SUBMISSION OF TE HUNGA RŌIA MĀORI O AOTEAROA THE MĀORI LAW SOCIETY

To: Environment Committee (**the Committee**)

Re: Fast-Track Approvals Amendment Bill[1]

Date: 17 November 2025

Context

1. Te Hunga Rōia Māori o Aotearoa (**Te Hunga Rōia**) was formally established in 1988. Since then, Te Hunga Rōia has grown to include a significant membership of Māori legal practitioners, legal academics and Māori law students. Our vision is Mā te Ture, Mō te Iwi – by the Law, for the People. One of our objectives is to promote law reform for Te Ao Māori in a manner that is consistent with Te Tiriti o Waitangi.[2]

2. When making submissions, Te Hunga Rōia seeks to provide a kaupapa Māori based approach to legal analysis in its feedback on proposed law reform. Te Hunga Rōia does not attempt to represent all the views of its constituent members but intends to raise issues of importance to the Māori legal community generally.

Introduction

3. The Fast-Track Approvals Amendment Bill (‘**the Bill’**) has been presented as a set of “technical machinery” amendments intended to improve efficiency and to clarify the regime’s application to supermarket and grocery sector projects.[3] Despite this narrow framing, the Bill introduces substantive and structural changes that significantly affect Māori participation, natural justice and the constitutional balance of Environmental decision making in Aotearoa.

[1] *Fast-Track Approvals Amendment Bill 219-1* (2025), *Government Bill.*
[2] In this submission “Te Tiriti” will be used to refer to Te Tiriti o Waitangi 1840, being the Māori text, and “the Treaty” will be used to refer to the Treaty of Waitangi 1840, being the English text.
[3] *Fast-Track Approvals Amendment Bill, above at n* 1; and New Zealand, House of Representatives, “*Fast-Track Approvals Amendment Bill – First Reading*” (6 November 2025).

4. The amendments remove meaningful engagement pathways for iwi, hapū and Māori communities. They compress key timeframes, restrict appeal rights and narrow the discretion of expert panels to seek input from affected Māori groups. At the same time, the Bill expands Executive power through new Government Policy Statements (**GPS**), Ministerial directions to the EPA and the ability to amend the Act's project list by Order in Council.

5. Te Hunga Rōia is particularly concerned that:

    a. The amendments materially reduce the practical ability of Māori to exercise rangatiratanga and to safeguard whenua, wai and taonga through timely and meaningful input;

    b. Te Tiriti partnership and participation are diminished through the replacement of consultation with notification and the shortening of statutory frameworks;[4]

    c. Natural justice and access to justice are curtailed, as appeal rights to a limited group of mandatory invitees;[5]

    d. Executive overreach occurs where Cabinet may amend the Act's project list by Order in Council, bypassing Parliament and public scrutiny;[6]

    e. Ministerial direction powers undermine the independence of the Environmental Protection Authority (**EPA**) and expert panels;

    f. And Treaty settlement and customary rights protections are exposed to risk as project boundaries may be altered without engagement or consent.

6. These changes go well beyond the limited rational advanced by the Government. Their effect is to weaken the safeguards that protect fair, transparent and Treaty consistent decision making.

[4] *Fast-Track Approvals Amendment Bill, above at n* 1, cl 6 and new s 11.
[5] *Fast-Track Approvals Amendment Bill, above at n* 1, cl 50 and new s 99.
[6] *Fast-Track Approvals Amendment Bill, above at n* 1, cl 54 and new s 117A.

Failure to Uphold Te Tiriti o Waitangi

7. The Bill fails to uphold the Crown's obligation under Te Tiriti. Despite making substantive changes to how Māori can participate, the Bill includes no Treaty clause, no requirement to give effect to Te Tiriti principles and no safeguards to ensure Māori rights are upheld in decision making.

8. A central change is the shift from consultation to notification. The Departmental Disclosure Statement (**DDS**) acknowledges that iwi, hapū and Treaty settlement entities will now be notified rather than consulted to "streamline" the process.[7] Notification provides information without influence. It is inconsistent with partnership and active protection, which require early, meaningful and reciprocal engagement.

9. The Bill also compresses comment timeframes to 15 workings days. The Bill of Rights Advice (**BORA**) accepts that these limits engage section 27 of the New Zealand Bill of Rights Act (**NZBORA**) but treats them as proportionate to efficiency.[8] That position ignores the practical reality that Māori decision making requires time for hui, collective consideration and expert assessment. Uniform deadlines imposed on groups with unequal capacity undermine equity, another core Treaty principle.

10. Although the DDS asserts the Treaty settlement and customary rights obligations "remain", the mechanisms through which those rights are exercised are significantly weakened.[9] Without adequate engagement pathways, reduced timeframes and limited opportunities to influence decisions, Māori are shifted from partners to reactive participants.

11. Taken together, these amendments diminish Māori participation, weaken the Crown's duty of active protection and fall short of Te Tiriti standards for fair, informed and meaningful involvement in environmental decision making.

[7] Ministry of Environment and Ministry of Business, Innovation and Employment Departmental Disclosure Statement: *Fast-Track Approvals Amendment Bill* (23 October 2025) at 6.
[8] Ministry of Justice *Consistency with the New Zealand Bill of Rights Act 1990*: *Fast-Track Approvals Amendment Bill* (31 October 2025) at [2]; and *New Zealand Bill of Rights Act* 1990, s 27.
[9] *Departmental Disclosure Statement, above at n* 7, at 6.

Reduction of Māori Participation and Consultation Rights

12. The Bill significantly reduces Māori participation at every stage of the Fast-Track process. These changes are framed as efficiency measures, but in practice they remove the pathways through which iwi, hapū and Māori communities can meaningfully influence decisions affecting their whenua, wai and taonga.

13. The DDS confirms that applicants will no longer be required to consult iwi, hapū or Treaty settlement entities before referral.[10] They must only notify them in writing. This removes the only early engagement opportunity and denies Māori the ability to shape proposals before they are locked into the Fast-Track pathway.

14. The period for invited comment on referrals is reduced from 20 to 15 working days.[11] The BORA advice recognises that truncated timeframes limit the right to be heard under section 27 of the NZBORA, yet treats the limit as proportionate.[12] For Māori entities who must convene hui, assess cultural impacts and obtain technical advice – 15 days is not workable, and the burden falls disproportionately on those with limited capacity.

15. Currently, panels may invite comment from "any other person" they consider appropriate. Clause 33 removes this discretion. Panels may only seek input where Councils or administering agencies decline to comment or cannot address an issue.[13] This restricts the ability of hapū, marae committees, Māori landowners and other groups with mana whenua or ahi kā to participate, particularly where they are not recognised as "iwi authorities" for statutory purposes.

16. Taken together, these changes confine Māori participation to late, rushed and highly constrained stages of the process. They do not merely reduce the volume of engagement; they remove the points at which Māori engagement is most meaningful. The result is a system that treats Māori knowledge as supplementary and optional, rather than essential to lawful, informed and culturally grounded decision making.

[10] *Departmental Disclosure Statement, above at n* 7, at 6.
[11] *Fast-Track Approvals Amendment Bill, above at n* 1, cl 9.
[12] *NZBORA Consistency Statement*, *above at n* 8, at 2-10.
[13] *Fast-Track Approvals Amendment Bill, above at n* 1, cl 33.

Natural Justice and Access to Justice

17. The Bill also weakens core natural justice protections by restricting who may challenge Fast-Track decisions and how.[14] These changes narrow legal remedies at the very point where decisions can have long term and irreversible effects on Māori land, water and cultural interests.

18. Under the Fast-Track Approvals Act (**FTAA**), any party invited to comment may appeal to the High Court on a point of law.[15] Clause 41 of the Bill confines the right to parties the Act requires to be invited.[16] Hapū, Māori land trusts, marae committees and smaller collectives – who often participate through panel discretion lose the ability to appeal entirely.

19. The DDS notes that Judicial Review remains available, but cannot correct substantive errors or revisit the merits of a decision.[17] It is also, costly, time consuming and inaccessible for many Māori entities. Removing direct appeal rights effectively leaves affected Māori communities without a realistic or timely avenue to challenge legal or factual errors.

20. The BORA advice acknowledges that reduced participation triggers natural justice rights, but it does not assess the distinctive impact of removing appeal rights from groups most affected by these decisions.[18] Restricting who may appeal, while simultaneously reducing opportunities to be heard, creates a system where the right to challenge decisions becomes increasingly theoretical.

21. With fewer parties able to appeal, panels have less external scrutiny and errors that affect Māori rights or culturally significant places are more likely to go uncorrected. In a regime designed for speed and with compressed information processes, robust avenues for legal challenge become more – not less important.

Constitutional and Executive Power Risks

22. The Bill introduces several changes that collectively expand Executive power and weaken the constitutional safeguards that ordinarily guide environmental and resource use decision making in Aotearoa.

[14] *Fast-Track Approvals Amendment Bill, above at n* 1, cl 50.
[15] *Fast-Track Approvals Act* 2024. s 99.
[16] *Fast-Track Approvals Amendment Bill, above at n* 1, cl 41.
[17] *Departmental Disclosure Statement, above at n* 7, at 7.
[18] *NZBORA Consistency Statement*, *above at n* 8, at 2-10.

23. These changes are presented as "technical" or "machinery" amendments, but their effect is substantive and structural and extends far beyond the supermarket related rationale used to justify the Bill.

24. The Bill allows the Executive to change primary legislation without returning to Parliament. This power would permit Ministers to "impose" their view of regional or national benefit by decree, rather than through pubic or Parliamentary scrutiny. For Māori, this carries particular risk. Project descriptions or boundaries could be adjusted with reengagement with affected iwi, hapū or Treaty settlement entities, undermining certainty and accountability. It also removes the judicial oversight highlighted in *Ngāti Kuku v Environmental Protection Agency*, where the High Court relied on the precision of statutory descriptions to constrain Executive authority.[19]

25. The Bill introduces the ability for Ministers to issue Government Policy Statements (**GPS**) that panels must consider.[20] Proposed new section 10A empowers Ministers to set policy direction defining what counts as "regional or national benefits".[21] This creates a mechanism by which Ministers may predetermine the benefits of certain activities, narrowing the space for panels to undertaken genuine cost benefit analysis or independently weigh environmental and cultural impacts. This shifts substantive decision making influence from expert panels to the Executive.

26. The Bill authorises Ministerial directions to the EPA on the performance of its functions. While described as addressing a gap in accountability, it highlights that such directions go beyond the administrative powers typical under the Crown Entities Act. Unlike targeted administrative expectations, these directions relate to the EPA's role in a quasi-judicial process and risk exerting political pressure over functions that require independence.

27. The Bill accelerates key procedural steps in ways that weaken independent scrutiny. Short statutory timeframes for panel appointment and panel decision making constrain convenors' ability to assemble specialist expertise and obtain independent reports. This tactical pause is essential for high quality analysis and that compressing the process curtails the ability to secure robust decision making. This further shifts the balance of power toward the Executive, whose referral and policy setting powers are not similarly constrained.

[19] *Ngāti Kuku Hapū Trust v Environmental Protection Agency* 2025 NZHC 2453.
[20] *Fast-Track Approvals Amendment Bill, above at n* 1, cl 5.
[21] *Fast-Track Approvals Amendment Bill, above at n* 1, new s 10A.

28. Taken together, these amendments reconfigure the regime from one grounded in independent evaluation to one structured around Executive priority setting. They transfer influence away from expert panels and the EPA, create avenues for Ministers to shape outcomes directly, and reduce the checks that ordinarily guard against politicised decision making. These are constitutional shifts, not technical adjustments.

Ministerial Direction and Loss of Independent Oversight

29. The Bill further consolidates Executive control by empowering Ministers to issue general directions to the EPA concerning the performance of its functions under the Fast-Track regime.[22] Although the Bill stipulates that such directions cannot relate to specific projects, the distinction between 'general' and 'specific' is constitutionally thin. The power gives the Executive a broad ability to shape how an ostensibly independent statutory body exercises its statutory discretion.

30. The DDS notes that this provision will "provide for Ministerial direction to the EPA in relation to the performance of its functions, duties, or powers under the Act" and describes the amendment as ensuring "policy consistency and administrative alignment".[23] That language obscures the constitutional concern: the EPA's quasi-judicial independence exists precisely to ensure that decisions affecting property, environmental, and cultural rights are made free from political influence. Allowing Ministers to steer the EPA's operational priorities – even indirectly – introduces the risk of politicised decision making in a process that must remain legally impartial.

31. The BORA advice does not address this issue, limiting its analysis to procedural fairness. However, the implications are profound. The EPA administer functions that directly affect Māori rights and Treaty interests, including oversight of environmental assessments, recognition of customary rights, and the protection of wāhi tapu and taonga species. If the EPA becomes subject to Ministerial direction, it risks being reduced from an independent regulator to an instrument of executive policy. Such a shift compromises both administrative law principles and Te Tiriti partnership, which require that Māori interests be assessed and protected through impartial, evidence based processes rather than political expedience.

[22] *Fast-Track Approvals Amendment Bill, above at n* 1, cl 48, new s 93A.
[23] *Departmental Disclosure Statement, above at n* 7, at 10.

32. For Māori, the concern is not hypothetical. Previous experience under environmental legislation – including decisions concerning mining, water extraction, and infrastructure – has shown that when political considerations dominate, Māori cultural and Treaty interests are often subordinated. The new direction power reintroduces that dynamic under the guise of efficiency. It blurs the institutional boundary that safeguard Māori from arbitrary or politically motivated decision making.

33. It also raises a deeper constitutional issue: the separation of powers. The EPA, like statutory authorities, is designed to operate at arm's length from the Executive to preserve the legality and legitimacy of its determinations. When Ministers can direct the manner in which it exercises its powers, the rule of law is weakened, and public confidence in impartial administration erodes. The DDS's assurance that the directions are 'not project specific' provides little comfort, as general policy settings can still influence outcomes in individual cases – particularly where Ministers have publicly signalled economic priorities through instruments such as Government Policy Statements.[24]

34. From a Te Tiriti perspective, the power is inconsistent with the principle of partnership, which requires the Crown to act in good faither and make decisions based on mutual respect rather than unilateral authority. It also undermines active protection, as Māori interests become subject to the same political imperatives that the EPA is supposed to independently balance. The risk is that cultural, environmental, or a Treaty based considerations will be reframed as secondary to the Government's economic agenda, further entrenching the imbalance between development and protection.

35. This provision erodes both intuitional independence and Māori trust in the integrity of environmental decision making. It represents another mechanism through which the Bill centralise Executive power while diminishing the procedural and constitutional safeguards necessary to uphold Te Tiriti and the rule of law.

[24] *Departmental Disclosure Statement, above at n* 7, at 3.

Absence of Transitional Protections

36. The Bill contains no transitional provisions. Under section 33 of the Legislation Act 2019, this means the amendments do not apply retrospectively and should not affect applications already in progress.[25] The presumption against retrospective application protects the integrity of ongoing processes by ensuring participants know the rights, timeframes and engagement requirements that govern their applications.

37. Despite this statutory presumption, recent public statements by the Minister of Regional Development (Hon. Shane Jones) suggest an expectation that the amended regime will apply to projects already in the Fast-Track pipeline.[26] If that intention were later implemented, whether thorough administrative practice or Supplementary Order papers – it would contradict section 33 and create significant legal and procedural uncertainty.

38. Retrospective application would remove rights that iwi, hapū, Māori landowners and other parties have already relied upon under the principal Act. This includes consultation requirements, 20 working day comment periods, panel discretion and broader appeal standing. Changing these rules mid-process would undermine legitimate expectations and breach basic principles of natural justice and good administrative practice.

39. It would also create practical challenges. Fast-Track applications are currently at varied stages. Some have completed pre-application steps; some are awaiting referral decisions and others are already before the panels. Imposing a new statutory framework across these differing stages would lead to inconsistent treatment, confusion for decision makers and a heightened risk of legal challenge by way of judicial review.

40. For Māori, the risks are amplified. Abrupt removal of existing engagement pathways would further constrain the ability of iwi and hapū to influence proposal affecting Treaty settlement lands, wāhi tapu and other taonga.

[25] *Legislation Act 2919*, s 33.
[26] See for example: Thomas Coughlan "Shane Jones pushes for faster approvals and expects changes to apply to projects already in the pipeline" *New Zealand Herald* (online ed, 31 October 2025); "Fast-track amendments will speed up 'projects already underway' – Jones" *1News* (online ed, 2 November 2025); Michael Morrah "Minister Shane Jones: Fast-track changes will clear 'logjams' in current development pipeline" *Newshub* (online ed, 3 November 2025); Phil Pennington "Fast-track overhaul expected to 'apply immediately' to pending applications – Jones" *Radio New Zealand* (online ed, 4 November 2025)

41. Such an outcome would be inconsistent with Te Tiriti obligations of good faith and active protection, which require fair, predictable and stable processes when Māori rights and interests are at stake.

42. Given the absence of transitional provisions, and the public statements that imply otherwise – the Bill should make explicit that the amendments apply only to future applications. Clear transition rules are required to maintain legal certainty, uphold section 33 of the Legislation Act 2019 and protect the fairness and credibility of the Fast-Track system.

Conclusion

43. The Fast-Track Approvals Amendment Bill is framed as set of technical and efficiency focused adjustments. In practice, it introduces substantive changes that weaken Māori participation, diminish natural justice and expand Executive influence over processes that should remain independent, transparent and consistent with Te Tiriti.

44. Across its provisions, the Bill replaces consultation with notification, compresses timeframes, narrows appeals rights, restricts panel discretion and introduces Ministerial tools (including GPS, ministerial directions and Order in Council). This concentrate decision making authority within the Executive. These changes reduce the points at which Māori can meaningfully influence decisions affecting their whenua, wai and taonga, while simultaneously weakening the checks that ensure decisions are fair, robust and evidence based.

45. Together, the amendments do not promote efficiency. They undermine the constitutional balance that protects the credibility of environmental decision making in Aotearoa. They fall short of Te Tiriti obligations of partnership, active protection and equity. They risk eroding public confidence in a system that governs matters of significant environmental and cultural consequence.

46. For these reasons, Te Hunga Rōia Māori o Aotearoa considers that the Bill, in its current form, does not meet the standard of lawful, Treaty consistent or legitimate environmental governance and should not proceed without substantial amendment.

47. We would like to acknowledge the members of Te Hunga Rōia Māori o Aotearoa who contributed to this feedback. Please direct any pātai to Law Reform at lawreform@maorilawsociety.co.nz

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