



Kiwis in Climate

Submission to the Committee Secretariat on the Fast Track Approvals Bill

Image by NASA Visible Earth

Kiwis in Climate, a global professional network of over 300 New Zealanders working in climate and sustainability, strongly opposes the Fast Track Approvals Bill. Members have drawn on their expertise in science, economics, business and policy to contribute to this submission. The following detail expresses our network's concerns on the bill's democratic legitimacy, the risks it poses to the economic and environmental future of Aotearoa New Zealand, as well as key recommendations for remedying these risks.

Ngā mihi nui

Kiwis in Climate

1. Introduction

1.1 This submission to the Committee Secretariat is made on behalf of members of [Kiwis in Climate](#), a global network of New Zealand climate-related and sustainability professionals, in respect of the Fast Track Approvals Bill (the **Bill**). Thank you for the opportunity to provide feedback on the Bill.

1.2 This submission is set against the following context:

- We also recognise that New Zealand has a critical infrastructure deficit – estimated to be over \$200bn – and that certain areas require timely investment and development, including renewable energy projects. Now is the time to future-proof New Zealand, as a low emissions, climate resilient and productive economy.
- Aotearoa New Zealand's commitment to the Paris Agreement goal of limiting global average temperature increase to 1.5° C above pre-industrial levels, enshrined in legislation under the Climate Change Response (Zero Carbon) Amendment Act 2019 (**Zero Carbon Act**).
- There are fiscal implications of not meeting our Nationally Determined Contribution (**NDC**) under the Paris Agreement, in particular if Aotearoa fails to decarbonise rapidly. As highlighted by [Treasury's Climate Economic and Fiscal Assessment 2023](#), supporting offshore mitigation will be required to meet NDC1, at a cost estimated by Treasury in 2022 to be up to \$12.8 billion by 2030. The

[McGuinness Institute](#) argue that this fiscal liability should be included in the financial statements of the New Zealand Government.

- New Zealand is a trade exposed nation. International trade (exports and imports) makes up 60% of New Zealand's total economic activity. As highlighted by the [Ministry for the Environment](#), our clean green image has significant export value. This is part due to our unique and beautiful natural environment, and in part due to an acknowledgement that we have historically had strong environmental standards. Undermining those standards could put our international brand at risk, at times where legislation and consumers demand more transparency on these factors. Reenacting on environmental protection could be a breach of our obligations under the UK and EU Free Trade Agreements (**FTAs**), putting our export value at risk. The FTA with the UK is estimated to boost exports to the UK by 50 percent, adding \$1 billion a year to the economy.
- Further to the value of our environmental reputation, we rely heavily on the value of our high ranking in the global Corruption Perception Index (we are currently the third highest ranked country in the world, i.e. we are perceived to have some of the lowest rates of corruption in the world). This perception allows us to attract overseas investment and businesses to our isolated economy. Companies like Microsoft, who are setting up data centres here to make the most of our highly renewable grid. This investment poses significant value to the New Zealand economy, and will be jeopardised if New Zealand is perceived to have lax consenting requirements and undue concentration of power.
- As outlined by the Department of Conservation in [Biodiversity in Aotearoa – an overview of state, trends and pressures](#), Aotearoa New Zealand's unique biodiversity is in a state of crisis. A loss of biodiversity has a negative impact on ecosystem stability and recovery, and can result in resource collapse. Consequently, the loss of species and ecosystems, and the services they provide, threatens people's existence, as the economy, along with individual livelihoods, health and food security all rely on nature.
- The economic value of biodiversity and natural environment is increasingly being recognised. A [recent report](#) from the New Zealand Institute of Economic Research valued the ecosystem services associated with the Hauraki Gulf at \$5.14b per annum. Transposing this type of assessment across other parts of Aotearoa's conservation estate would quantify the tens of billions of economic value that our natural environment provides. Likely to be far more significant than the economic value derived from fast tracking projects under the Bill. Undermining environmental protection, and/or delaying restoration efforts, puts the economic value of Aotearoa's natural capital at risk, reversing economic benefits in the short term.
- Disclosure obligations are emerging, organisations are now expected to identify, assess, and manage natural capital risks in addition to climate change risks. Some leading NZ companies have started investigating these types of risks, although standards, methodologies and practices are only emerging. International companies operating here and/or procuring our goods and services are also increasingly assessing and managing these environmental risks, and those in

their supply chain. The deteriorating state of Aotearoa’s natural environment is a significant source of financial risk.

- Infrastructure projects, and other projects of regional and national significance, will require funding. Capital markets continue to be focussed on Environmental, Social and Governance (**ESG**) matters, and particularly climate impacts. Many banks have ESG policies that are considered alongside Credit processes, and Project Finance transactions (e.g. Public Private Partnerships), for example, require compliance with the Equator Principles. This is prudent risk management. Investors also continue to increase pressure on the financial sector to take into account climate and ESG factors in their lending and facilitation.

1.3 Kiwis in Climate contact details for this submission are:

nick@gowellconsulting.co.nz
027-777-3391

2. Key submissions

2.1 Kiwis In Climate strongly oppose the Bill in its current form. It fails to recognise and address environmental issues, unduly concentrates decision making power and has the potential to create irreversible environmental and economic harm.

2.2 In particular, we wish to make the following comments:

- While KiC accepts that the current consenting processes are too burdensome, costly and time-intensive, the proposed Bill significantly ‘overshoots’ its aim to create more streamlined processes and instead overrides almost all of New Zealand’s existing environmental protections. In doing so, the Bill creates significant downstream risks and (unintended) consequences.
- The problem that the Bill attempts to solve is too narrowly defined, and the single focus on speed of consenting fails to take into account material risks to, and that may be caused by, projects. While section 17(3) of the Bill states that Ministers “may” consider whether projects will support climate change mitigation, emissions reductions, support adaptation or resilience, or address significant environmental issues, these are all optional for Ministers to consider. As currently drafted, Ministers may completely ignore these items if the project meets other objectives outlined in section 17.
- The Bill as currently drafted, and the fact the previous government had a fast-track process that could be used and built on, gives the clear impression that this government is not only trying to fast-track new projects, but also find a way to reinstate projects that have previously been declined due to their significant negative environmental and/or social impacts. This (whether perceived or actual) lack of democratic process and subversion of proper pathways puts projects at material risk of being unwound by future governments and/or litigation.

- Given the above, the approval process described by the Bill fundamentally undermines environmental protection and will almost certainly accelerate the further destruction of Aotearoa's natural environment. Given NZ's economy's heavy reliance on natural capital this will adversely impact future generation's economic wealth and wellbeing.
- The Bill in its current form could constitute breaches of our Free Trade Agreements with the EU and the UK. More specifically, the Bill demonstrably removes environmental protections, represents a derogation of environmental laws to encourage investment, limits evidence-based decision-making, fails to provide for the protection of endangered species and undermines efforts to effectively implement New Zealand's commitments under the Paris Agreement. KiC are particularly concerned that there appears to be no evidence of a comprehensive assessment of the Bill's compliance with our trade obligations prior to its first reading.
- The Bill's failure to include a mandatory consideration of greenhouse gas emissions caused by projects increases the risk that projects approved will delay or counter Aotearoa's transition to a low emissions economy, in line with its commitments under the Paris Agreement and our domestic emissions reductions budgets legislated under the Zero Carbon Act. The need to meet any shortfall against our NDC through the purchase of offshore mitigation (from unknown sources, in currently non-existing markets, at yet uncertain costs) will exacerbate fiscal risks within this decade. The lack of mandatory consideration for climate-related risks creates the risk of investment in projects and infrastructure that either lock in emissions-intensive practices or lack resilience to the impacts of climate change.
- As currently drafted, the Bill includes minimal to no engagement with stakeholders through the approval process and lack of mandatory consultation creates significant risks of community resistance, litigation and disruption. Stakeholders that are denied their voice through orderly processes will be forced to express their objections through other, potentially disruptive or even illegal means. This can delay critical projects, and deter investors and funders who are likely to take significant public protest or objection into account in their funding decisions, as this may cause reputational risk to them.
- The lack of due consideration for climate and environmental factors (not to mention lack of Iwi engagement) as part of the approval process effectively transfers ESG due diligence obligations to investors and funders, who generally rely on consenting processes being fulsome as part of their due diligence. For example, most banks are signatories to the Equator Principles, which require all projects to undergo extensive due diligence on environmental and social risks, including gaining comfort that key stakeholders have been sufficiently engaged. The proposed fast track approval process may simply cause downstream delays as capital providers seek to ensure that ESG risks have been properly mitigated as part of their funding approval processes.
- The concentration of unfettered decision-making power in the hands of three Ministers has the potential to undermine international investors' and funders'

confidence in the robustness of NZ's governance processes, which in turn could make us less attractive to international investors. For example, European legislators are increasingly sensitive towards trading partners' failure to protect the natural environment for future generations, as evidenced in our EU and UK free trade agreements

2.3 We wish to make the following recommendations:

- In recognition of the need to accelerate investment in critical infrastructure, in particular renewable power generation, distribution and low emissions transport, the scope of the Bill should be explicitly narrowed to critical infrastructure that is essential to the long-term resilience and wellbeing of New Zealand. Investment in private ventures, regardless of potential benefit for employment and local economic development should be excluded from the remit of the Bill. As any fast-tracking process entails a level of trade off between social, environmental and economic factors, requiring a degree of risk-acceptance, any simplified or accelerated process needs to be used only by exception, in this instance to address the significant infrastructure deficit.
- The Bill should include mandatory consideration of climate-related risks (or opportunities) of projects, i.e. resilience to the effects of climate change as well as emissions reductions. In particular, the appointment of environmental subject matter experts for the expert panel should be explicitly mandated.
- The Bill should require a mandatory assessment of environmental risks and impacts, given the financial and economic benefits provided by these factors, as highlighted above. In this context, consideration should be given to the financial and economic implications of environmental impacts (e.g. impact on natural capital), which may indeed cause more economic harm than good, in the long term.
- The Bill should require the appointment of suitable and sufficiently qualified environmental experts to the independent expert panel.
- The Bill should include provisions for public submissions on projects themselves, to provide a legal and orderly channel for all stakeholders to express concerns and provide supporting evidence. While such objections may well be dismissed by the expert panel, the mere existence of a submission process is preferable to the (perceived) suppression of stakeholder views.
- At a minimum, the Bill should require Ministers to publish detailed rationale if diverting from any recommendations made by the expert panel. Such rationale must be supported by robust, objective and scientific evidence and analysis. While ultimate decision-making power may still rest with Ministers, they should be accountable if choosing to override the advice given by subject matter experts. The Bill could include a rebuttal process where Ministers can revert back to the expert panel with their proposed decision, and give the panel the opportunity to make any final comments or recommendations within a certain (reasonable) period of time.

- The Ministers' of the Environment and Climate Change should be listed as a member of the decision making group of Ministers.-
 - The Bill should include some form of disputes process / hindsighting / legal review of decisions to create some level of accountability.
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3. Conclusion

- 3.1 Kiwis in Climate have serious concerns with the Bill in its current state. We believe the Coalition Government risks damaging its own goal of 'getting New Zealand moving'.
- 3.2 In addition to the fundamental question over the democratic legitimacy of this legislation, and the total lack of basic controls and accountability for decision makers, Kiwis in Climate believe that this legislation ignores, even worse, introduces additional risks for businesses, their investors and funders, and is out of step with the direction of the global community to a decarbonised circular economy risking isolating New Zealand from this economic development.
- 3.3 Finally, Kiwis in Climate strongly believe that, despite its ability to accelerate the deployment of critical infrastructure and renewable power generation, this Bill has the potential to substantially undermine Aotearoa's decarbonisation efforts as it fails to take account for climate-related risks and impacts and ignores environmental issues. It cannot, and must not, proceed in its current draft form.
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