



Submission of Public Health Association of New Zealand on the Fast-track Approvals Bill

Dr Cadence Kaumoana
On behalf of The Public Health Association of New Zealand
Cadence.kaumoana@pha.org.nz
PO Box 24040, 49 Manners Street, Te Aro, Wellington 6011

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Introduction

The Public Health Association of New Zealand works for advocacy, innovation, and collaboration across the public health sector. Our community comprises professionals, policymakers, researchers, and advocates. The organisation shapes public health policy and practice, advocating for health equity, disease prevention, health promotion, and the wellbeing of the population to create a healthier, more equitable, and sustainable New Zealand. The Public Health Association's interests lie in evidence-based protection and the promotion of holistic wellbeing.

Te Tiriti o Waitangi is an integral component of New Zealand's health and wellbeing framework, underlying Māori Public Health policy, which is designed to address the health needs and disparities faced by Māori, aiming to reduce inequities and improve Māori health outcomes. As such, the Public Health Association of New Zealand recognises Te Tiriti o Waitangi as New Zealand's founding document, defining respectful relationships between tāngata whenua and tāngata Tiriti. All decision-making made by the Public Health Association must reflect Te Tiriti values, leading to policy that reflects the specific needs of Māori, and kaupapa Māori solutions.

In this regard, the Public Health Association strongly opposes the Fast Track Approvals Bill. The Bill would allow for 3 Ministers to approve infrastructure and development projects directly, thereby circumventing a public consultation process and any environmental protections that are currently in place. The Bill prioritises speed of development and delivery, rather than a focus on sustainable management. Thus, the Bill fails to recognise the importance of protecting the natural environment for the health and wellbeing of individuals and the collective.

The Bill raises several concerns regarding Te Tiriti principles' upholding, application, and effect. There is a narrow focus on upholding Treaty settlements, Marine and Coastal Area customary rights, Mana Whakahono a Rohe, and Joint Management Agreements. Projects may be listed by Ministers without engaging the affected iwi or hapū. Non-settled iwi, non-settled iwi may be at greater risk, both due to fewer resources, as well as the potential for projects to be approved without proper public consultation.

The general risks, of placing excessive powers in the hands of development Ministers, the removal of public participation, and the removal of existing checks and balances, plus the specific risks regarding Te Tiriti application mean that there is an increased risk of environmental degradation and reduced protection of Māori environmental interests in



taonga. As such, the Bill poses a threat to public health and wellbeing, as well as specifically Maori health.

Key concern #1: Too many harmful projects are eligible to enter the fast-track

1. Some projects will be explicitly listed in the Bill and proceed to consideration by a panel, without the need for any statutory assessment as to whether they are eligible for fast-track. The Bill makes eligible for fast-tracking projects that are prohibited under the RMA, usually the most environmentally dangerous activities. Specific projects may remain without public scrutiny or consultation. Such projects include those which have been previously declined or would have been likely declined under existing processes.

2. In addition to listed projects, the Bill lets Ministers pick and choose projects for the fast-track process. The government can thus be the developer, the regulatory gatekeeper, and the ultimate decision-maker. This is an inappropriate distribution of power in the executive. The eligibility criteria for referral (“significant regional or national benefits”) are discretionary, open to Ministerial interpretation, and too broad.

3. There is also no requirement to stop the referral of projects that would increase greenhouse gas emissions, contribute to extinctions, pollute freshwater, cause risk to human health, pollute water bodies covered by water conservation orders, or even breach international law on marine dumping. These activities substantially impact the health of our whenua and moana, our communities, and our individuals, posing a serious public health issue.

Key concern #2: The process and decision-making criteria for RMA approvals are inappropriate

4. The Bill’s process and decision-making criteria for RMA approvals are grossly inadequate. Once referred by Ministers, the fast-track process is little more than a rubber-stamping exercise for projects. The development purpose of the Bill takes priority and is not qualified or balanced by any environmental or rights-based consideration, including but not limited to the RMA, national direction, council plans, and other RMA provisions. Notably, there are concerns regarding the weight that the Panel are to take into account Te Tiriti o Waitangi when making their recommendations.

5. Panels are not directed to consider the importance of reducing greenhouse gas emissions. New Zealand has international emissions reduction commitments, which we have an obligation to meet.

6. Ministers can choose to accept or reject panel recommendations and proceed down a different route. It is deeply concerning that development-focused Ministers, without subject matter expertise, are the final decision-makers, rather than expert panels. It reduces panels to advisory bodies that can be ignored. This is contrary to the principles of evidence-based policymaking and amounts to ministerial overreach,

where Ministers, rather than experts or parliament, make decisions pertaining to the meaning of law and the progression of projects absent of protections.

7. Direct political decision-making on particular development projects leaves Ministers open to considerable legal and political risk. It is unclear how conflicts of interest are to be defined or managed.

Key concern #3: Absence of democratic check and balance norms



8. The Bill dispenses with almost all opportunities for the public to be involved in decisions having significant effects on New Zealand's environment and natural resources. This is undemocratic. Under referral decisions, Ministers must invite written comments from other Ministers, Māori entities, and local government. This is absent any requirement of notifying owners or occupiers, or those with property rights who may be impacted by an affected project. This is likely to disproportionately impact Māori who may have taonga interests in a land.

9. Panels can invite comments from anyone they deem appropriate, but there is no requirement of public consultation or involvement in the process. Vitally, the independent watchdog, the Parliamentary Commissioner for the Environment, need not be consulted or informed. The Minister for the Environment, who is meant to be democratically accountable for environmental outcomes, is not a relevant Minister from which the panels must seek feedback.

10. The marked concern is that the projects likely to be referred are those most likely to have significant adverse environmental effects. The lack of scrutiny from submissions, consultations, interested parties and expert knowledge is particularly onerous. This has the impact of restraining voices in an undemocratic manner. Individuals and advocacy groups comprising the general (and specialised) public will not be able to make submissions on individual projects, including projects on conservation land, sea, and areas considered the commons, where the public right of usage is engaged.

Key concern #4: The intersecting impact of the Government's stated priorities with the Bill

11. Will the removal of a multitude of protections, it is particularly concerning that the Government's priorities under the Bill (provided in Appendix 2) are indicated as being mining and major roads. Further, Aquaculture, housing, renewable energy, oil, gas, and coal extraction, dams, and farming projects have been highlighted by the Bill as projects likely to be prioritised by Ministers. Without the protections of existing legislation, public consultation, and iwi involvement, the effect of 'fast-tracking' such projects this will most likely be rapid environmental degradation, and increased greenhouse gas emissions, undermining current and future progress regarding environmental protection and biodiversity. It is well recognised that human health, from the physical, mental, communal, and spiritual, is intrinsically linked to the environment. The effects on physical health and quality of life are determined by the physical, chemical, biological, social, and psychosocial factors in the environment.

Vitally, Māori health and wellbeing is explicitly connected to the environment. Thus the Bill's impact on the whenua and our health will be intergenerational.

Key concern #5: Public health impacts of stated priorities

12. The World Health Organisation has stated that climate change is 'the greatest health challenge of the 21st Century.' The health of the natural environment is a factor in facilitating carbon sequestration and resilience to extreme events such as floods and droughts. Cyclone Gabrielle, which resulted in 11 deaths and billions of dollars of damage, is the type of disaster that is predicted to increase with climate change.

13. Public health is intrinsically linked to the health of the natural environment. Biodiversity and healthy ecosystems provide critical underpinning for human populations, regulating the climate, cycle nutrients, air particles and water, mitigating floods and preventing erosion. The environment



also provides spiritual and cultural connections, as well as recreational and community opportunities, granting physical and mental health and wellbeing effects for people and communities.

14. Not only are these impacts significant to wellbeing under Te Ao Māori, which may affect mahinga kai, taha wairua, hinengaro, tinana, and whānau wellbeing as it relates to the exercise of matauranaga and tikanga, but it effects mana of the people and whenua. The Bill's impacts on The Living Standards Framework will also be significant; access to nature will be impacted, reducing green spaces, reducing the quality of the environment, and impacting vegetation and animal life. These consequences are found to have an intimate connection with mental health as well as physical, positively impacting depression, anxiety and stress. The recognition of these benefits to health and wellbeing as led the Mental Health Foundation of New Zealand to partner with the Department of Conservation, to recommend New Zealanders to spend time in nature.

15. Physically, green spaces and the high biodiversity they bring introduce new and diverse microorganisms to our microbiome and reduce exposure to air pollution while balancing extreme temperatures. Currently, in New Zealand, 3,000 adults a year are dying prematurely from air pollution, an often-unrecognised risk to our health. A further 34,000 individuals get sick from polluted water per annum.

16. Our human health is intimately connected with the health of the environment, and the choices we make as to how to use it. Approximately 7% of our population lived within 3 metres of the height of the average spring high tide in 2015, and more than 43,000 houses were within 1.5 metres of this level, with coastal settlements at risk from sea-level rise and exposure to storms and coastal erosion, affect personal safety. Infrastructure close to areas of pine forest or highly flammable plants, increases the risks posed by wildfires, as seen in 2017 during the Port Hills fires and in 2020, during the Lake Ōhau Alpine Village fires.

17. Effective, well-considered planning can help reduce the risk that natural and human-caused events pose to wellbeing. Protecting and restoring natural areas upstream that slow the flow of run-off water can reduce the risks of flooding in low-lying areas, preventing floods.

18. Mining on conservation land has clear environmental impacts, with serious consequences for wildlife and biodiversity, contributing to an increase in greenhouse gas emissions and polluting waterways. Fast-tracking large dams to supply water for irrigation will intensify land use in the area, likely to lead to poorer drinking water quality and polluted airways.

19. New housing developments, new public transport infrastructure and new renewable energy projects all have obvious public health benefits, but these must be weighed with the safety and longevity of these developments – particularly as they relate to developments in coastal areas, fault lines, or flood plains which can create risk to people's lives and livelihoods, particularly as climate change brings more frequent and intense flooding.

20. As such, this Bill poses a major threat to our health and wellbeing, circumventing protections under environmental legislation regarding concerns about pollution, air, water quality, and more, which can be overridden by the ministers, who are not obliged to consider evidence-based technical expertise in their decision-making.



Key concern #6: The Bill's incompatibility with the Right to Health under International Law

21. The Bill is incompatible with the legally binding right to health under the International Covenant on Economic, Social, and Cultural Rights (ICESCR). The Right to Health is further protected by other treaties ratified by New Zealand, including the Convention on the Elimination of all Forms of Racial Discrimination (CERD): Article 5(e) (iv), (1965); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): Articles 11(1)(f), 12 and 14 (2)(b) (1979); Convention on the Rights of the Child (UNCROC): Article 24 (1989); Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (Migrant Workers Convention): Articles. 28, 43(e) and 45(c) (1990); Convention on the Rights of Persons with Disabilities (CRPD): Article 25 (2006).

22. Under ICESCR, New Zealand has agreed to protect the health of its citizens, providing services, policies, and budgetary means to promote good health under the concept of progressive realisation. The Bill would severely impact the progressive realisation of health rights, in particular for Māori as a protected group, for New Zealanders, backpedalling legal protections that promote the right to health through environmental protection and public consultation. There is a tripartite legal obligation under ICESCR, which includes a state's obligation to fulfil the right, requiring the adoption of (positively) progressive legislative, administrative, budgetary, and other measures. This Bill would mark a backwards step in terms of legislative and administrative measures that fully realise the right to health.

Key concern #7: Te Tiriti Concerns

23. Unlike other environmental laws, the Bill development interests to outweigh any requirement for decision-makers to consider Te Tiriti, kaitiakitanga, or the relationship of iwi and hapū with their lands and waterways, kainga changes to the way natural resources are used and respected, marking significant impacts on Māori rights and interests, including Māori health and wellbeing.

24. As Tiriti partners, Māori have had an inappropriately short amount of time to feed into the Bill. The understanding of the impact on Māori, including health and wellbeing, is therefore poorly understood, and a potential breach of both Te Tiriti and settlements.

25. While the Bill acknowledges existing Settlements, there is no detail regarding honouring settlements under the Bill, or how they may impact future Settlements.

26. The Bill fails to consider Māori rights generally, as projects may be approved despite being on disputed land, wahi tapu, taonga, or other areas significant to Māori. This could have an intergenerational impact on Māori rights, including collective and individual health and wellbeing.

Key concern #8 :The rationale for the Bill is weak

27. The Bill goes beyond what is needed to address evidence-based problems. I call attention to the Ministry for the Environment's statement that the analysis was not as thorough as "would usually be expected for a Bill of this significance".¹ The Ministry also specifically advises against taking most of the key design measures in the Bill.



Concluding comments

28. The Bill represents a monumental shift in environmental consenting in this country, which poses a threat to public law, disrupting a well-established system of legal and political checks and balances that is subject to public consultation and involvement. This radical disruption will result in environmental degradation for decades. The impacts upon public health and Māori health and wellbeing rights will have wide-ranging consequences. The Public Health Association urges a call for evidence-based policymaking. Not only is there no need for this Bill, rather it is contrary to the Government's international legal duties. As such, this Bill should not be passed.

29. The Public Health Association thanks the Select Committee for the opportunity to make this submission regarding the Fast Track Approvals Bill.

30. I do not wish to be heard in support of my submission.

Dr Cadence Kaumoana
Chief Executive Officer, Public Health Association of New Zealand