SUBMISSION

New Zealand MINERALS COUNCIL

Submission from New Zealand Minerals Council to the Environment Committee Fast-track Approvals Amendment Bill

November 2025

Introduction

1. New Zealand Minerals Council is the industry association representing the New Zealand minerals and mining sector. Our membership is comprised of mining companies, explorers, researchers, service providers, and support companies.

2. We welcome the opportunity to make this submission on the Fast-track Approvals Amendment Bill.

The Fast-track Approvals Act

3. We support the Fast-track Approvals Act as a way to reduce unnecessary duplication, complexity and delay in the consent application process. Allowing the suite of approvals under different legislation to be considered in one place (a one-stop shop), is the main benefit of the Act for anyone working on projects with the scale that brings significant regional or national benefits.

4. The mining sector supports New Zealand's high environmental standards and does not support environmental legislation undermining this. We consider the Fast Track Approvals Act, as it stands, strikes this balance. We are not looking for any weakening of existing environmental safeguards.

5. In general, the Fast-track Approvals Act works well and experience to date with applications shows that it is not the rubber stamp exercise that many critics thought it would be. The panels have been rigorous in their analyses of projects.

6. Notwithstanding this, there are a number of areas of potential improvement within the Act to make the application process more efficient and streamlined.

Summary

7. New Zealand Minerals Council supports technical changes to improve the efficiency of the Fast-track Approvals Act and to cut project application processing time.

8. We recognise these technical changes need to be made within a tight timeframe so that projects already in the process and those yet to apply can meet the imperative of the Fast-track Approvals Act, as set out in the Purpose, that is: The purpose of this Act is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

9. Mining is a highly productive industry and we estimate with the projects advancing in New Zealand at the moment, including those listed in the Fast-track Approvals Act, 2000-plus well-paid jobs will be added in regional New Zealand.

10. We need some economic drivers in New Zealand sooner, rather than later, and that is what the projects listed in the Fast-track Approvals Act are.

11. It is worth noting that the projects listed in the Fast-track Approvals Act in Schedule 2 have had some pre-screening and were included in the Act because they were deemed to be significant and shovel ready but would need to have appropriate conditions set.

12. All legislation could benefit from technical changes once it is put to the test and it is sensible to make the changes earlier rather than later. We have observed that panels considering applications may struggle with understanding the industry and its processes and in the case of mining, believe time, money and angst could be saved by having the relevant expertise on decision-making panels.

13. We believe it is appropriate to tighten who can have a say on applications to people with genuine interests and to ensure appeal rights to only those that might be directly affected by a project. The mining sector has regularly been subject to ongoing appeals which are often technical and motivated by an advocacy-based agenda. Many have been responsible for years of delays in consenting processes for little substantive contribution to the sustainable management of the environment.

14. We support tightening timeframes to appropriately meet the Purpose of the Fast-track Approvals Act.

15. Our comments reflect feedback from organisations that have engaged with the fast-track process and are offered in the spirit of making the law work better to the Purpose of the Fast-track Approvals Act, and indeed what we believe to be its overarching intent.

16. We would be happy to appear before the Environment Committee if required.

Submission

Appeals

17. The mining and infrastructure sectors are regularly subject to ongoing appeals and court challenges which are often technical rather than substantive or evidence-based and are aimed at achieving policy change. For example, the litigation surrounding the Wildlife Act 1953 says more about the poor state of that legislation than about the sustainable management practices of the projects impacted by it. Many appeal and judicial review processes have been responsible for years of delays in consenting and permitting processes.

18. While we are supportive of attempts to limit such appeals, we recognise the importance of the right to appeal and seek judicial review in our legal system and so we are looking for the right balance to be struck.

19. We support Clause 50 which says persons invited to comment under the panel's discretion (as opposed to mandatory participants) will not automatically have rights to points of law appeals in the High Court, as they do currently. In other words, we recognise the merits of allowing people with indirect interests to comment but consider giving all of them the right to appeal goes too far.

20. We believe the ability to appeal should be restricted to those who are materially impacted by a proposal only.

21. We note that judicial review will remain available to those people and groups excluded from appealing. We also note that this may limit the effectiveness of the restriction on appeal rights if it simply channels litigants into judicial review, which may take longer and be more costly to resolve. However, at least in theory, judicial reviews are intended to focus on ensuring due process rather than substituting an appellate court's decision in place of the panel's, blunting the use of judicial review as an advocacy tool to prevent mining projects from proceeding through delay alone.

Invitations to comment

22. Clause 33 of the Fast-track Approvals Amendment Bill aims to restrict the panel's ability to invite comments on particular matters. At present, under Section 53(3) of the Fast-track Approvals Act, panels may seek input from anyone they consider "appropriate". Under the Bill, this would be restricted to input where local authorities or government agencies do not intend to comment on a particular matter, or where panels think their input would not sufficiently address a matter.

23. We agree that the reason for this amendment is to guard against unnecessary compliance generated by giving parties an automatic right to input when they are not materially affected by a substantive application.

24. We believe the ability to comment should be restricted to those who are materially impacted by a proposal.

25. We are uncertain of the merits or the purpose of linking comments from parties deemed appropriate with comments from local authorities or government agencies or whether this will actually achieve the aim of reducing the panel's ability to invite comments.

Panel membership

26. Clause 56 amends Schedule 3 of the Fast-track Approvals Act relating to the membership of expert panels.

27. Clause 56(6) would require that panels include people with knowledge of the applicant's sector.

28. We support this. The expertise of panel members should be broader than just resource management expertise given the much wider scope of approvals that they are assessing. This includes expertise relevant to the purpose of the Fast-track Approvals Act which implies infrastructure and development expertise.

29. Under Clause 56(2) applicants, councils and the Secretary for the Environment would be able to raise any concerns they have about a prospective panelist's expertise or impartiality / about prospective panel members with the panel convenor.

30. There is a risk that this provision would be seen as enabling applicants to find panelists more sympathetic to their views.

31. In order to avoid undermining public confidence in the fast-track approval process we do not support the clause unless some changes are made clearly defining the grounds for complaint. For example, this should be limited to reasonable concerns about impartiality, conflict of interest, or manifest lack of relevant expertise.

Reducing timeframes

Clause 9

32. The timeframe for invited persons to provide comments on an application has been reduced from 20 working days to 15 working days. We support retaining an ability for the Panel to extend this timeframe by up to five (5) working days.

Clause 44

33. The timeframe for panels to reach a final decision cannot be longer than 60 working days after comments are received on the application, unless the applicant agrees to a longer timeframe. We

anticipate that well-advised applicants may agree to (or suggest) an increased period at any point prior to the issue of the final decision (which would carry across a routine and useful practice used regularly under the Resource Management Act).

Streamlining process

34. There are a number of other provisions aimed at streamlining the process which we support.

Clause 7

35. Referral applications must include an assessment of the significance of the project's anticipated and known adverse effects on the environment.

36. We support the early assessment of adverse effects on the environment. The clause could be enhanced by also requiring the applicant to include information on how the effects are going to be managed. The risk of "scope issues" arising from this would need to be managed, however.

Clause 8

37. The Secretary for the Environment may seek further information from an applicant instead of returning the application where a referral application is incomplete or not within scope.

38. We support this and other related changes which clarify information requirements for applications (Clause 25). It is a simpler and more efficient approach than having a referral returned. Too many applications have been returned for being incomplete or out of scope.

Clause 19

39. We support allowing listed projects to be staged, subject to the Minister agreeing that each stage meets the regional significance test. This already applies to referred projects.

Clause 25

40. This clause would enable the Environmental Protection Authority (EPA) to request further information from an applicant instead of returning a substantive application that is incomplete or not within scope.

41. As with Clause 8, this streamlines the process and we support it.

42. The same clause allows the EPA to give the application to a panel convener before a ministerial decision is made on whether the application is eligible and within scope.

43. We support this. It provides an efficient overlap, providing more time for the convenor.

Clause 26

44. This clause would enable the EPA to determine whether a substantive application has any competing applications or whether there are any existing resource consents before deciding whether the substantive application is complete and within scope.

45. We support this. It is another improvement to the processes to enable faster decision making by the EPA.

Clause 32

46. We support new section 52A where it says, in 5 (b) the EPA may withhold information if it is satisfied that there would be good reason to withhold the information under the Official Information Act 1982 if the information were requested under that Act.

Clause 38-39

47. Applicants may request a suspension of the processing of their substantive application, and the subsequent resumption of the processing.

48. We support this as it provides flexibility for applicants to ensure the right information is provided.

Clause 42

49. Under Clause 42 the Minister may approve a modification to an application after referral if requested by the panel. The Minister must be satisfied that the project will still have national or regional benefits.

50. The Bill will also allow applicants to modify their proposals with the approval of the Minister.

51. We support the flexibility these provisions provide. It makes sense for applications to be able to be modified as new information comes to hand.

Clause 53

52. We support Clause 53 which will allow for regulation to set out the criteria for the quantification of recovery of costs associated with the lodging of an application and the setting of upper limits of those costs.

Additional amendments

53. This section proposes some additional amendments to the Fast-track Approvals Act that are not covered in the Bill.

Identification of existing resource consent for the same activity

54. Section 30 of the Fast-track Approvals Act deals with applications where existing resource consents exist.

55. We consider the section needs to be amended so that potential overlaps with existing resource consents can be considered by the expert panels rather than being a bar to lodgement.

Expanding the one stop shop

56. We consider the Overseas Investment Act and Public Works Act should be brought into the regime as part of the 'one stop shop'. Applicants should have the option to seek permits under these acts as part of the fast-track process.

57. We recommend Section 42 of the Fast-track Approvals Act be amended (along with other consequential amendments) to achieve this.

EPA decides whether substantive application is complete and within scope

58. To be considered complete and within scope, a substantive application must relate solely to a project listed in Schedule 2 of the Fast-track Approvals Act.

59. Judicial precedent favouring a literal interpretation of Schedule 2, without reference to the referral application, has given rise to a significant scope risk for applicants.

60. We recommend that Section 46(2)(b) of the Fast-track Approvals Act be amended, along with other consequential amendments, to address this.

Cost recovery

61. Section 104 of the Fast-track Approvals Act deals with cost recovery. We recommend including a time limit for refunding the levy and fees paid for an application that is rejected as non-compliant or incomplete, in circumstances where the costs recovered under the levy and the fees in anticipation of a full process are not incurred by the EPA / other agencies.

Practice and Procedure Guidance Note

62. The Practice and Procedure Guidance Note released by the Panel Convener currently promotes that separate technical and assessment reports are lodged for each type of application. This results in unnecessary duplication and repetition and is an expensive and time-costly exercise, in contrast with the procedural principles of the Fast-track Approvals Act.

63. This is a matter for the EPA to raise with the Panel Convener. An alternative would be to enable cross-referencing reports for efficiency.

Council reserves

64. Schedules 6 and 11 deal with approvals relating to the Conservation Act 1987, Reserves Act 1977, Wildlife Act 1953, and National Parks Act 1980.

65. Access arrangements or concessions that constitute Reserves Act approvals need to be included in the scope of the Act as approvals that a Panel can grant (effectively on behalf of councils). The absence of council agreement to these land access rights shouldn't disqualify a project under Schedule 6 para 3 (1) (m). The same applies to Schedule 11 para 3 (f).