11 April 2024

Committee Secretariat
Environment Committee
Parliament Buildings
Wellington

en@parliament.govt.nz

Tēnā koutou

Tasman District Council's Submission on the Fast Track Approvals Bill

Tasman District Council would like to thank the Select Committee for the opportunity to make comments on the Fast Tracks Approval Bill.

Nāku noa, nā

Tim King
Mayor, Tasman District
Te Koromatua o te tai o Aorere

Tasman District Council Fast Track Approvals Bill Submission to Environment Committee, 19 April 2024

1.0 Introduction

Tasman District Council (Tasman) is a unitary authority, servicing a population of 60,500 in the Tasman District. We welcome the opportunity to make comments on the Fast Track Approvals Bill (the Bill).

Tasman is actively engaged in contributing to national and regional policy development through a range of governance and operational fora and interest groups. We have consistently advocated for the reform of the Resource Management Act (RMA), seeking a policy and planning framework to help us address current and future challenges for our local communities. We recognise if there is a robust process for fast-tracking it could assist regional development alongside the protection of the environment. Such a robust process will require integration with, for example, key local, national, and international legislation, relevant council strategies and plans, future development spatial plans, and local place-making structure plans. Successful delivery of fast-tracked projects that will rely on the provision of council services or infrastructure, need to carefully consider the need to address not only the initial financing of construction, but additionally the long-term funding of ongoing maintenance. Constraints such as increasing risks associated with extreme weather events, natural hazard areas and the need to avoid further loss of cultural heritage are planning matters that will require due consideration as part of any fast-tracking process.

We are pleased to see some changes advocated for by local government during early discussions have been taken on board, specifically to help with the recovery of costs, require applications to be lodged with some information upfront, include procedural steps to support enhanced input from Post Settlement Governance Entities (PSGEs) and other Māori entities, remove “locally significant” projects (that do not have significant regional or national benefits) from the FTP, retain the compliance history of an applicant as a factor to be taken into account, and require panels to take account of local statutory RMA plans.

What remains uncertain is how the Bill will support environmental, cultural, social, and economic priorities for local communities. We seek more clarity on several matters, including:

- what compliance role Tasman will be expected to play and how it will be resourced for overseeing the monitoring and compliance of approved applications and their consent conditions.
- the implications of prohibited activities potentially being enabled and whether that will create any long-term or cross-boundary issues.
- how Council expert advice will be acted upon as part of the Ministerial powers within the Bill.
- how local interests and values can best be represented on an expert panel.
- whether any of our local projects will be deemed nationally or regionally significant.
- the extent to which our current Council strategies, policies and plans and services will be integrated into decisions on applications.

2.0 General comments

Tasman recognises that the Bill is limited to the scope of change agreed by Cabinet, and therefore the Bill has not comprehensively considered other wider aspects of the resource management system to ensure coherence across the whole system. This detail has not been provided by the Supplementary Analysis Report (SAR) nor can it be gleaned by considering the Bill in isolation from all other associated changes to other related legislation that is to be included under the Bill's Schedules. This poses a risk for Tasman as we are unable to realistically consider the impacts on our current operations and short and long-term budgeting that may be required.

More information and critical policy analysis to outline how the Bill will produce efficiencies and benefits to our communities would have been beneficial. This information and analysis would provide a line of sight from the Bill to other intended legislative changes to help us understand what would be necessary to ensure the succinct delivery of all our legislative local authority obligations and duties. It is our view, that the for the FTP to be successful it needs to be recognised as one tool in a comprehensive overarching system.

It is stated in the SAR that some of the policy options will "impose costs and/or benefits on a range of actors including the Crown, local government, iwi/Māori, the development community, the general public, or future generations." A clearer understanding of where these costs and benefits are anticipated is important to be able to determine the impact on local communities. Cost recovery for local authorities is essential for local authority involvement in the proposed processes at all the stages - Ministerial, expert panel, pre-application, variation, legal challenge, monitoring, and compliance.

The Bill and associated legislative changes and ongoing RMA reform will require changes to our current planning instruments and processes which may be costly. The Bill does not outline a succinct timeline and pathway on what that horizon looks like, so it is difficult to estimate what current or future investment of monies is required from our communities and Long Term Plan budgets to implement the FTP, including any participation in expert panels, information gathering or monitoring of consent conditions imposed.

3.0 Tasman's key recommendations for improvement

1. **Purpose of the Bill:** Change the purpose of the Bill to support development alongside protective mechanisms enshrined in the Resource Management Act, Conservation Act, Wildlife Act, Reserves Act, the EEZ Act, Freshwater Fisheries Regulations, Heritage NZ Pouhere Taonga Act would better serve our communities. The provisions of the abovenamed Acts have been well tested through the courts providing a sound legal jurisprudence. These Acts and their associated case law should not be subordinate to the administrative purpose of the Bill.

2. **Ministerial Powers**: Include public participation and decision making in the Bill so that local authorities, PSGEs, ngā iwi and hapū, communities are involved in a meaningful way in setting the criteria for approving projects, the preparation of the list of projects and any necessary submissions on an application. The Bill allows too much power to lie with the Ministers, with limited appeal rights. The power to make referrals and to

make final decisions on projects, without there being due public participatory processes at the very least needs to be fettered with the requirement for a high bar for submitted information and the rationale for decisions, relative to the significance of any application. Ministers should be required to demonstrate to the public how they have assessed, balanced, and weighted environmental and cultural effects, strategic planning outcomes, against expected benefits.

3. **Decision making powers to include the role and responsibility of the Minister for the Environment**: Include a provision to allow the Minister for the Environment alongside the Joint Ministers to make final decisions on applications based on support from recommendations provided by the Expert Panel. Not including the Minister for the Environment makes no sense when decisions will be required under environmental legislation.

4. **Provide a definition for significant regional or national benefits:** Clear criteria and thresholds are required to define nationally, regionally significant projects to ensure proposals provide significant public or strategic benefit. The knowledge and expertise within local authorities such as State of Environment reports, Housing and Business Development Capacity Assessments will be useful to help determine significance.

   Clauses 17(3) & (4) of the Bill do not define significant regional or national benefits, nor do they identify how to weigh up those examples in the Bill that the Ministers may consider when determining these benefits. The definition needs to help clarify what weighting will be given to a priority project in a central government, local government or sector plan or strategy, or central government priority infrastructure list, where it will deliver regionally or nationally significant infrastructure and where it will:

   - increase the supply of housing
   - deliver significant economic benefits
   - support primary industries, including aquaculture
   - support development of natural resources, including minerals and petroleum
   - support climate change mitigation
   - support adaptation, resilience, and recovery from natural hazards
   - address significant environmental issues, and
   - be consistent with local or regional planning documents, including spatial strategies.

5. **Provide a gateway or threshold test for applications involving prohibited activities**: Before granting an application for a prohibited activity, the Ministers should consider a gateway or threshold test similar to that in section 104D of the Resource Management Act. If section 104D RMA is not to be applied for non-complying activities, there still needs to be a robust process for consideration of prohibited activities given any activities classified as prohibited are usually done so for compelling reasons.

   This process should involve:

   1. An Assessment of Adverse Effects: The Expert Panel in collaboration with the local authority or authorities within whose district or region the application falls

first assesses the adverse effects of the proposed activity on the environment. This involves a detailed analysis of the potential impacts of the activity, considering factors such as noise, traffic, visual impact, effects on flora and fauna, and effects on cultural and heritage sites; and

2. Alignment with Objectives and Policies: If the adverse effects are not acceptable, the Expert Panel in collaboration with the local authority or authorities should then assess whether the proposed activity will be contrary to the objectives and policies of the relevant plan or proposed plan and the extent of any inconsistency.

Allowing decisions to have a permitted baseline without regard to a real or perceived effect could result in a detrimental impact on, for example, best practice subdivision or housing design, ecological integrity and biodiversity, social cohesion, economic prosperity, greenhouse gas reduction and liveability of rural and urban areas. There is a strong likelihood that without a gateway or threshold test long term legacies could eventuate through poor future planning with no efficiencies gained.

6. **Support local authorities to implement the FTP**: The process to involve a local authority and scope of a local authority's role in the FTP needs to be clear, specifically what information is expected and in what format and timeframes. The Bill needs to articulate what resources will be provided (including cost recovery) to enable local authorities to provide comment relating to whether an application is accepted into the process, comment for the processing of the application, and a nominee on the decision-making panel.

   More clarity is required on the funding for the expert panels and associated secretariats, to ensure ratepayers and PSGEs are not burdened with significant additional costs arising from the proposed legislation. Ensure adequate resourcing for the agency that processes fast track applications so they can adequately assess the adequacy of information. There could be many hidden costs that will fall entirely to ratepayers and PSGEs.

7. **Provide a mechanism to ensure local expertise is an essential component of the FTP:** Local authorities, PSGEs, ngā iwi and hapū and their communities must be able to continue to play a critical role in regional planning given they may be affected by major developments. Valuable information could be incorporated from both Local Government Act and RMA planning documents to accompany applications, for example, spatial and technical background reports informing adopted Future Development Strategies.

   Diminishing the local voice, and therefore potentially also important cultural and technical information could result in substandard or poorly drafted conditions, poor environmental and economic outcomes, creation of new liabilities. The Ministry for the Environment departmental disclosure statement states that the Bill promotes "an overall reduction in information and local expertise that usually informs usual approval processes and may result in more complex conditions and a corresponding increase in the monitoring, compliance and enforcement burden for local authorities." This has potential to create substantial burdens on local authorities' budgets and staff time. Additionally, this creates a lack of certainty over the fate of investment priorities already consulted on and identified in existing operative strategic planning documents such as the Nelson -Tasman Future Development Strategy and Long Term Plans.

8. **Demonstrate consideration of RMA matters including those effects not addressed by Part 2**: Due consideration of the RMA and other affected legislation is needed to remove the risk of the Bill's bias towards the current purpose of the Bill (delivery of beneficial development and infrastructure). The Bill's purpose should not render less weight to the other listed matters, including environmental effects which are not captured by sections 6 and 7 of the RMA.

9. **Provide constraint on which projects can use the FTP**: Strengthen the process up front to communicate which types of projects will not pass go. This will save time and resources. These types of projects are those that will cause harm to the environment, and prosperous regional and national economies because they do not balance development with environmental protection.

   Provide clear criteria for project eligibility utilising public and targeted engagement with local authorities, PSGEs and NGOs. Clear criteria will help to determine which projects have significant regional or national benefits, so this does not rely on Ministers interpretation. It would also reduce scope for litigation.

   Ministers have specifically signalled that their intention is that eligible projects will include infrastructure, renewable energy, housing, and mineral extraction, but this is not a comprehensive list of projects that could have national or regional economic significance e.g. health, educational and social services, research, and innovation hub type developments could also be equally important. Equal consideration to other types of development must be assured as part of determining eligibility.

10. **Avoid conflict between private and public interests:** Without a comprehensive costs and benefit analysis, the Bill would potentially enable Ministers to send projects down the fast track to easy approval, which may increase competition and conflict between private and public interests. Projects that are likely to be referred to Expert Panels are also the ones that are likely to have significant adverse environmental effects and warrant additional scrutiny on whether and how public interests will be adversely affected by private interests and vice versa. This scrutiny could be provided through submissions and expert evidence from the public and NGOs who are currently denied a voice in the FTP. Additionally, Ministers should also not be able to adjust conditions recommended by the Expert Panels. Setting conditions that balance public and private competing interests requires expert knowledge which should not reside with Ministers, and which Expert Panels are best placed to provide.

11. **Recognition of Iwi Management Plans or Strategies and Cultural Impact Assessments (CIAs):** Ensure consideration of Iwi Management Plans or Strategies and CIAs is included with applications as per existing RMA approval processes. This will provide detailed and relevant information from Mana Whenua and relevant iwi authorities about the effects of projects and their associated activities on Māori cultural values. These instruments would be helpful to inform the Treaty obligations report to outline the relevant obligations and consideration from the perspective of relevant iwi authorities. Although they may be submitted as supporting information for an application, it should be a requirement under the Bill.

The value of Iwi Management Plans or Strategies and CIAs and Mana Whenua involvement in development proposals is diminished because key cultural planning instruments are not required as part of the information supporting applications, or as a requirement for Joint Ministers to base their decisions on. These should be a consideration when Ministers are making a substantive decision or referral of a project to an Expert Panel. The requirement for a report on Te Tiriti o Waitangi settlements and other obligations, which does not include these instruments will not achieve the right balance.

12. **Consideration of increased severe weather events due to climate change:** Make this a mandatory risk assessment with all applications. Without this type of assessment, the impact climate change and related events will have not been anticipated in decisions and could grossly underestimate future costs and realistic timing of consenting infrastructure and development projects. Current consenting and development processes have seen a slow uptake of technical infrastructure development required to tackle climate change related events. By including risk assessment as a consideration, the Bill would have a positive outcome and achieve its intention.

13. **Expand appeal rights:** Allow the right to appeal on questions of law as well as fact, with a legal obligation to ensure decisions of the judiciary are delivered on significant projects in a certain specified timeframe. Additionally require central government to provide further rationale on the justification for the restriction of appeal rights.

    Tasman supports the Ministry for the Environment departmental disclosure statement, noting that good policy practice would ensure there was a “justification for the restriction of appeal rights to questions of law, rather than a merits-based appeal” and that this would be “clearly articulated” in the policy papers for the Bill. Additionally best practice would also “clearly articulate the rationale for removing the right of appeal to the Court of Appeal”. Tasman agrees that key to the proposed changes to appeal rights, there needs to be a full consideration on “how to balance the right to appeal on questions of fact – as well as questions of law – with the need for timeliness of decision making on significant infrastructure and building projects” and “the need to avoid further costly litigation about the decision to approve a project, the expertise of the Expert Panels advising ministers, and the requirements on ministers when deciding to refer a project for approval.”

14. **Ensure transparent decision making:** The discretion available to an Expert Panel to hold a hearing could be applied inconsistently across applications and throughout Aotearoa. By requiring the Bill to make public the advice provided from the Expert Panel to the Ministers supports the transparency of decision making, and potentially builds public confidence and trust in government.

15. **Clarify who is responsible for defending appeals**: As local authorities will no longer be the consenting authority, we would expect that local authorities will not be required to defend appeals or act as the respondent for judicial reviews, as this responsibility will now fall to central government or a nominated agency.

16. **Make it a mandatory requirement for Ministers to seek advice from Expert Panels.** The Bill should make it mandatory to seek the expert advice from Panels.

17. **Timeframes to be realistic:** The Bill's 10-day timeframes and rigidity in the process challenges the ability of local authorities to participate effectively in the FTP including, for example, the ability to input and provide evidence to the Expert Panel to inform its decisions. This will be particularly challenging for complex and significant projects.

    Clause 19 *Right to make comment* which allows for Ministers to obtain comments from the relevant local authorities and iwi authorities and others, once an application is submitted for referral only provides 10 working days to comment. This is late in the process for the local authority to comment on serviceability of a development proposal. We submit that the applicant should demonstrate the proposal can be serviced as part of the application for referral, to save time or work being terminated by Ministers. Alternatively, applicants should be required to demonstrate they have consulted the relevant local authority/ies and considered any feedback received before submitting and application.

18. **Enable compatibility with underlying zoning:** Ensure as part of a FTP permission that the underlying zone can be changed to be compatible with its end use to remove the need for tidy up plan changes afterward that are costly and bureaucratic. This would, for example, allow for the efficient implementation of the Future Development Strategy in the Nelson -Tasman region and avoid the need for tidy up plan changes that previous Special Housing Area legislation created.

19. **Design of consent conditions in a pre-application process:** The Bill to support a pre-application process and include the requirement to engage with local authorities to develop draft consent conditions. Utilising the FTP should be reserved for those that have done the required work upfront. The Bill could support the tested practice and successes established by local authority pre-application processes. Tasman, for example, has found that by taking the time to engage in pre-application discussions, this often leads to improved outcomes and fit for purpose consent conditions. Conditions of consent often define the scope and limitation of a project. If the applicant effectively works on draft conditions at the start of the process with the Expert Panel, this could ensure that the conditions of consent are practical and enforceable. Once the decision is issued it will be the consent authority that needs effective and enforceable conditions.

20. **Enable effective compliance and enforcement of consents:** Incorporate compliance and enforcement provisions to the same effect of those in the repealed NBEA - to enable significant and effective action in the event of non-compliance or offences under the relevant Acts, including the *Monetary benefit orders* (s660) and *Revoking or suspension of consents* (s661). Such provisions should be tied to offences under all the of Acts within the fast-track process as a means of closing the loop on adverse effects on the environment and communities. These provisions will go some way to providing comfort that organisations seeking fast tracked permissions can be more effectively held to account should they fail to adhere to conditions set. This is particularly important given the FTP will circumvent the purpose of those Acts it covers (*"when making recommendations, the EP is required to consider the purpose of the Bill above the purposes and provisions of the Acts approvals are required under").*

4.0 Closing comments

Providing a sound evidence base and implementing good practice consultation with local authorities, PSGEs, ngā iwi and hapū on future policy proposals could find better solutions to address the current legislative and specific planning problems that the Bill intends to resolve. Upholding Te Tiriti o Waitangi partnerships requires authentic engagement with PSGEs, ngā iwi and hapū on how best to uphold their arrangements in the FTP. Scenarios related to a range of projects (housing, mining, aquaculture) could be provided to communicate how the Bill will resolve issues. Currently, however, the Bill's scope is too wide and unknown and risks resulting in poor economic, environmental, and cultural outcomes.

Tasman's concerns regarding the structure and intended outcomes of the Bill are informed by the Ministry for the Environment departmental disclosure statement. This statement highlights that the policy details to be given effect by this Bill have not been tested or assessed in any way to ensure the Bill's provisions are workable and complete. The SAR states that a system-wide analysis that incorporates all the linkages for all the proposed amendments, how they work together and what the cumulative impacts of all these amendments will be, was not undertaken. For example, there is no analysis on how decisions made through implementing a fast-track regime will be compounded by changes to the NPS-FM and the removal of the hierarchy of Te Mana o te Wai for consent decisions. There has also been "very limited analysis on the problem definition associated with conservation, heritage, and public works legislation. The SAR noted that the "challenges/barriers posed specifically by conservation and heritage approvals are not well understood", potentially resulting in unquantified "negative impacts on conservation land and wildlife outcomes." "No analysis has been provided by the Department of Conservation for the SAR on the conservation approvals contained in the fast-track regime." The overall lack of a comprehensive policy, cost, and benefit analysis runs the risk of perpetuating the RMA's deficiencies by not providing evidence-based solutions to environment and development issues. The risk of unintended consequences is of significant concern.

The decision-making criteria for fast-track concessions under the Conservation Act is unclear and confusing. Schedule 5 outlines three constrained matters that the Expert Panel must consider when assessing and reporting on concession applications (Clause 5). However, the Minister, in deciding on a concession, must consider a much wider range of matters, including the purpose of the Bill, the purposes for which the land is held, and some conservation management strategies and plans (Clause 6). It is unclear whether the Expert Panel's recommendatory role is intended to be narrower than the role performed by the Minister.

Clause 6 of Schedule 5 is also confusing because it requires some matters to be "had regard to" and others to be "considered". It is not clear whether that is intended to be significant.

Improving these provisions is essential. There is also a need to include other provisions to allow local authorities to make decisions on those projects where there are LTP and operative funding implications for local authorities, for example, would support more realistic financial forecasting of costs**.** If more consideration is given to testing the Bill's proposed policy framework by a key group of experts including local authorities, NGOs, PSGEs the Bill's provisions are more likely to be workable and complete. Currently, there is no sound evidence to understand whether efficiencies will be gained by the FTP. Some of the options discussed in the SAR highlighted that the monetary value of costs imposed on a range of actors including the Crown, local authorities, ngā, iwi, the

development community, the public, or future generations was difficult to quantify in the time made available to complete this analysis. Tasman submits that, there may be increased regulatory costs for local authorities because of increased compliance services required for developments that have been previously prohibited and which do not meet existing industrial standards or national or international obligations. Local authorities may also have to support servicing for large scale housing, infrastructure, and development projects which could cause major funding and resourcing challenges to maintain support services and infrastructure.

Tasman District Council again thanks the Select Committee for the opportunity to submit on this Bill.

We wish to be heard in support of our submission.

4.0 Specific comments on clauses of the Bill

Clause	Clause title	Tasman comment	Recommendation
Explanatory note			
1	Title		
2	Commencement		Delay commencement to allow targeted engagement on workability and completeness of the Bill's policy framework and provisions
Part 1	Preliminary provisions		
3	Purpose	Amend	Change the purpose of the Bill to support the delivery of infrastructure and development projects with significant regional or national benefits balanced by the environmental and cultural heritage protective mechanisms enshrined in the Resource Management Act, Conservation Act, Wildlife Act, Reserves Act, the EEZ Act, Freshwater Fisheries Regulations, Heritage NZ Pouhere Taonga Act
4	Interpretation	Amend	Add a definition for significant national and regional benefits Add the relevant Ministers for all Acts associated and affected by the Bill to the definition of joint Ministers
5	Transitional, savings, and related provisions		

Clause	Clause title	Tasman comment	Recommendation
6	Obligation relating to Treaty settlements and recognised customary rights	Amend	Include a reference to obligations arising under Te Tiriti o Waitangi and its principles
7	Te Ture Whaimana	Support	
8	Act binds the Crown	Support	
9	Procedural principles	Amend	Add the word “diligently” in 9(2) to read: “This includes a duty to act *diligently* and promptly…”
Part 2 Fast-track approval process for eligible projects *Application*	Subpart 1—Application of this Part to approval processes in other legislation		
10	Application of this Part to specified approval processes		Reconsider the scope of clause 10 after a full costs and benefit analysis and targeted engagement on workability and completeness of the Bill’s policy framework and provisions
Listed and referred projects			
11	Panels consider listed projects and referred projects		
12	Who makes referral decisions	Amend	Limit persons who can apply to the Joint Ministers in clause 12(1)

Clause	Clause title	Tasman comment	Recommendation
13	Ministers must consider Treaty settlements and other obligations report	Amend	Include iwi management plans and CIAs in clause 13 (2) Include Te Tiriti o Waitangi and its principles in the matters a report must include which will be supported by the expertise required under Schedule 3 7(1) (c)
Application process	Subpart 2—Decisions about referral of projects and process of referral		
14	Referral application	Amend	Limit persons who can apply to the responsible agency in clause 14(1). Define what is meant by a “general level” 14(2)(b) Clause 14(3) sets out the information to be included with the application but does not include serviceability of the proposal where it is for development. The applicant should demonstrate serviceability of the development proposal with the application, and this should be inserted under clause 14. Include a description of the anticipated and likely effects on the environment and cultural heritage in clause 14 (3) (e) Broaden clause 14 (3)(n) to include other places and sites of significance to Māori e.g., wāhi tīpuna,

Clause	Clause title	Tasman comment	Recommendation
			wāhi taonga, mahinga kai, ara tawhito, wāhi kāinga etc
15	Responsible agency decides whether referral application is complete		More analysis and evidence required to reassess if timeframes are realistic
16	Consultation requirements for applicants for approvals	Amend	Amend to provide process for public and NGO engagement
Eligibility criteria for projects			
17	Eligibility criteria for projects that may be referred to panel	Amend	Include in the criteria at clause 17(2)(a) a consideration of the protective mechanisms enshrined in the Resource Management Act, Conservation Act, Wildlife Act, Reserves Act, the EEZ Act, Freshwater Fisheries Regulations, Heritage NZ Pouhere Taonga Act Reword clause 17(3)(i) to read: "*will not cause significant environmental issues"* Delete clause 17(5)
18	Ineligible projects	Amend	Include as an ineligible project: any project that causes significant environmental issues to be consistent with clause 21(2)(c)
Joint Ministers to decide whether to refer			Include s.8

Clause	Clause title	Tasman comment	Recommendation
application to panel			
19	Process after joint Ministers receive application	Amend	Provide process for public and NGO engagement Assess if timeframe tenable for significant projects Applicants should not be able to withdraw and then resubmit an application
20	Ministers may request information	Amend	Provide more certainty on process and format for requested information
21	Decision to decline application for referral	Amend	Include matters listed in 21(2) in 21(1)
22	Decision to accept application for referral		
23	Minister may specify matters for accepted referral application		
24	Notice of joint Ministers' decision on referral application		
25	Panel to report and joint Ministers to decide whether to approve project		Delete clause 25(9)
Appeals against decisions of joint Ministers	Subpart 3—Miscellaneous provisions		

Clause	Clause title	Tasman comment	Recommendation
26	Appeal against decisions only on question of law	Amend	Include a process for public submissions
27	Procedural matters	Amend	Include appeals on facts
Service of documents			
28	Service of documents		
Information sharing			
29	Responsible agency may provide information for purposes of this Act		
30	Process provisions for projects		
Secondary legislation			
31	Regulations		
32	Amendments to other legislation		
33	Repeal	Amend	Retain Schedule 1 clauses 4 to 9
Schedule 1	Transitional, savings, and related provisions		
Schedule 2	Listed projects		
Schedule 3	Expert panel	Amend, clauses contradict one another in terms of requirement for procedures to be formal and informal	Define what is meant by “generally take into account in clause 1(2) Define what is meant by ‘little formality and technicality” in clause 9(2)

Clause	Clause title	Tasman comment	Recommendation
			Define what is meant by '" without procedural formality" in clause 10(1)
Schedule 4	Process for approvals under Resource Management Act 1991	Amend	Delete 2(3)(a) Include section 8 of the RMA in clause 12(1)(g) Delete clause 13 (2) Information required under clause 15 to include a cultural heritage and climate change risk or resilience assessment Include section 8 of the RMA in clause 16(1)(d)(i) Delete clause 20 Include ability to waiver time limit under reasonable circumstances in clause 21(7) Amend clause 32 by requiring the weighting to be balanced and include section 8 of the RMA Delete clause 34(2)(b) Include section 104D RMA in clause 35 Require public disclosure of the rationale for Ministers' decision under clause 40 Clause 45

Clause	Clause title	Tasman comment	Recommendation
Schedule 5	Process relating to Conservation Act 1987 and Reserves Act 1977	Assess for anomalies and amend noting that the Ministry for the Environment has stated that there will be: "negative impacts for other government objectives, including impacts and risks to conservation objectives and the purpose for which non-excluded conservation land is held." The Council administers thousands of parcels of land that are subject to the Reserves Act – this Bill poses the same risks to these lands as to public conservation land.	Amend Clause 4(i) so that concessions/other approvals remain consistent with conservation management strategies, conservation plans, and reserve management plans. Make it a mandatory requirement for these instruments to be considered under clause 6(1)(b) and align to clause 9 which requires an applicant to provide an assessment of a proposal against conservation management strategies/plans and reserve management plans. Without this alignment the clauses contradict one another. Do not allow concessions/other approvals under clauses 4(b), 4(g) to be granted if the application is "obviously inconsistent with", or does not "comply" with, the provisions of the Conservation Act or Reserves Act, and where the concession/approval is not consistent with the conservation purpose for which the land is held/reserved. Retain sections 17SB and 17U (3) of the Conservation Act 1987. Amend and require under clause 4(h), that an application for a structure/facility be declined where it could reasonably be undertaken outside conservation lands or reserve land or in another part of the conservation land having lower impact. Retain section 17U(4) of the Conservation Act 1987. Amend and require under clause 4(c) public notification of application for easements and licenses on conservation land and reserve land.

Clause	Clause title	Tasman comment	Recommendation
			Clause 18 provides for exchanges of conservation land for private land and money. It is unclear if this includes reserve land administered by local authorities (this should not be provided for). While the provision is subject to a requirement that the land exchange will enhance the conservation values of land managed by the Department of Conservation, the ability to take into account money provided to the Crown as part of the exchange means that short-term conservation benefits will be taken into account even where the longer term outcome is a net loss of public land or conservation lands. In addition to that risk, it is unclear whether, or how, the development-focused purpose of the Bill is intended to affect such decisions. Amend Clause 23 to strengthen constraints on the Minister: existing conservation covenants should trump development, not vice versa. Exclude, for example, all Council-administered reserve lands from the footprint of eligible projects. It is not appropriate for the Ministers listed as decision-makers in the Bill to determine what activities take place on any Council-administered reserve land. Councils have pre-existing Reserve Management Plans in place that guide management of these lands, each of which has gone through an extensive public consultation process with local communities, in accordance with the Reserves Act.
Schedule 6	Process for approvals under Wildlife Act 1953	Assess for anomalies and amend	Provide further analysis on the problem definition associated with approvals under the Wildlife Act

Clause	Clause title	Tasman comment	Recommendation
Schedule 7	Application process for archaeological authority under Heritage New Zealand Pouhere Taonga Act 2014	Assess for anomalies and amend	Provide further analysis on the problem definition associated with approvals under the Pouhere Taonga Act
Schedule 8	Process for approval under Freshwater Fisheries Regulations 1983 or section 26ZM of Conservation Act 1987	Assess for anomalies and amend	Provide further analysis on the problem definition associated with approvals under the Freshwater Fisheries Regulations
Schedule 9	Process for marine consents under Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012	Assess for anomalies and amend	Provide further analysis on the problem definition associated with approvals under the EEZ Act
Schedule 10	Process under Crown Minerals Act 1991	Assess for anomalies and amend	Provide further analysis on the problem definition associated with the Crown Minerals Act
Schedule 11	Modifications to process under Public Works Act 1981 to take or deal with land	Assess for anomalies and amend	Provide further analysis on the problem definition associated with public works legislation and all the associated issues which will affect the balance between delivering public infrastructure and private property rights
Schedule 12	Process under Fisheries Act 1996	Assess for anomalies and amend	
Schedule 13	Amendments to other legislation		