

## Te Ohu Kaimoana's Response to the Fast-Track Approvals Bill

This paper has been put together alongside Te Ohu Kaimoana's draft response to this Bill. As we work to complete and finalise a draft alongside iwi, we have identified the following points of interest and key questions for your consideration. We would appreciate any feedback to any and/or all the below by Monday 15 April 2024.

- 1. Creation of a 'must decline' list:** Currently the Ministers holding the portfolios for Infrastructure and Regional Development ("the Ministers") will have ultimate power to approve a project. We want to see the Bill amended to include a list with conditions for why a project "must be" declined. We are concerned that Ministers will be able to approve a project which will have significant adverse effects on the environment or breaches the Māori Fisheries settlement. What do you think about this proposal?
- 2. Ranking of criteria:** Currently, the Bill provides for a process which will see projects considered against certain criteria. Rather than each point of the criteria weighted equally, the purpose of the Act is effectively a trump card over all other considerations. The purpose of the Act is "to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits". We would like to see a balanced approach taken so there is no ranking of criteria but rather all projects are assessed according to the relevant criteria which considers the relevant environment and other rights and interests. What do you think about this suggested amendment?
- 3. Expert panel to make the final decision on the outcome of applications:** Currently, the Ministers have ultimate power and authority to determine the outcome of any, and all project applications made. An expert panel will be appointed with responsibility for analysing and providing recommendations to the Ministers on proposed projects. However, there is no legal requirement that the Ministers must follow the recommendations of this panel. We want to see this Bill amended so that the expert panel has the authority to decide the outcome of project applications. This is also consistent with the allocation of decision-making power under the previous Covid-19 Recovery (Fast-track) Consenting) Act 2020. We are concerned that the expert nature of this panel will have no true power and be rendered a rubber-stamping group without this change. Do you agree with this proposal, or do you have any feedback on the Ministers ability to have sole authority to decide outcomes of applications?
- 4. Timeframes to respond to applications require extension to provide for meaningful engagement:** Currently, relevant parties, including Treaty settlement entities (MIOs and IAOs) are provided with only 10 days to provide a response to project applications. Where we stand, this isn't enough time for iwi and its support (like Te Ohu Kaimoana) to effectively consider the applications, consult with experts when required, and provide a response to the expert panel for consideration. What do you think is a substantial timeframe to provide feedback on these large-scale projects?
- 5. Aquaculture development entering the Exclusive Economic Zone (EEZ):** Currently, under the Māori Commercial Aquaculture Claims Settlement Act (MCACSA), aquaculture development is limited to regional council boundaries, with these boundaries extending out to 12 nautical miles (nm). Under the MCACSA, a settlement obligation is triggered when a resource consent application for an aquaculture development within 12 nm is made. The Bill highlights an increase in interest in open ocean aquaculture, extending past 12 nm and into the EEZ. This raises the concern that Māori do not currently have any enforceable settlement obligations within the EEZ, however we would argue that we do and thus our settlement may need to be amended to reflect this. We are recommending that aquaculture settlement in the EEZ needs to be resolved prior to any applications being progressed for open ocean aquaculture in the EEZ under the Bill. What are your thoughts on this?

6. **Te Ohu Kaimoana's role on the Fast-track Projects Advisory Group:** An Advisory Group is being proposed that will determine which projects will be recommended to Ministers under Schedule 2 of the Bill. There is a lack of information surrounding both who is on the Advisory Group and whether the Advisory Group will seek any outside input when determining a project's eligibility for the fast-track process. As this Advisory Group will be making important recommendations to Ministers on projects that may impact our settlements, we recommend that the Advisory Group must be required to consult on the proposed applications with any Treaty Settlement entities (including MIOs and IAOs) impacted by projects within Schedule 2 of the Bill. Would you agree with this recommendation? What role do you see Te Ohu Kaimoana playing here?