents under the Bill to undertake exploration and exploitation of fossil fuels – coal, gas, oil and petroleum. The world has agreed to reduce greenhouse gas emissions and the future outlook for fossil fuels is looking precarious. Given the intensity of investment and long time frames required to explore and exploit these resources, investors require certainty that eventual returns on investment will be forthcoming in an uncertain and rapidly changing environment. Investment in a dinosaur-era resource is highly risky as the world embraces alternative energy sources.

There is a risk to government too, that any initial investments in fossil fuels will be abandoned after a period of time, with investors walking away from stranded assets that need ongoing maintenance and/or dismantling to prevent pollution or environmental harm – at considerable cost to the tax-payer. One can foresee the situation whereby investors privatise the profits and socialise the costs of their fossil fuel projects, as has been the case around the world over recent decades.

### Clean-up Costs

Without rigorous and evidence-based assessment of all the environment impacts of large-scale development and infrastructure projects, the government runs the risk of providing consents to projects that create long-term environmental problems such as pollution, soil erosion and sedimentation, damage to waterways and wetlands, coastal erosion, loss of biodiversity, ecosystem damage and the diminution of the critical ecosystem services described above.

One example of this is high-intensity dairy farming operations that increase nitrate levels in local waterbodies, making the water unfit for consumption, unfit for swimming and increasing the risks of human diseases such as bowel cancer. Local and central government resources are then required to mitigate this pollution, leaving tax-payers to meet the costs of poor environmental management.

As is the case for stranded assets, it is highly likely that investors will privatise the profits and socialise the costs of these projects, particularly environmental harm, leaving tax-payers to pick up the tab. This is particularly of concern given that many project owners and developers are likely to be multi-national or foreign-owned entities over which the government will have little control. These entities will ensure all profits go off-shore, leaving Aotearoa New Zealand worse off, economically and environmentally.



### Monitoring and Compliance Costs

Despite central government having the power to grant consents to fast-tracked projects, it will be left to local government to cover the ongoing costs of monitoring and compliance for projects on their patch. As these are likely to be complex projects, these costs could be quite significant and it is unclear if consent conditions will require project owners to pay these costs. If not, rate-payers will end up paying, at a time when increases in rates and pressure on local government is at an all-time high.

### Climate Instability

The government has yet to demonstrate that projects approved under the Bill will not add to the emissions of greenhouse gases, and it is difficult to evaluate the likely emissions of projects when the identity of projects is being kept secret.

However, it is possible to speculate that the sort of projects being considered for approval under the Bill include roading infrastructure, large-scale primary production, coal mining, seabed mining, fossil fuel exploration and extraction, dam construction and similar projects. All of these projects will result in high levels of greenhouse gas emissions, either in the construction phase and/or the operational phase.

New roads will result in increased emissions during construction and use, unless the entire fleet is electrified. Dams require serious amounts of climate-polluting concrete in construction. Large-scale animal agriculture results in large-scale methane emissions, a potent greenhouse gas. Obviously, fossil fuel exploitation results in emissions not just in their combustion, but also in the process of extraction, which can create methane emissions. In addition, the materials used in the infrastructure of these projects (steel, concrete etc) are also likely to create emissions.

However, we are particularly concerned about the emissions associated with seabed mining. Trawling the seabed for minerals (and fish) releases high levels of sequestered carbon back into the marine carbon cycle. Our oceans have already done much of the heavy lifting in absorbing human-generated carbon emissions, and will quickly become saturated and unable to continue to absorb carbon. If these emissions are released into the atmosphere, they will further increase CO<sub>2</sub> levels and the associated climate instability.

Humans have flourished for the past 10,000 years because a relatively stable climate has allowed us to develop technology, build societies and create a lifestyle of ease. As intelligent people have been cautioning for decades, we are putting this lifestyle at risk by increasing the carbon content of our atmosphere, which increases the energy stored therein. This increased energy results in the climate change instability we are now increasingly familiar with – increased frequency and severity of adverse weather events such as storms, high winds, heavy rain, droughts, heat waves, wild fires etc. These phenomena are not new, but it is the increase in their frequency and severity that we are rapidly engineering through our emissions of greenhouse gases.

The impacts of these adverse events are expensive, eye-wateringly expensive. The insurance bill alone for householders and businesses for the Auckland Anniversary flood event combined with Cyclone Gabrielle in 2023 was \$4 bn.

Four billion dollars. That's a lot of money. And it doesn't begin to cover the costs borne by central and local government for repairing infrastructure damage.

Insurance companies are not charities, and so that \$4 bn gets passed on to the insured – those who insure their homes and businesses against adverse events. The increasing costs of insurance premiums adds to cost-of-living pressures. And in fact locally, we note that home-buyers are struggling to secure insurance from some providers because the perceived costs of future adverse events are too high. It is not unlikely that in the near future, ordinary home-owners will not be able to afford insurance premiums for many homes, which will significantly destabilise our already fragile housing market.

If passed, the Bill is likely to result in several large-scale development and infrastructure projects that will significantly increase emissions of greenhouse gases, and add to the instability of our climate. This generation, and generations to come, will pay for this climate instability, and for the short-sightedness of this government.

It is time for the government to embrace a low carbon economy, and to harness the creative and innovative thinking that Kiwis are renowned for to develop future-proofed solutions to local problems. Instead of Business as Usual, and in fact a Bill that takes us back to the bad old days of the 1970s and 80s with Think Big and similar flawed thinking, it is time to move forward into the 21<sup>st</sup> century with creativity, flair and innovation. BAU is no longer fit for purpose; it is so last century.

#### Carbon Liability

Another very good reason not to increase our emissions of greenhouse gases is that doing so will cost us real money, lots thereof, and soon.

Aotearoa New Zealand has signed up to the Paris Agreement. As part of that, we are obliged to meet our Nationally Determined Contribution (NDC), which has been set at 571 Mt CO<sub>2</sub>e over the 2021 – 2030 period (UNFCCC website 4<sup>th</sup> November 2021).

Any emissions over the target of 571 Mt must be effectively and verifiably offset through offshore mitigation.

On Monday 8<sup>th</sup> April 2024, Prime Minister Luxon listed nine big rocks as key targets for 2030, including:

- “On track to meet New Zealand’s 2050 net zero climate change targets, with total net emissions of no more than 290 megatonnes from 2022 to 2025 and 305 megatonnes from 2026 to 2030.”

This commitment backs up the recent re-statement of our position internationally, with the current government reiterating to COP 28 in December 2023: “New Zealand’s commitment to reduce net greenhouse gas emissions by 50 per cent below gross 2005 levels by 2030 and to reach net zero by 2050” (COP 28 National Statement for New Zealand, Hon. Simon Watts).

By reiterating our commitment to these targets, the Climate Change Minister and the Prime Minister are committing to **reduce** annual emissions of greenhouse gases over the coming 6 years.

Projects approved under this Bill will **increase** emissions, exacerbating the position whereby the country does not achieve our international commitment, as we are already unable to meet it with current projected emissions:

NDC Commitment:	571 Mt
2021 emissions:	78 Mt (measured)
2022-25 emissions:	290 Mt (projected), equals 72.5 Mt pa
2026-30 emissions:	305 Mt (projected), equals 61.5 Mt pa
Total 2021-30 emissions:	673 Mt
<b>Shortfall:</b>	<b>102 Mt</b>

#### Offsetting Costs

Cost at \$50/t C:	102,000,000 t x \$50 = \$5.1 bn
Cost at \$80/t C:	102,000,000 t x \$80 = \$8.2 bn
Cost at \$100/t C:	102,000,000 t x \$100 = \$10.2 bn

N.B.:A full analysis of costs across a variety of scenarios are contained in the 2023 report by Treasury and MfE: Ngā Kōrero Āhuarangi Me Te Ōhanga: Climate Economic and Fiscal Assessment 2023.

Even without the projects under consideration in this Bill, the tax-payers of this country are liable for an eye-watering fine of billions of dollars for not meeting our Paris obligations. If the cost to offset each tonne of carbon is \$50, then we are liable for \$5.1 bn. If the costs per tonne rise to \$100, our liability rises to \$10.2 bn. We must pay this fine and in return receive, nothing.

If the potential damage to the environment and society is not sufficient for politicians to embrace a low carbon economy, then surely those who have campaigned stridently on sound economic management must take heed of these hugely costly carbon liabilities we are baking into our economy that will benefit no-one.

Add in the potential Mt of CO<sub>2</sub>e emitted by fast-tracked projects, and our liabilities increase even more. Hypothetically, if these projects contribute an additional 20 Mt of carbon over and above the scenario outlined above, at \$50/t this will cost us \$1 bn, and at \$100/t, \$2 bn.

These costs will be borne by the tax-payer. Not by industry, business or project owners. The government is liable for any offsetting costs over and above our NDC. Tax-payers will pay. Are you willing to tell them this or leave them blissfully oblivious of the massive bill coming their way if we do not bring our emissions down?

As a nation, we cannot afford to waste billions of dollars on offshore mitigation. The government must instate the principle of the “polluter pays” and require recompense from

the owners of large-scale development and infrastructure projects for their greenhouse gas emissions, prior to project commencement. Why should tax-payers pay this liability?

### **Environmental Implications**

#### No Need

The government does not need this legislation. Because the government currently has the ability to fast-track projects via existing processes, it appears that the only reason for the new Fast-track Approval Bill is to circumvent existing environmental protections enshrined in legislation and tested through the court system.

#### No Mandate

As a nation we have learnt over many decades that allowing unfettered and poorly designed large-scale development often has serious long-term environmental consequences.

As a nation, we care about our environment. Indeed, in the press release associated with his speech on 8<sup>th</sup> April 2024, Prime Minister Luxon included the environment as one of the key targets ... “to drive better results for New Zealanders ...in the environment”.

The Bill will **NOT** drive better results in the environment.

The projects which can be approved under the Bill will:

- cause environmental harm;
- create pollution;
- compromise the ability of healthy ecosystems to deliver the ecosystem services on which we depend;
- increase emissions of greenhouse gases and exacerbate climate instability;
- destroy native ecosystems and native biodiversity;
- increase the risks to threatened species, including “blind frogs”.

How do these outcomes drive better results in the environment that New Zealanders care about and of which Prime Minister Luxon speaks?

We are also puzzled at how the Bill will meet the objectives set out in the National Party’s environmental policy that it took to the electorate prior to the election in 2023. Entitled “Blueprint for a Better Future” the policy stated that:

*“National is passionate about safeguarding New Zealand’s unique natural environment, abundant native biodiversity, pristine waters and spectacular landscapes for future generations;...*

*...by promoting sustainable freshwater management, protecting our oceans and marine life, enhancing biodiversity, and creating new opportunities for outdoor recreation.*

*National believes environmental rules should target outcomes, and that land, water and other resources should be used within environmental limits.*

*Our goal is to restore degraded environments, protect threatened species, support our rural communities, and celebrate the natural beauty of our country to build a greener, more prosperous, and environmentally conscious New Zealand.”*

This will be achieved by cleaning up freshwater, boosting biodiversity, delivering for the climate, and protecting and celebrating our oceans, among other activities.

Further, the policy states that:

*“New Zealand faces major environmental challenges from climate change and the rapid loss of biodiversity.*

*A cohesive, integrated approach to environmental regulation is crucial. National is committed to upholding our Bluegreen principles with policies that foster climate resilience, cleaner water and improved biodiversity. National will take a joined-up approach to environmental management to deliver environmental policies that are complementary and mutually re-enforcing.*

*National believes New Zealand’s abundant native biodiversity should be valued and protected for future generations. However, New Zealand’s biodiversity is at risk. More than 75 per cent of our indigenous birds, bats, and freshwater fish species may be at risk of extinction.*

*National wants a streamlined, adaptive and modern legal framework for conservation management that maintains the highest standards of protection for our natural environment. Kiwis should be able to access New Zealand’s outstanding wilderness safely on tracks and facilities that are well-maintained. Legislation to protect New Zealand’s unique biodiversity should be fit-for-purpose and continue to support the crucial roles of the Department of Conservation (DoC) and Fish & Game in the conservation ecosystem.”*

This is the environmental policy on which New Zealanders voted. This is not the environmental policy that New Zealanders are getting.

In fact, the Bill will achieve the opposite of:

*a streamlined, adaptive and modern legal framework for conservation management that **maintains the highest standards of protection for our natural environment.***

The Bill removes protection from the natural environment. The Bill will allow large-scale development and infrastructure projects on conservation land. The Bill will allow activities expressly prohibited under current law because of their environmental impacts. The Bill will allow projects that have already failed to gain consent under existing environmental and conservation legislation. The Bill will allow projects that exacerbate the climate crisis and biodiversity loss.

How then, is it possible that a Bill that achieves the opposite outcomes to those espoused by the majority of government MPs and outcomes apparently of significant concern to all New Zealanders, is even up for debate?

It is also extremely difficult to understand how the Bill will achieve the stated aim of the Minister for Infrastructure in his recent speech to the New Zealand Planning Institute (March 2024) and we quote “Our national direction programme is aimed at unlocking development and investment in infrastructure, housing capacity, horticulture, aquaculture, forestry, and mining **while achieving good environmental outcomes.**” The Bill will not achieve good environmental outcomes. Projects consented under the Bill will wreak havoc on the environment.

#### Existing Environmental Legislation

We do not believe that the Government has a mandate to over-ride existing environmental legislation without a full and proper consultation process with all sectors of the public. We do not believe the current consultation process is sufficient or commensurate to allow for the required extent of consultation for the sweeping changes proposed.

Existing environmental legislation has been developed over decades as we matured in our understanding as a nation of the fundamental role our biodiversity, ecosystems and environment play in maintaining our ability to live and thrive. Existing environmental legislation provides safe-guards against “get rich quick” schemes, such as the projects likely to be approved under the Bill, which are inevitably flawed and create more harm than good.

If enacted, the Bill will allow projects that include activities currently prohibited under the RMA. Dangerous!

If enacted, the Bill will allow projects that have failed to get consent under existing environmental and conservation laws. Dangerous!

If enacted, the Bill will over-ride key environmental protections contained in the Reserves Act, the Conservation Act, the Wildlife Act, the EEZ Act and the Crown Minerals Act. Dangerous!

If enacted, the Bill will prohibit appeals to the Environment Court. Dangerous!

We cannot support such dangerous and undemocratic legislation and call on the government to withdraw the Bill.

#### Unique Biodiversity

We agree with the National Party that the biodiversity and ecosystems spread across the islands and oceans that make up Aotearoa New Zealand are unique, priceless and irreplaceable.

But our unique biodiversity and ecosystems are under serious stress from a wide range of human-induced threats. These threats include climate change, invasive species, habitat loss, land clearing, resource exploitation and pollution.

Once extinct, species cannot be resurrected. Once irreparably damaged, ecosystem services cannot be repaired. Even partial damage is expensive to repair. Preventing damage in the first place is always a much cheaper option than repairing it after the fact.

One of the greatest threats to our unique terrestrial biodiversity is the conversion of land dominated by indigenous vegetation to land dominated by exotic species or by built infrastructure. Although much land clearing is historic, it still continues today. This devastating ongoing loss of indigenous ecosystems is putting unsustainable pressures on much of our biodiversity, with large numbers of indigenous species now at risk of extinction. Indeed, whole ecosystems have been so reduced in extent as to be critically endangered, for example wetland systems, lowland forests and coastal forests.

Not only does land clearing threaten biodiversity and ecosystem health, but unsustainable development on cleared land overwhelms the capacity of compromised ecosystems to mitigate degradation. For example, intensive animal agriculture across large areas of cleared land produces such high waste burdens that stressed ecosystems cannot process the waste. Soils cannot absorb and incorporate the waste at the rate at which it is produced. With nowhere else to go, the excess waste then contaminates and compromises wetlands, waterways and groundwater. If rates of waste discharge are too high for these ecosystems to process the inputs, the result is degraded water quality and potential threats to human health.

Any development or infrastructure project that involves clearing indigenous vegetation, draining wetlands, altering hydrological flow patterns through the landscape, or impacts indigenous biodiversity and ecosystems in any way, needs to be avoided as our landscape cannot absorb any more degradation.

### International Obligations

Aotearoa New Zealand has a number of international obligations to protect the environment, biodiversity and ecosystems. We have signed up to international conventions and frameworks in good faith, and both the international community and domestic community expect the government to meet the obligations contained therein. There is no mandate for any government of Aotearoa New Zealand to override these obligations.

Examples of the International agreements we have signed include:

- the Kunming-Montreal Global Biodiversity Framework;
- the Ramsar Convention on Wetlands;
- UNESCO World heritage Convention.

These obligations require Aotearoa New Zealand to:

- reduce biodiversity loss;
- restore at least 30% of areas of degraded terrestrial, inland water, and marine and coastal ecosystems by 2030;
- conserve 30% of land, water and seas;
- halt species extinction;
- reduce the introduction of invasive alien species by 50% by 2030;

- reduce pollution to levels that are not harmful to biodiversity, ecosystem functions and services by 2030;
- minimize the impact of climate change and ocean acidification on biodiversity and increase its resilience;
- ensure that areas under agriculture, aquaculture, fisheries and forestry are managed sustainably;
- restore, maintain and enhance nature’s contributions to people, including ecosystem functions and services;
- ensure the full integration of biodiversity and its multiple values into policies, regulations, planning and development processes...;
- conserve wetlands;
- protect and conserve World Heritage Sites, including 1.7 m ha of Te Wahipounamu.

We are concerned that the Bill will consent projects that breach these obligations in a multitude of ways. We do not believe the government has a right or the mandate to do this.

We do not see the government progressing restoration and conservation obligations, nor reducing biodiversity loss and the threat of extinctions. This Bill will not contribute to these objectives in any way.

And we certainly do not see the government “ensuring the full integration of biodiversity and its multiple values into policies, regulations, planning and development processes...” in this legislation, as it is required to do.

#### Understanding the Risks

The Bill does not allow for effective analysis of the environmental impacts of projects under consideration. These impacts, including potential loss of biodiversity and degradation of ecosystem services, do not need to be taken into account in the consenting process. The Bill instead privileges economic considerations over environmental considerations, despite the potential economic costs of the environmental impacts. Such prioritisation will inevitably cause environmental harm and may cost us dearly in the longer term – we have enough examples already to know this truth.

In order to determine effectively all the merits and costs of large-scale development and infrastructure projects, evidence-based decision-making is required. This is basic best-practice governance 101. This evidence requires input from a range of local and other experts across several disciplines, including environmental impact assessments. We see no allowance in the Bill to seek and heed the full range of evidence required to make informed decisions.

The time-frames provided in the Bill for the expert panels to assess each project do not allow for robust, site-based ecological surveys and environmental assessments to be undertaken. Without such data, it will be impossible for the panel to make appropriate recommendations as to the environmental impacts of projects. We do not believe this is sensible, sustainable or appropriate.



It is extremely difficult to define the resilience and resistance of ecosystems to perturbation, as feedback loops, complex inter-relationships and tipping points all contribute to ecosystem health. In order to “do no harm”, experts apply the precautionary principle, and err on the side of caution when applying stressors (such as development) to ecosystems.

Without reliable and relevant local evidence of likely ecosystem and environmental impacts of projects, panels will be required to apply the precautionary principle in their project assessments, potentially resulting in them recommending severe project limitations or onerous conditions that would be unnecessary if sufficient information was available.

### **Social Implications**

The biodiversity and ecosystems spread across the islands and oceans that make up Aotearoa New Zealand are not only unique, priceless and irreplaceable, but are also critical to the identity of the human society that calls these islands home. We revel in our international reputation as “Kiwis”, we embrace the silver fern as the emblem of our sporting prowess, we fight in the international courts for the right to trademark “mānuka”, we proudly fly the koru through international skies.

As a nation, we have a proud record of building and maintaining a strong, vibrant, robust democracy. All can participate in public life, all can have their voices heard, all can engage with elected officials on matters of concern to them, all can participate in civil society to build community and nationhood. We respect the rule of law, both domestic and international. We embrace and respect diversity. We acknowledge the heritage handed on to us from past generations and ensure we hand it on to new generations, in even better shape than before. And we are able to do all of this without fear or risk of intimidation. We are indeed privileged.

Thus, it is with great concern that we contemplate the Bill with its attacks on democracy, attacks on public consultation, its proposed over-ride of decades of legislation protecting our environment, its side-lining of judicial checks and balances, and with its concentration of significant powers in the hands of three Ministers on issues that affect all who live here.

### Threats to Democracy: Ministerial Powers

The Bill poses grave threats to democracy by placing unbridled power in the hands of three Ministers to refer projects to the fast-track process, to select convenors of expert panels **AND** to make the final consenting decisions about each project. This significant over-reach of Ministerial power does not reflect the proposal in the Coalition Agreement, which stated that the parties would develop a process:

*“The process will include a referral by Ministers for suitable projects.”*

End of sentence. There is no expectation or provision in the agreement that Ministers will be able to then approve or withhold consents.

We do not believe the government has the right or the mandate to expand Ministerial powers to the extent proposed by the Bill. We do not believe such expansion of powers is democratic or healthy for the country. There are no extenuating circumstances that make such powers acceptable.

### Threats to Democracy: Local Communities

We are also deeply concerned that the expert panels, under Schedule 4.20 of the Bill “must not give public or limited notification of a consent application or notice of requirement”. Nor are they required to invite comment from the public or from relevant local or national groups. Thus, locals will potentially be excluded from the assessment process of development and infrastructure projects that will have significant impacts on their local environment and area. This is undemocratic and completely unacceptable.

It also goes against the policy the National Party campaigned on, that local communities will have the power to govern locally. Not so under the Bill. Local communities have no power.

We believe local communities have a fundamental and inalienable right to be consulted on large-scale development and infrastructure projects happening in their community. This is a basic tenet of our democracy.

Local government is required to consult and engage with the public on projects they propose, so why not central government?

Again, we state that such over-reach of government powers is not democratic or healthy for the country.

### Threats to Democracy: Public Land

As its name suggests, the public land of Aotearoa New Zealand is owned by **THE PUBLIC**. Therefore, decisions about land use on that land should be made by the public, for the public. Usually, these decisions are made by public officials in public institutions, and take into consideration the breadth of public opinion and the requirement to ensure the best outcomes, in the short, medium and long term.

The Bill overturns this democratic right. The public will have no say in the consent process for large-scale development and infrastructure projects on public land. Nor will public officials in public institutions. This means that land owner has no say. We believe this is undemocratic and unconstitutional.

### Threats to Democracy: Current Laws

The Bill deliberately bypasses current environmental laws and local government planning procedures, enshrined in law. These laws and procedures take heed of the environmental impacts of projects, take heed of public concerns around projects, and take heed of locally-held expertise around potential project impacts.

The Bill will pay no heed to these. Our democracy loses. We lose.

### Threats to Democracy: Undermining the Judiciary

A strong, unbiased, independent judiciary free of outside influence is one of the most important cornerstones of our democracy. Without such a system, no-one can be guaranteed of their rights under the law. A strong judiciary is essential to a well-functioning democracy.

Over decades, various courts have made judgements and rulings relating to the potential environmental impacts of activities. The Bill over-rides these judgements and rulings. Decisions made under the Bill will be able to ignore decades of judicial wisdom and insight enshrined in the myriad of judgements and rulings.

This is undemocratic.

#### Threats to Democracy: Limited Right of Appeal

The Bill limits appeals against decisions to grant project consents to questions of law in the High Court only. There is no ability to appeal decisions in the Environment Court, nor the Court of Appeal.

Not only does this undemocratic abuse of power muzzle the rights of the public to challenge decisions made solely by three Ministers, but it also undermines the role of the judiciary in testing and interpreting legislation. Without provision for independent testing of Ministerial or expert panel decisions, there is significant potential for the government to make flawed decisions. The wider judiciary needs the opportunity to make unbiased judgements and rulings on all matters of concern to the wider community, including government processes.

The extremely limited right of appeal rides roughshod over the voice of the people and undermines our democratic right to seek a second opinion on matters of national concern. And there can be no greater national concern than the state of our environment.

#### Trust in Government

At a time when distrust of government and the level of mis/disinformation is at an all-time high, we are extremely concerned that the unconstitutional process by which the Bill is being handled will further erode public trust in government and government agencies.

It is particularly concerning that Schedules 2A and 2B are currently empty of projects (as at 17 April 2024) with Cabinet due to decide on which projects to list at a later date, **AFTER** public submissions have closed and much of the Select Committee scrutiny process has finished. It is the proper role of the Select Committee to examine and decide upon the list of projects to be included in the law, based on detailed submissions from experts, stakeholders and the public. The Bill circumvents this process, precluding public scrutiny of listed projects. This undermines public trust.

The centralisation of consent decision-making (by Ministers) also undermines public trust in the processes that govern project permissions by bypassing local government and local input into that decision-making. Under current legislation, local communities have the ability to contribute to the consent process. This is being stripped away.

#### Social Licence

The process of secreting the projects list in Schedule 2 after public submissions close, coupled with the removal of public consultation rights during the consent process, runs the risk of the government granting consent to projects that do not have a social licence.

Given the large-scale and long-term nature of the projects likely to be covered by the Bill, project owners and developers are going to need local community support in order to build and operationalise projects. It is also a risk that the unheard public will make their voices heard through disruptive actions that impact on project delivery.

### Level Playing Field

There are many project owners and developers who have negotiated the current consent system and built environmental safeguards into their projects, who will be disadvantaged by the Bill. If owners and developers of projects approved under the Bill are not required to meet environmental standards, they may be able to operate at a lower economic cost (albeit a higher environmental cost), and may outcompete those who are bound by current legislation. This is unfair, as well as environmentally dangerous.

### Precedents

Granting Ministerial powers to the extent contained within the Bill sets a precedent for future governments. No opposition in the future will be able to argue that the Ministers have gone too far or been given too much power as the Bill will provide an example of the extent to which Ministers can be granted powers. This is highly dangerous.

### Law and Order

All parties to the current coalition government campaigned strongly on “Law and Order”. Indeed, “Law and Order” form two of the nine rocks/targets included in Prime Minister Luxon’s recent pronouncement (8<sup>th</sup> April 2024). All coalition parties have expressed the expectation that all who reside in Aotearoa New Zealand are bound by the laws of the land, and those who transgress should be appropriately and swiftly punished.

It appears the members of the government do not believe that this applies to their decision-making. By over-riding current environmental protection laws, the Bill will transgress on some of the most important legislation in this country. But instead of reaping punishment, those who gain powers under the Bill will be rewarded with the illusion of “getting things done”.

It is unfortunate that the Bill does not adhere to the laws of nature. The laws that mandate a finite supply of resources, a finite ability of ecosystems to provide the services on which we depend, a finite timeline for a stable climate in an era of increasing greenhouse gas emissions. These laws cannot be overturned by any parliament, nor taken off the statute books. And the consequences of breaking these laws is the destruction of the only home we have. We will all suffer.

### **Summary and Recommendations**

We do not support the Fast-track Approvals Bill for a myriad of reasons:

- it concentrates consenting power in the hands of three Ministers;
- it significantly increases the likelihood of corruption and the perception thereof;
- it prohibits local public input into the consenting process for local projects;
- it prohibits public input into the consenting process for projects on public land;
- it is demonstrably undemocratic in numerous ways;

- it overturns decades of environmental laws and judgements that protect our environment;
- it risks consents being granted to projects that will cause significant economic harm;
- it risks consents being granted to projects that will cause significant environmental harm;
- it risks consents being granted to projects that will cause significant social harm;
- it will cost the country cost billions of dollars in carbon liabilities and exacerbate climate instability.

We recognise that changes are requirement to consenting legislation. However, the Fast-track Approvals Bill is not fit-for-purpose in the 21<sup>st</sup> century, and is not an appropriate replacement for current legislation.

We recommend, nay urge you, to work with all Parties in Parliament to craft effective consenting legislation that is fit-for-purpose, and which places environmental protections at its heart to ensure that the unique ecosystems of Aotearoa New Zealand are able to thrive and flourish, and continue to provide the multitude of ecosystem services on which we depend.

Thank you.