Submission on Fast-Track Approvals bill

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Executive Summary

Kiwis Against Seabed Mining (KASM) makes this submission to the Environment Committee on the Fast Track Approvals Bill.

This submission is made on behalf of Kiwis Against Seabed Mining Inc. (**KASM**), a non-for profit community organisation which has been engaged on the issue of seabed mining for the past 15+ years. KASM has led submissions and evidence on four applications and reconsideration of applications for seabed mining in New Zealand's waters.

KASM seeks that the Bill be withdrawn.

KASM wishes to be heard.

The Fast-Track Approvals Bill is, in all respects, an appalling proposal in environmental, public participation and constitutional respects and should be withdrawn. The Bill purports to fast track proposals; instead it avoids public scrutiny, sound science and public process. It treats decades of legislation, learning and science with contempt.

It takes power, responsibility and initiative from the people, communities, scientists and courts and places it in the hands of individual Ministers. Everyone will be the loser: New Zealand as a whole, local communities which suffer, our environment which is already under threat and even the proponents, as there will be no social licence, the public anger will be profound, and the consents granted will not be safe.

All this is happening at a time when the climate and biodiversity are under unprecedented threat. Legislation should provide for greenhouse gas emission reduction and biodiversity protection. This Bill does the opposite.

The Bill:

- lacks fundamental environmental protections and would take environmental protection backwards potentially irreversibly at a time when climate change and biodiversity protection are in crisis
- lacks crucial public participation, often leaving company claims unchallenged
- undermines transparency and attracts undue influence on Ministers
- breaches the constitution, including separation of powers, the NZ Bill of Rights Act and Te Tiriti o Waitangi and eliminates appeals by the public and by all to the Court of Appeal
- Would, for activities in the exclusive economic zone, lead to contravention of international law
- does not provide certainty as consents issued under it would not be safe from revisiting
- treats science and expertise with contempt. Panel members need not have environmental or even scientific expertise.
- Would represent a return to the National Development Act 1979, Think Big and Muldoonism.
- provides for absurdly short time frames. Processes are essentially rubber stamping exercises.
- Would lead to breaches of New Zealand's Free Trade Agreements (FTAs), including the CPTTP, CER and the Australia-New Zealand Closer Economic

Relations Trade Agreement (ANZCERTA) and its Protocol on Investment, the NZ-European Union FTA and the New Zealand - United Kingdom FTA including in its failings in environmental protection and public participation.

Without public input to the expert panel and proposal fast-track approvals process, and without the expertise brought by outside parties (currently prohibited under the draft Bill from taking part in the process) misleading statements by applicants will go unchallenged by either the expert panel or the Minister and relevant information will not come to light.

Rather than being about making decisions faster, more efficient or more effective, this Bill will result in poor decision making, poor and inadequate science, exclusion of public participation, risky development and will erode significant rights and values that are foundational to who we are as a country.

Overall, it will not achieve its purpose due to the numerous procedural issues found in this legislation. Ministers who are the decision-makers under the Bill will have considerable legal and political exposure. Companies who apply under the Bill risk their consents being overturned through judicial review, face considerable hurdles given the loss of a public mandate to operate and risk having their consents altered or cancelled when the true effects become known or when a future government which values its environment is in place.

Rather than taking on the experience from the existing fast-track legislation and attempting to improve on this, the Bill has thrown the existing regimes out altogether. This is reverting to decision-making from a bygone era.

This Bill ignores environmental bottom lines and laws which have been developed in Aotearoa/New Zealand for decades. It will take environmental protection backwards, causing potentially irreversible harm at a time when we need courageous leadership and innovative ideas in order to tackle modern day issues.

Legislation should be constitutionally sound, and if it is not, then it should be rejected. Undermining key founding documents of our nation without a bigger public discussion is a radical and extreme act. The Bill fails to meet the basic requirements of how to make good law. It is so bad that it would breach free trade agreements - long seen as protectors of investment and industry.

This legislation requires that the Government go back to the drawing board altogether. There is no small fix or a bit of tinkering there and here that can address the issues that this type of legislation raises. It should be withdrawn.

Detailed Analysis

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This submission addresses the following issues at a high level:

- A manifestly inappropriate purpose
- An illegitimate extension of Executive powers
- Loss of environmental, social and cultural protection
- Public participation; and
- International credibility.

The key focus of this submission is the Bill's application to proposed seabed mining projects. The most recent examples of these applications were the Trans-Tasman Resources (TTR) application for a marine consent to mine up to 50 million tonnes of iron sand per annum for 35 years off the coast of Patea and Chatham Rock Phosphate which sought - and was denied - a marine consent to mine phosphate from the seafloor on the Chatham Rise.

Key Matters

Manifestly Inadequate Purpose

The starting point for any legislation is its purpose. Under the Bill, applications will be tested against the purpose and if they meet the purpose they will likely be granted.

Given the breadth of the purpose in this Bill, essentially anything can be granted if the Minister is of the view that it is of national or regional benefit. And conversely there is no purpose to protect the environment.

The determination of 'national and regional benefit' is entirely discretionary. There are some considerations found in Clause 17(3) that 'may' be adopted by a Minister when undertaking their decision but there is no obligation that they 'must' be considered and therefore some matters may be excluded altogether if considered irrelevant. The matters in Clause 17 are so broadly written that again, there is little that the Minister cannot consider and there is no obligation on the Minister to consider anything in particular.

The purpose of the fast-track legislation overrides other legislation, including existing prohibited activities identified under other regimes, established environmental bottom lines, social and cultural bottom lines and economic bottom lines. The consequence of this cannot be understated.

There has been inadequate consideration of what are the key drivers for the cost and delay in the existing consenting regime. Therefore, the necessity for such extreme changes is unsatisfied.

In light of these matters, the legislation looks more like a power grab by the Executive rather than considered legislative change.

Scope of the Bill

The scope of the Bill is wider than any existing environmental management or consenting legislation. It essentially is catch-all legislation and attempts to provide a one-stop shop for development to gain consent. While this may seem like a quick and easy solution on its face, this fails to recognise the built-in institutional knowledge within each regime for managing, evaluating and processing consents with environmental safeguards developed over decades. Fundamental environmental, procedural, natural justice and legal requirements are jettisoned.

A handful of Ministers are now expected to be able to understand the issues and risks involved in a vast variety of highly technical proposals which, due to their very complexity and scope, would - and should - take immensely more time and effort. Those applications for activities that are suited to fast-track can already take advantage of existing fast track legislation.

There is no realistic constraints on which projects can use the proposed fast track Bill. Signalled projects include infrastructure, renewable energy, housing and mining, and:

- prohibited activities under the RMA, including those specified in the government's own national direction. Prohibited activities are those that have already been identified as inappropriate, unless much greater and considered time is spent on them. I.e they are projects which should take time because they are likely to have significant impacts.
- projects which have already failed other resource consenting processes and are already deemed as inappropriate. Issues with these projects are likely to be unresolved through fast-tracking.
- projects which are untested nationally and globally thus carrying significant risk in terms of effects.

Extension of Executive Power

The extension of executive powers is radical, extreme and unconstitutional, and unlike anything in the history of this country.

The advisory panel does not make the final decision: the Minister does. Under existing fast track legislation, the Minister acts as gatekeeper, whereas under the new proposal the Minister is the final decision maker. This means Ministers can be subject to lobbying

or worse, such as bowing to pressure from political funders. There are no conflict of interest provisions to address this.

In effect, under this Bill a Minister is considered to be a more appropriate decision maker than any Judge in the land, or any technical expert. This means, for example, that someone with no relevant qualification is now considered better placed than a specialist in engineering to make a decision on some of the most complex engineering projects of the 21st century.

This will undermine certainty and confidence of the public and business if we are green-lighting projects which may fail due to having been ill-prepared or are the outcome of a successful lobbying campaign rather than being a sound and appropriate proposal for our country.

Making the Minister the legislator, the regulatory gatekeeper on what projects are picked for fast track and the decision maker is contrary to a fundamental pillar of our democracy, the separation of powers, and fails to prevent the concentration of power by providing for checks and balances.

Ministers will have considerable legal and political exposure. They will undoubtedly be the subject of heavy lobbying - indeed we have already seen this taking place. Overall, we are likely to see concerts, allegations and incidents of pre-determination, bias and corruption, thus creating uncertainty and complexity for businesses who do not use the fast track or who attempt to use it and fail.

The government has said that a large number of developments will be automatically sent down the fast track in Schedules to the Bill, without the need for even Ministers to refer them under any kind of legislative test (and therefore removing them from judicial review)[1]. These may well include projects that have already been rejected because of adverse environmental effects.

One such example is the Trans-Tasman Resources seabed mining application, discussed below. These projects will only be added in *after* Select Committee consideration of the Bill, at the Committee of the House stage. This will leave no ability for the public to have any say whatsoever over which projects are to be fast tracked.

Lack of Environmental Protection

In this Bill there are few environmental protections and no environmental bottom lines fundamental to sustainability and minimal checks or balances. Bottom lines are

[1] Clauses 18 and 21.

boundaries or points after which effects on the environment may or are likely to be irreversible.

This Bill allows for a Minister to green-light a project that will significantly and negatively impact the environment in ways that we cannot recover from. A Minister may, in their decision-making, consider that this trade is for the benefit of the country. A Minister is simply not qualified to make this determination.

There are only very few places where projects can be excluded from entering into fast-track for environmental reasons. The ultimate criteria is the discretion of the Minister. This is contrary to good decision-making.

Lack of Public Participation

The public is excluded from the fast-track process altogether.

The Bill requires consultations with "*persons the applicant considers are likely to be affected by the project*," in Clause 14(2)(h). The applicant is always likely to consider a much narrower group as affected parties than those actually affected.

Secondly, and more importantly, the joint Ministers must only in Clause 23(1)(d) specify "*persons or groups from whom the panel must invite submissions*" – which would almost certainly not include the public. Affected parties are not referred to at all. This is contrary to fundamental rights of natural justice that affected parties should be given the right to be heard and that decision makers will be unbiased, rights maintained through Article 27(1) of the NZ Bill of Rights Act.

Indeed, under Clause 20, "(1) *A panel must not give public or limited notification of a consent application or notice of requirement*." This is a fundamental breach of long-accepted principles of public participation in environmental decision-making.

While New Zealand is not a party to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), it represents international best practice in its three pillars: access to environmental information, public participation and access to justice.

a. Article 6 of that Convention requires that "*Procedures for public participation shall allow the public to submit, in writing or, as appropriate, at a public hearing or inquiry with the applicant, any comments, information, analyses or opinions that it considers relevant to the proposed activity.*"

b. Article 9 requires "*access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.*"

Breaches of International Law

CPTTP Agreement and other Free Trade Agreements

The environmental provisions under the Bill are so weak and so egregious they would breach New Zealand's international obligations under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) Agreement as well as other free trade agreements (FTAs).

In Chapter 20 the CPTPP requires:

- receipt and consideration of written submissions from persons regarding its implementation of the Environmental Chapter 20.
- New Zealand to promote public awareness of its environmental laws and policies, including enforcement and compliance procedures, by ensuring that relevant information is available to the public.
- New Zealand to strive to ensure that its environmental laws and policies provide for, and encourage, high levels of environmental protection and to continue to improve its respective levels of environmental protection.

The Bill would breach every one of these provisions, and others.

Conversely, the FTAs point to the ability of future governments to improve environmental protection and as necessary remove the benefits of the environmental consents, thus removing one claimed benefit of the fast track: certainty for the applicants. Knowing their consents were obtained at the expense of due process and environmental protection, they will forever be looking over their shoulders.

UNCLOS (1982 United Nations Convention on Law of the Sea)

The Bill lacks basic requirements to protect the marine environment and to ensure compliance with international law, notably including the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 was deliberately drafted to ensure that New Zealand complies with international law. The EEZ is itself a creation of international law – specifically, UNCLOS.

The Select Committee report of the 2012 Act was very clear that it intended to give effect to international law, and emphasised at the time in 2012 that the then Bill intended to give effect to "New Zealand's international obligations regarding the marine environment, rather than solely to UNCLOS. The bill seeks to give effect to international obligations other than UNCLOS, such as the Convention on Biological Diversity."

The Fast Track Bill would risk New Zealand breaching numerous international legal obligations, including article 192: "*States have the obligation to protect and preserve the marine environmen*t".

Article 193 makes it crystal clear that its right to exploit natural resources is subject to NZ's duty to protect and preserve the marine environment: "*States have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment.*"

The Bill would also risk breaching the specific requirement in article 208 that "Such laws [to prevent, reduce and control pollution of the marine environment arising from or in connection with seabed activities subject to their jurisdiction] and, regulations and measures shall be no less effective than international rules, standards and recommended practices and procedures."
NZ is also required by article 194(5) to take measures to "include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life."

UNCLOS in article 145 speaks of the requirement to take measures to "*ensure effective protection for the marine environment from harmful effects which may arise from such activities*" in the context of mining in the Area, and thereby inside an EEZ or on the continental shelf by virtue of article 208 of UNCLOS.

Undermines International Credibility

By failing to uphold minimal environmental and public participation standards, this Bill will diminish New Zealand's international credibility and reputation. It would also send a message that reducing environmental and public participation standards is acceptable, where the international norm is of non-regression: environmental standards should not be rolled back.

Future governments will see the need to reverse at least the worst of the decisions made under this regime, further undermining New Zealand's credibility and undermining the confidence that businesses - and indeed investors - can have that their projects will proceed.

Unconstitutional

The proposed Fast Track Approvals Bill results in an unprecedented extension of executive powers. The role of the Executive and Ministers is to decide policy, propose laws (which must be approved by the Legislature) and administer the law. The role of

the courts and independent enquiries is then to apply the law. This is what we know to be the separation of powers - a fundamental pillar of how our democracy functions.

If undue power is given to one part of the three branches of Government then our democracy becomes out of balance. This is what this Bill proposes to do.

It will radically restrict freedom of expression and the right to impart information and opinions, contrary to Article 14 of the Bill of Rights, as well as the right of public participation, preserved in Article 28 of the Bill of Rights and rights of natural justice under Article 27(1) including the right of those affected by a decision to be heard.

It is a breach of Te Tiriti o Waitangi as addressed by other submissions which are adopted.

High quality legislation is critical to the functioning of New Zealand's democracy. Legislation involves coercive power, and law making comes with a responsibility to make legislation that is proportionate, reasonable, rational, and consistent with New Zealand's constitutional principles. This Bill fails this very basic test. Legislation that overreaches can do significant harm by inhibiting freedoms or undermining important values or institutions of our society.

There are Better Alternatives

The existing Fast -Track consenting law has reduced consenting process time by up to 18 months.

Both the COVID fast track process, the COVID-19 Recovery (Fast-track Consenting) Act 2020, and the Natural and Built Environment Act 2023 had independent, not political, decision-making. They had a purpose that, amongst other matters, recognised the importance of strong environmental protection. And they upheld crucial national direction made under the RMA.

Seabed mining Under the Fast Track Bill

Seabed mining is an example of an activity which should be excluded from the application of any fast-track provisions.

Trans-Tasman Resources has unsuccessfully filed two applications and one application for reconsideration, and Chatham Rock Phosphate filed and lost another, all for good reason.

Seabed mining is a new activity that is still experimental at a national and global level. The consequences of this style of resource extraction is unknown. It can be compared

to stripping the seafloor of its forests without knowing the importance of these forests to the survival of our ocean.

Due to this unknown quantity, the Australian State governments of the Northern Territories and New South Wales have banned seabed mining in their waters.

Novel, experimental and unknown technologies are some of the most inappropriate activities for a fast-track legislation because of the untested technology.

Trans-Tasman Resources (TTR)

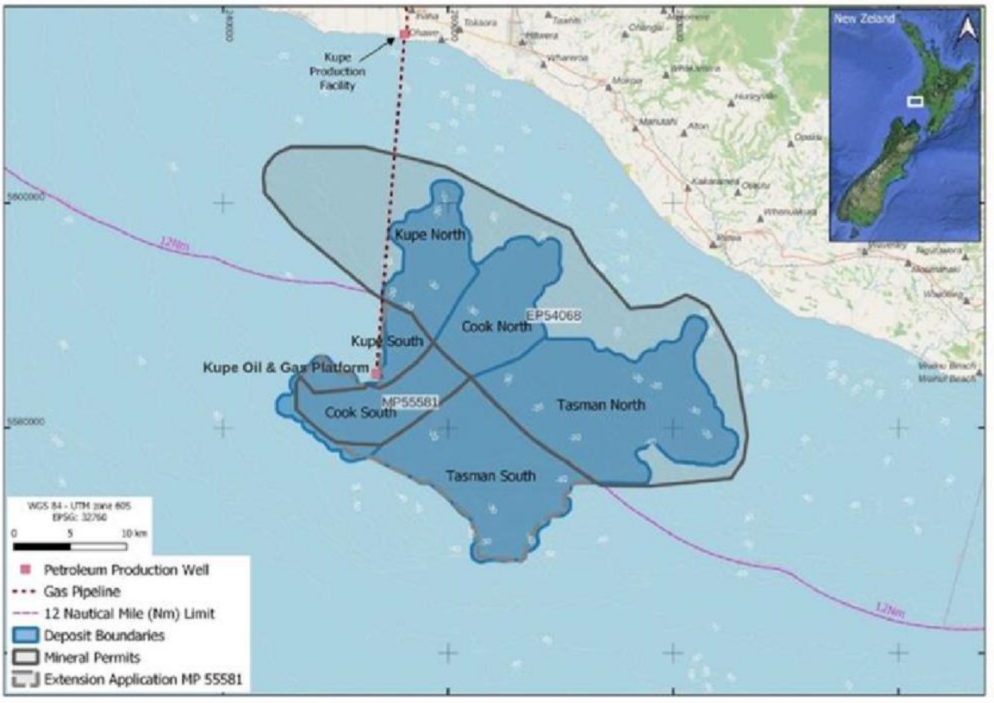
After multiple failed attempts by the company Trans Tasman Resources Ltd (TTR) to get consent, the company now hopes to utilise the Fast-Track Bill[2]. This company is now 100% owned by an Australian firm, Manuka Resources Ltd.

TTR wants to mine offshore in depths of up to 20-42 m deep, with the first application being 66sqkm. The Company wants to dig up 50 million tonnes of the seabed every year for 35 years, dumping 45 million tonnes back onto the seabed (it is the dumping back of the waste that differentiates seabed mining from sand mining, and it has a much bigger impact on the benthic and marine environment)

This would be a highly experimental operation that has not been carried out anywhere else on the planet.

The following graphic, in an investor presentation by Manuka Resources Ltd, shows the extent of the TTR's intended mining area – amounting to a massive 878 square kms – over ten times the original 66 square km application.

[2] Note: this is the same situation for other companies such as Chatham Rock Phosphate Ltd which also failed to get consent and now also hope to utilise the proposed Bill.



A fast-tracked consent for the first 66 square kms would create a strong precedent that (a) the rest of the "resource" will also be mined and (b) that these types of experimental activities are able to be trialled in New Zealand before taking them elsewhere, i.e if something goes wrong, it will go wrong here first.

TTR's track record for providing incomplete applications and making false claims to investors calls into serious doubt the reliability of any information put before a panel and the Minister.

TTR first applied in 2013 and in 2014, the EPA declined its application in a strong decision.

TTR re-applied in 2016, with the EPA receiving 13,733[3] submissions from the public. The Decision-Making Committee (DMC) sought numerous extensions of the timetable due to the complexity of the evidence[4] and further information from the Applicant in order to better understand the application[5].

Of those 22 days, at least 15 days were given to the hearing of the Applicant's evidence i.e with or without the large public interest, the case would have taken a considerable hearing time to complete.

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[3] DMC decision 2017 at [80],

[4] Ibid, DMC decision 2017 at [83].

[5] Ibid, DMC decision 2017 at [98]-[102].

The hearing time and the complexity of the case was not a result of the large public interest but because the application was novel, i.e it was the first of its kind and it was ambitious[6]. Furthermore, the company wanted to mine an area we didn't know a lot about (indeed, the company still hasn't collected baseline data information from which to measure any effect, something it was ordered to by the EPA in its original refusal of the consent in 2014, and later by the Supreme Court[7]).

The Supreme Court made it clear that the appropriate test for the EEZ, consistent with the Act and international law is "material harm". If approved, this would be the first seabed mining activity in Aotearoa/New Zealand.

Interested parties include tangata whenua, the commercial fishing industry, recreational fishing groups, environmental NGOs, community groups, and local and regional councils. This is one of the very few cases where all of the key interested parties in the affected coastal environment united in one voice of opposition and for the opposition to be maintained for over ten years, ie, there is widespread agreement that this a bad proposal.

In preparing its application, TTR instructed a number of NIWA scientific experts who undertook a paper review of the available data for the region. This paper review was found by the Supreme Court to be uncertain and incomplete, i.e an inadequate basis on which a decisionmaker could decide whether to grant consent.[8]

The initial application prepared by TTR stated there were very few reef systems in the area and as a result a largely barren seabed. Therefore the impact of seabed mining would be minimal.

However, following the receipt of submitter evidence, it came to light that in fact:

- The South Taranaki Bight hosts a large rocky reef system which supports a diverse ecosystem. The most recent report of Morrison 2022 states that- *subtidal reefs are in fact common in the patea bank with many more awaiting discovery by multibeam sonar mapping*
- That the hard rocky reef ecosystem is significant to the local and regional fishery, as well as the marine mammals such as the Maui and Hector's dolphin, some of the largest colonies of fairy prion, and little penguins. Divers frequent the areas.

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[6] 50 million tonnes being sought to be extracted every year for 35 years over an extensive 66km2 area (i.e half the size of Hamilton). It would dump 45 million tonnes back on the seabed, sending a sediment plume over the Bight.

[7] At [271] in *Trans-Tasman Resources Limited v Taranaki-Whanganui Conservation Board* [2021] NZSC 127.

[8] Ibid.

- The Bight is home to a genetically distinct and rare pygmy blue whale population: these whales have been found nowhere else.

It was the input of submitters that brought this information to light. KASM and Greenpeace brought the evidence on the blue whales, the little blue penguins and the fairy prions: without public scientific input this simply would not have been made available. The exclusion of the public means that this type of knowledge would be missed entirely by the Panel considering a new application, just as it was left out of the evidence put forward by well-informed NIWA scientists instructed by TTR.

What the High Court, Court of Appeal and Supreme Court all upheld was that the consent would result in significant adverse effects to important parts of the marine environment. It is clear the consent in 2017 should have been declined[9], as the first application was. Finally the Supreme Court, in 2021, directed the case back to the EPA where TTR had to prove a new test: that the activity would cause "no material harm."

In 2023, the process of the EPA reconsideration began, set down for early 2024. However, after only three days of the hearing, TTR withdrew its application altogether.

The company has now publicly stated that it will attempt to utilise the fast-track approach rather than to continue to apply for a marine consent under the EEZ Act and through the EPA.

It was abundantly clear that TTR knew it would not meet the bar set by the Supreme Court, and chose to avoid the adverse publicity of another EPA refusal, another precedent, and would instead seize the opportunity to bypass further public and scientific scrutiny through the fast-track legislation.

This is a clear example of how a company will attempt to use the fast track process to get consent for an application which has failed everywhere else. It is impossible to claim that Ministers can make a better and wiser decision on the application than Judges from all levels of our judiciary and based on advice from experts in science and engineering and the local community.

However, this legislation allows for companies such as TTR to opt out of a multi-year consent process if they consider that consent will not be granted, wasting considerable time and effort of all involved. TTR has sent a clear message to the 13,000+ submitters, to the many experts, to tangata whenua, to fisheries and to the community that it does not care that all of these groups have engaged with them for over ten years - and nor does it care about the science produced by those groups and their experts.

[9] Note, that the decision to grant the consent was made on the casting vote of the chairperson of the DMC, unusually, a four-person committee, with the chair having the casting vote.

TTR wishes to circumvent them and set all that it has learned and understood from this process to one side, it knows better and it hopes it can convince the Ministers of that as well. **Such an outcome is not fast-track: it is a company just playing their odds at getting the consent behind closed doors. It also undermines entirely the social licence for these types of companies to operate.**

With this legislation, the Government is clearly sending a message to industry that the Government considers its three Ministers have more knowledge and better judgement than the provisions, processes and experts under the Resource Management Act, the Environment Court, High Court, Court of Appeal and Supreme Court, and an applicant can obtain a consent as long as the Minister thinks it has national or regional benefit.

This also opens up the Ministers to heavy lobbying from industry and business and exposure to undue influence.

We have seen this in action in the case of seabed mining with both TTR and Chatham Rock Phosphate making claims that they were "formally invited" by the Government to apply to get included on the fast-track approvals bill's Schedule 2A. Twice, Minister Chris Bishop has rejected these claims as incorrect and indeed the NZX regulator halted CRP's trading, ordering the company to first clarify its misleading statement.

However, the claim had already been communicated to investors both in New Zealand and Australia, with CRP's stock rising in value as a result. These are all clear indications of a company considering that the fast-track process will be a lower environmental bar to gaining a consent.

Meanwhile, through investor presentations and in the media, the company and its representatives continue to make exaggerated and/or misleading claims about the potential impact of its activities.

For example:

- a February 2022 investor presentation told investors that seabed mining would have "*No impact on fish, whales or dolphins*", contrary to evidence brought by KASM from the world's expert on the South Taranaki Bight's blue whales, who has published ten peer-reviewed papers about the mammals. In refusing consent in 2014, the EPA advised TTR to undertake marine mammal surveys in the Bight, but TTR still has not done so ten years later.
- In November 2023 the company told investors the that the Supreme Court had ruled "*in support of projec*t", when in fact the Court had upheld the previous two courts' quashing of the entire consent, and sent TTR back to the EPA to prove its new test of "no material harm."

- On 28 March 2024, when announcing to the ASX the company was withdrawing from the EPA hearing process Manuka Resources told investors it had *"EPA environmental consents and conditions to operate approved in 2017*", making no mention of the fact the consents had been quashed by three courts.

We are extremely concerned - in fact there is no doubt - that without public input to the expert panel and proposal fast-track approvals process, and without the expertise brought by outside parties (currently prohibited under the draft Bill from taking part in the process) misleading statements by applications will go unchallenged by either the expert panel or the Minister and relevant information will not come to light.

Conclusion

Rather than being about making decisions faster, more efficient or more effective, this Bill will result in poor decision making, poor and inadequate science, exclusion of public participation, risky development and will erode significant rights and values that are foundational to who we are as a country.

Overall, it is unlikely to achieve its purpose due to the numerous procedural issues found in this legislation. Ministers who are the decision-makers under the Bill will have considerable legal and political exposure. Companies who apply under the Bill risk their consents being overturned through judicial review, face considerable hurdles given the loss of a public mandate to operate and risk having their consents altered or cancelled when the true effects become known or when a future government which values its environment is in place.

Rather than taking on the experience from the existing fast-track legislation and attempting to improve on this, the Bill has thrown the existing regimes out altogether. This is reverting to decision-making from a bygone era - Think Big and Muldoon.

This Bill ignores environmental bottom lines and laws which have been developed in Aotearoa/New Zealand for decades. It will take environmental protection backwards, causing potentially irreversible harm at a time when we need courageous leadership and innovative ideas in order to tackle modern day issues.

Legislation should be constitutionally sound, and if it is not, then it should be rejected. Undermining key founding documents of our nation without a bigger public discussion is a radical and extreme Act. The Bill fails to meet the basic requirements of how to make good law. It is so bad that it would breach free trade agreements - long seen as protectors of investment and industry.

This legislation requires that the Government go back to the drawing board altogether. There is no small fix or a bit of tinkering there and here that can address the issues that this type of legislation raises. The Bill should be withdrawn.