

Submission
18 April 2024.

For attention: **The New Zealand Government's Environment Committee.**
<https://www.parliament.nz/en/pb/sc/make-a-submission>

**Engineers for Social Responsibility Incorporated
Submission on the New Zealand Government's
Fast-track Approvals Bill 2024.**

Engineers for Social Responsibility Inc. (ESR) is an independent society of professional engineers of mission: *to seek to encourage and support social responsibility and humane professional ethic in the uses of technology; and to seek to inform the engineering profession, the general public, and public policy makers of the impacts of technology, applied or otherwise, both positive and negative* (for more about us, please see our website: www.esr.org.nz).

The Government introduced its “Fast-Track Approvals Bill” to parliament earlier this year, with purpose to provide a stream-lined decision-making process for infrastructure and development projects that are considered to have significant regional or national benefit. We acknowledge that the current process for obtaining consents is time consuming, and so we support the prospect of a speedier consent process for urgent, beneficial projects (and especially for projects facilitating transition away from the production of plastics, greenhouse gases, and other pollutants) – but we maintain that this ought to be achieved through completing a robust assessment process at an accelerated pace, and not by abandoning well established and due process. We see that this *fast-track* Bill fails to deliver to any reasonable requirement and so we do not support but strongly oppose the Bill. We submit our reasoning as follows.

1. Disregard of democratic principles.

According to the Bill, the fast-track approvals process is accessed through application of *Project owners* to the *joint Ministers* (of *Infrastructure, Transport, and Regional Development*). A project is then referred to an *expert Panel* for assessment with recommendations made back to *the joint Ministers*, who then decide whether or not to grant the required consent approvals. In this, we note:

- a) The *joint Ministers* alone make the final decision, regardless of any democratic judgement of the Government's cabinet (of Ministers) or caucus (of Members), or of the Parliament as a whole.
- b) The *joint Ministers* are not obliged to take the advice or to follow the recommendations of the *expert Panel*.
- c) The *expert Panel* is not required to seek information from key sources or specific experts (and may indeed be expert in name only).
- d) The *expert Panel* may not seek public submissions – with this explicitly excluding members of the public (including community groups such as Forest and Bird and Greenpeace) from involvement in the assessment and recommendation processes.

- e) The *expert Panel* is not required to conduct public hearings or to publish its works programmes (information on the projects assessed by the *Panel*, along with any advice and recommendations it makes to the *joint Ministers*, may never be made known to the public).
- f) The *joint Ministers* may invite written comments from specific parties, but such written comments must be delivered to the *joint Ministers* within 10 working days of the invitation (an unreasonable time constraint given the significance and complexity of likely project contenders).
- g) The Bill takes precedence over any approval requirement of any of a number of specified Acts, including: the Resource Management Act 1991, the Wildlife Act 1953, the Conservation Act 1987, the Reserves Act 1977, the Heritage Act 2014, the Exclusive Economic Zone Act 2012, the Freshwater Fisheries Regulations 1983, the Fisheries Act 1996, the Crown Minerals Act 1991, and the Public Works Act 1981 (with this effectively removing environmental bottom lines by setting aside long-established safeguards installed to protect and conserve the environment).
- h) The right to appeal to the High Court against the whole or part of the final decision of the *joint Ministers* is restricted to only questions of the law.

In setting aside long-established conservation safeguards (see the list of over-ruled Acts in 1.g), this legislation effectively removes environmental bottom lines, while aggregating power in the very same Ministers of portfolios that are most inclined to drive infrastructure development at the expense of the integrity of the life-supporting capacity of the environment. The *decision-making* and *over-riding* powers of the three Ministers (*Infrastructure*, Chris Bishop; *Transport*, Simeon Brown; and *Regional Development*, Shane Jones) exposes the process to political bias and incompetence, and to industry lobbying corruption. And yet the Government risks all of this without democratic checks and balances in place and with the proceedings all but completely hidden from public view.

2. Disregard of environmental well-being.

The Bill fails to reasonably support and adhere to environmental protection and enhancement in accordance with the *National Policy Statements* of New Zealand (as issued under the Resource Management Act 1991), including:

- Freshwater management,
- Indigenous biodiversity,
- Coastal environment,
- Greenhouse gas emissions, and
- Renewable electricity generation.

We understand that people rely on a healthy environment for their sense of well-being, and that metrics (concerning freshwater quality, biodiversity fitness, climate change, etc.) show the New Zealand environment to be under stress. Evidently, we need to take better care of our environment – yet the Bill provides a means for *Project owners* to sidestep all of the safeguards against environmental damage and destruction that have been enacted by our governments in our lifetimes.

3. Disregard of New Zealand’s obligations under the *Paris Agreement*.

The Bill fails to provide any support for our meeting greenhouse gas emissions targets as under the legally binding international treaty on climate change known as *the Paris Agreement*, and as advised by our *Climate Change Commission* acting under the Climate Change (Zero Carbon) Act 2019.

And, ominously, not only does the Bill fail to support emissions reductions but it lends itself to the fast-track consent approval of projects that could actually increase emissions (such as extraction of coal, oil, and gas for subsequent use as fossil fuels).

4. Disregard of New Zealand's obligations under *Te Tiriti o Waitangi*.

The Bill does not include a dedicated *Te Tiriti o Waitangi* clause.

Without such a clause, the Bill is not only inconsistent with other relevant legislation (including the Conservation Act 1987, and the Resource Management Act 1991), but it is unconstitutional – given that *Te Tiriti o Waitangi* documents the founding agreement between the original and the colonial peoples of our New Zealand nation.

5. Disregard of New Zealand's obligations under its *Trade Agreements*.

The Bill fails to provide for consideration of compliance with New Zealand's trade agreements (including with the UK and Europe). Under these agreements, Governments are required to uphold environmental protections as weakening these is a form of industry subsidisation. In bypassing and setting aside such protections, the Bill risks damaging New Zealand's free trade reputation with repercussions of restricted market access.

Summary

This submission gives particular attention to social responsibility and humane professional ethic in uses of technology as under the proposed *Fast-track Approvals* legislation.

- The Bill effectively removes environmental bottom lines, while aggregating power in the very same Ministers of portfolios that are most inclined to drive infrastructure development at the expense of the well-being of the environment.
- Under the Bill, the *decision-making* and *over-riding* powers of the three *joint Ministers* exposes the *Fast-track Approvals* process to political bias and incompetence, and to industry lobbying corruption – all without democratic checks and balances in place and with the proceedings hidden from public view.
- The Bill fails to reasonably support and adhere to environmental protection and enhancement in accordance with the *National Policy Statements* of New Zealand, and further, provides *Project owners* with a means of sidestepping every safeguard against environmental damage that has been enacted by our governments in our lifetimes.
- Not only does the Bill fail to provide any support for reducing our greenhouse gas emissions as under *the Paris Agreement* (and as advised by our *Climate Change Commission*), but it lends itself to the fast-track consent approval of projects that could actually increase emissions.
- With the absence of a dedicated *Te Tiriti o Waitangi* clause the Bill is inconsistent with other relevant legislation and is unconstitutional.
- The Bill fails to provide for consideration of compliance with New Zealand's trade agreements, and risks damaging New Zealand's free trade reputation in bypassing environmental safeguards.

ESR considers that the “Fast-track Approvals Bill 2024” is shoddy legislation that is dangerously undemocratic with wild carelessness and disregard for consequences that have the potential to be seriously detrimental to the well-being of the environment (and of the people) and that are not easily remedied or reversed.

Thank you for your consideration of this submission.
Ngā mihi.

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