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SocialLink Western Bay of Plenty is a registered charity based at The Kollektive, a not-for-profit co-working space enabling collaboration. SocialLink is the umbrella peak body for the social and community sector in the Western Bay of Plenty. Its vision is a resourced, skilled and cohesive for purpose sector enabling communities to flourish. Its purpose is to build the capability, confidence, sustainability and voice of community organisations in the Western Bay of Plenty.

Submission on Fast Track Approvals Bill

April 2024

SocialLink wishes to make the following comments and recommendations.

As an umbrella organisation, SocialLink is involved in supporting social service and community organisations doing their work, as well as advocating in various ways for social justice and equity of opportunity for all people living in the Western Bay of Plenty.

Our major concern is that the Fast Track Approvals Bill needs more checks and balances and more consideration, given the considerable impact it could have.

This is to ensure that communities do not end up bearing the unfavourable consequences of rushed decision-making, which could see approved projects at odds with efforts to mitigate climate change and which may make existing inequalities worse.

Many of the social service and community organisations we support in the Western Bay of Plenty work with people who are on low incomes, have poor housing or are homeless, and are dealing with the fallout of significant health, social and income issues.

They are least likely to be able to afford to deal with climate change issues such as being able to move to a more suitable location than one affected by flooding or slips for example, or to mitigate the impact of heatwaves. This is also an intergenerational issue; people who have been poor for five or more years have a higher probability of remaining poor for the remainder of their lives and that status being passed on to their children.

As a general observation we would favour greater cooperation and agreement across all parties in parliament on infrastructure and housing developments rather than chopping

and changing policies according to the electoral cycle. We also hope for a similar long-term view of and commitment to stewardship that mitigates harm to our natural environments.

We acknowledge that processes for seeking approvals for major projects, for example in the housing area, can be lengthy, costly and complex and there is room for improved and more timely consenting and approval processes.

As the Supplementary Analysis Report (SAR) on the Bill by The Treasury has noted:

‘Allowing the status quo to persist risks not being able to sufficiently provide for the increased housing and infrastructure development necessary to support our growing population as well as support New Zealand to meet its climate targets and transition away from fossil fuels.’¹

The Bill’s provisions have been likened to a one-stop shop to streamline approval processes. There will be benefits in improving processes leading to more affordable housing and helping reduce homelessness.

However, such streamlining at the very least should include processes that seek valuable knowledge and input from affected communities and special interest groups and experts other than already included in the Bill.

Concerns about insufficient consideration on the Bill’s significant impact because of Government generated urgency

The Treasury’s SAR notes, due to time constraints under the Government’s urgency requirements, that there has been very limited analysis on inclusion of non-Resource Management Act legislation or conservation, heritage and public works legislation and challenges, barriers or negative impacts on conservation land and wildlife outcomes.

The SAR also notes the tight timeframes has meant limited engagement with stakeholders including key sector representative groups, local government, iwi and pan-iwi groups regarding the development of the Bill.

We are concerned that the coalition’s government’s self-imposed use of urgency in relation to this Bill will result in a lack of transparency about projects and initiatives under its auspices and a lack of vital and appropriate scrutiny of projects.

The outcome of this may mean negative consequences in terms of environmental degradation and negative impacts on current and future generations.

Concern about the Fast Track Approvals Bill’s lack of Treaty of Waitangi clause and lack of acknowledgement of other such clauses in other legislation.

¹ The Treasury, Supplementary Analysis Report: Fast -track Approvals Bill, pg 2.

SociaLink is also concerned that the urgency has led to the Ministry of Environment observing that its Treaty of Waitangi Impact Analysis for the Bill² was limited because of short timeframes.

While it noted there is likely to be some benefit from the Bill to Māori developmental interests and broader socio-economic benefits, there are some aspects that are more challenging from a Treaty perspective, particularly in terms of the broader principles of partnership and active protection:

‘Particularly significant from this perspective are (1) the shift in decision making assessment criteria for Resource Management Act [RMA] approvals, placing the new purpose of the Act above Part 2 RMA in terms of the assessment hierarchy; (2) the decision to include no Treaty clause; and no reference to Treaty clauses in existing legislation (for instance RMA, the EEZ Act³, the Conservation Act); and (3) the fact that the Act focuses more on provisions to protect and recognise Treaty settlement and Takutai Moana interests, rather than broader Māori rights and interests.’

Recommendation

The Select Committee address these concerns raised in the Ministry of Environment’s Treaty of Waitangi Impact Analysis to include a Treaty clause and ensure the Bill further meets and is consistent with Treaty obligations and the broader rights and interests of Māori.

Concern about processes too heavily weighted towards approving projects that might have long term detrimental consequences.

We are concerned the Bill privileges an economic growth-related agenda potentially at the expense of climatic, social, cultural and environmental wellbeing. Our concerns are noted below.

- The three approving Ministers’ portfolios (Infrastructure, Transport and Regional Development) largely enable promotion of productivity and economic growth and the Bill has limited provision for countervailing Ministerial knowledge, advice and expertise such as from the Ministry of the Environment or the Department of Conservation (depending on the approvals sought.)
- The Advisory Group announced by the three Ministers on the 7 March⁴ will work to July to recommend developments and infrastructure for fast tracking, to be

² Ministry for the Environment, Supplementary Analysis Report: Treaty Impact Analysis for the Fast-Track Approvals Bill.

³ Economic Exclusion Zone Act

⁴ <https://www.rnz.co.nz/news/political/513908/ministers-announce-advisory-group-for-fast-tracking-projects>

included in Schedule 2A of the Bill. The announcement of the Advisory Group indicates it is dominated by industry, legal, planning and commercial related background expertise. There is again no explicit expertise included from climate change, iwi, environmental health, public health or community impact perspectives. This is even more concerning when the Advisory Group is working but the Bill has not completed its parliamentary scrutiny process.

- Cutbacks in public servants will also mean even less capacity for them to provide free and frank stewardship advice to Ministers.
- An example of where the opportunity for scrutiny is already opaque and not supportive of public interests is that the Minister responsible for the Bill is not publishing what projects may be included in the Schedule 2 of the Bill prior to submissions closing.
- Commercial interests such as mining and energy companies are usually well-resourced in terms of legal and lobbying resources, compared to iwi and community populations and groups affected. Further, the lack of transparency regarding the nature and impact of lobbying on Ministerial decisions increases the opaqueness of decision making and lacks public accountability.
- The industrial sector consumes more of the world's energy than the residential, commercial and transportation sectors combined.⁵ Enabling this sector to expand without sufficient scrutiny and guidelines and under the umbrella of three Ministers focused on expansion could result in detrimental climatic consequences and public health concerns from increases in water degradation, air quality and other pollution.
- The auditor general noted in its report on the Provisional Growth Fund reset on June 6 2023, that 'significant investment of public money should be appropriately monitored and have its overall outcomes periodically measured and publicly reported; this is important in terms of the intergenerational impacts of spending.' This level of accountability needs to be strengthened in this Bill.

Recommendations

1. The Select Committee address the concerns raised in the Ministry of Environment's Treaty of Waitangi Impact Analysis to include a Treaty clause and

⁵ Huber, M (2019) Ecological Politics for the Working Class, Catalyst, Vol3(1).

ensure the Bill further meets and is consistent with Treaty obligations and the broader rights and interests of Māori.

2. That the Bill be revised to include more mechanisms for assessment, advice and decision-making to help ensure more comprehensive expertise and understanding of potential community, social and environmental impacts is undertaken.
3. Environmental, health and social impact assessments of projects be undertaken to provide balance to the emphasis on ministerial decision-making under the portfolios of Infrastructure, Transport and Regional Development.
4. Amendment to Section 13 Ministers must consider Treaty settlements and other obligations report.

We recommend that 13 (3) be amended to extend the time **from 5 working days to 10 working days** that the Minister of Māori Development and Minister for Māori Crown Relations: Te Arawhiti must respond to the responsible agency (Ministry for the Environment and Ministry of Business, Innovation and Employment) upon receiving the agency's draft report on a project to be considered.

This would then be consistent with **Section 19, Process after joint Ministers receive application** that anyone invited to provide written comments under section 19 has 10 working days from the receipt of the copy of the application to do so. This includes local authorities, relevant portfolio Ministers , iwi authorities and so on.

Given most projects are likely to impact iwi and treaty settlement related interests and concerns at some level, the Minister of Māori Development – Te Puni Kōkiri and Minister for Māori Crown Relations: Te Arawhiti will require at least 10 working days in order to ensure that the nature of the impact on Settlements is duly considered.

- 4 The Ministry for the Environment and its Minister be added to portfolio decision-making along with the current three Ministers of Infrastructure, Transport and Regional Development.
- 5 Membership of the Advisory Group and expert panels must include members with expertise in assessing climate change, iwi, environmental health, public health and or social/community impacts.

Conclusion

While developers have to do the groundwork of consultation and design prior to submitting a project for the fast-track process, the short timeframes, lack of a Treaty of Waitangi clause, lack of appeal processes and the concentration of decision-making with only the three ministers included in the Bill risk problematic outcomes.

The Bill aims to boost economic development, infrastructure, and productivity. There will be benefits from progress in these areas, but they should not come at the expense of negative consequences for people and our natural and social environments.

What has been treasured and protected by people for decades may potentially be overridden by Ministers without right of appeal except on narrow definitions by Ministers in Wellington.

Kaitiakitanga is a te ao Māori value that underpins inter-generational responsibilities in looking after the natural world. This concept of guardianship increasingly resonates with many tangata tauwiwi.

If the Bill passes into law, decisions made under its auspices will have an impact on the country, and its population for decades and beyond. Its people need to know elected governments are embracing their role of guardianship and see that potential environmental, climatic and social impacts of projects progressed through this legislation are equally considered alongside economic growth.