



Hamilton City Council Submission

Fast Track Approvals Bill

Parliament's Environment
Committee

19 April 2024



Hamilton
City Council
Te kaunihera o Kirikiriroa



Improving the Wellbeing of Hamiltonians

Hamilton City Council is focused on improving the wellbeing of Hamiltonians through delivering to our five priorities of shaping:

- **A city that's easy to live in**
- **A city where our people thrive**
- **A central city where our people love to be**
- **A fun city with lots to do**
- **A green city**

The topic of this Council submission is aligned to all five priorities.

Council Approval and Reference

This Council submission was approved by Hamilton City Council's Strategic Growth and District Plan Committee at its meeting held on 11 April 2024.

Submission # 760.

Key Messages and Recommendations

1. Hamilton City Council welcomes the intent of the **Fast-track Approvals Bill (FTA)** but seeks changes to improve its effective implementation in a fast-growth urban context. The FTA contains aspects that may result in an inefficient process and could lead to poor long-term outcomes for Hamilton metropolitan area. The purpose of this submission is to focus on Hamilton-specific recommendations to improve the Bill and its implementation.
2. We outline below five themes for improvement which will lead to better implementation and will also ensure against long-term negative outcomes. These are:

Theme	Key Recommendation(s)
<p>i. Planning-Related Concerns</p> <p>(a) Cross-boundary: Hamilton City faces significant growth pressure from within and outside the city. If this pressure materialises into fast-track applications located outside of Hamilton’s jurisdictional control (but yet contiguous with the City), we need to offset or embrace the potential impacts.</p> <p>While these projects and/or activities are out of Hamilton City Council’s jurisdiction, they will still need to be factored into our infrastructure network.</p> <p>Future Proof exists as a sub-regional partnership between local government, Crown agencies and Iwi to plan and manage growth in a co-ordinated and aligned manner. Alignment of FTA projects to the Future Proof Strategy and the Hamilton-Waikato metropolitan spatial plan is therefore critically important to ensure the aims of the strategy are realised.</p>	<ul style="list-style-type: none"> • We recommend inserting a new schedule which enables the joint Ministers or Expert Panel to give approval for any necessary underlying territorial boundary adjustment. • We seek that the FTA enables expedited boundary changes between local authorities to occur to enable integrated servicing, including the collection of rates and development contributions. • We seek the Future Proof strategy “must be had regard to” by the Expert Panel.
<p>(b) Pre-Consultation and Delivery: Pre-consultation is a critical aspect for a project’s delivery. Should a project receive approval under the FTA’s procedure, it would still be subject to existing limitations (e.g., capacity for local networks, absence of required infrastructure). In its current form, the FTA appears to underestimate pre-consultation requirements, which could result in unsynchronised timing and inefficient delivery.</p>	<ul style="list-style-type: none"> • S16 should contain explicit references to the infrastructure issues concerning affected Local Authorities and must be the subject of pre-consultation. • Activities which fail to adequately address infrastructure in the proposal should be a clause within s18.
<p>(c) Infrastructure:</p>	<ul style="list-style-type: none"> • The initial screening for eligibility within the FTA process must have strengthened criteria addressing infrastructure capacity and integration. Sections 14 and 17 must be strengthened to ensure that any project approved has fully addressed infrastructure capacity, expansion, and integration issues,

<p>Out-of-boundary developments (developments outside the jurisdictional control of Hamilton City) do not pay Hamilton City Council development contributions or rates but will be reliant on and feed off our infrastructure, absorbing network capacity without properly contributing to its upfront funding or the long-term provision of services.</p> <p>While an alternative would be denying access, this would likely lead to private self-servicing which would be inefficient given the extensive planning that has already occurred for integrated sub-regional wastewater servicing. We want to avoid poorly integrated urban development and infrastructure outcomes that would negatively impact Hamilton City Council’s ability to plan for long-term infrastructure demands in a cost-efficient manner.</p> <p>Infrastructure such as three waters or major road networks are needed to support most proposals or projects. The lack of safeguards could force authorities to be more reactive, leading to inefficient and unoptimised infrastructure being rushed, while further burden is placed on ratepayers.</p>	<p>including funding issues arising.</p> <ul style="list-style-type: none"> • S14 should contain a provision that includes consideration for utilities and their legislative requirements (e.g., Water Services Act 2021 for drinking water suppliers) as required information. The provision would assist in alleviating pressure on subject matter experts and streamline the overall procedure. • A bundled consenting approach to urban development projects should be taken, which consents the urban development project itself along with the associated enabling infrastructure and environmental consents required.
<p>(d) Integration with Other Legislation The FTA is ambiguous in terms of its integration with other legislation. Interactions and an appropriate hierarchy must be considered before a project can proceed, or it would stagnate due to looming concerns.</p>	<ul style="list-style-type: none"> • The Government should clarify how the FTA will integrate with other legislation, such as a proper hierarchy on which legislation has priority and the relationship to a Specified Development Project (under the Urban Development Act 2020). • Any fast-tracked project, if relevant, must consider the impacts on the ability for Local Authorities to meet their obligations regarding the Te Ture Whaimana o te Awa o Waikato.
<p>ii. Timeframes: The FTA’s 10 working day limit with no clauses for extension is overly rigid for Local Authorities operating on a lean structure. Development proposals often require technical assessments in relation to existing and planned infrastructure.</p>	<ul style="list-style-type: none"> • There should be either more flexibility on working days or more input points to compensate for the limited time. A rigid procedure may turn away potential participants if they struggle to meet the demanded time limits. • If the timeframes are to be retained in their current form, the pre-lodgment requirements must be strengthened within s16. This will ensure a streamlined process without compromising quality.

<p>iii. Cost Recovery and Value Capture (up-front engagement and; infrastructure capital and operational):</p> <p>Council consenting processes work on a cost recovery basis, with the developer reimbursing Local Authorities for costs incurred in accordance with the Fees and Charges Policy.</p> <p>The FTA should be no different, particularly where Local Authorities are expected to engage actively in both the pre-consultation and comments phase. Without cost recovery or a budget allocated, there is a risk that quality engagement will not occur.</p> <p>While Clause 14 of Schedule 3 provides an opportunity for Local Authorities to recover costs incurred, it appears limited to where they are performing functions prescribed by the Expert Panel.</p> <p>In addition, the FTA appears to be silent on development contributions or financial contributions. In an urban development context, the fast-tracking could take rurally zoned land and up-zone to urban – significant value is conferred at this decision-making point. Value capture mechanisms are crucial for ensuring costs required to enable urban development rest with the developers who are benefiting. These mechanisms need to be able to be applied in a cross-boundary manner.</p>	<ul style="list-style-type: none"> • Hamilton City Council seeks some form of value capture mechanism within the FTA to contribute towards wider infrastructure and community outcomes. Significant development rights and certainty for development will be conferred through this legislation. The Government should consider how public good will be delivered above and beyond what is provided for through existing tax instruments and GDP benefits from the project. • Clause 14 of Schedule 3, and any related provisions, should be updated to make express reference to Local Authority cost recovery for pre-consultation, comments, and condition writing phases. Cost recovery should not be limited to where Local Authorities perform functions at the Expert Panel’s directive. • Currently, rates and development contributions cannot be levied on land outside of a territorial authority’s jurisdictional control. It is possible that there will be developments considered for fast tracking that fall into this category – Local Government needs a way to levy for costs in a cross-boundary context. • We request that clear provision is made within the FTA to enable all the Local Government Act 2002 Development Contributions provisions and Council Development Contribution Policies to apply as if the consent was granted under the RMA so that the true development costs are levied. • We request inserting a provision for high-growth Local Authorities to impose a “growth levy” on the development to pay for required infrastructure and/or to recoup capital and operating costs on infrastructure that might service development outside the territorial boundary of the authority.
<p>iv. Eligibility and Criteria for Schedule 2:</p> <p>The ambiguity surrounding the criteria may lead to unintentional projects overloading the process. Additionally, the criteria should clarify how a “regionally or nationally significant” infrastructure is determined.</p>	<ul style="list-style-type: none"> • Given the purpose of the FTA is for “delivery of infrastructure and development projects with significant regional or national benefits,” the Government should be explicit on the criteria.

<p>Being too broad in the criteria will lead to a greater number of proposals being advanced, for which the sector will have limited capacity to address in a timely manner, thus working against the stated intent of the Bill to “fast-track” proposals.</p>	<ul style="list-style-type: none"> • The FTA should only serve as a path to “regionally or nationally significant” infrastructure and urban development projects. For instance, the current description in s17(3c) may lead to unintentional projects overloading the process. • While we welcome s17(3j) as an alternative pathway for streamlined Plan Changes, we recommend more caution as it could potentially encourage out-of-sequence development. Any large-scale proposal for urban development will need to have strong linkages back into existing plans and procedures and the underlying zoning needs to be addressed.
<p>v. Roles and Responsibilities: In its current form, the Expert Panel’s composition may hinder the FTA’s purpose. The role and responsibilities of a “relevant” Local Authority is ambiguous within the FTA.</p>	<ul style="list-style-type: none"> • The composition of the Expert Panel should be more flexible. Given the wide range of expertise needed, there should be more people involved. • The FTA needs to be explicit on what a “relevant” Local Authority is. Regionally significant developments will impact multiple authorities as opposed to where the project is situated.

3. We believe if cost recovery can be provided for up-front in the process, then issues around limiting the public and Local Authorities’ ability to input into the process could be partially resolved. However, there are long-run matters to consider, particularly with regards to urban development for which this truncated process may inadvertently not consider.
4. Hamilton City Council seeks that more input points should be provided for Local Authorities. Alternatively, the FTA should provide more safeguards to ensure that our concerns will be addressed.
5. Hamilton City Council recommends that the Government consider and establish a 30-year or long-term Infrastructure Plan. Certain infrastructure projects will be inherently more urgent than other developments (e.g., a large road network or wastewater treatment plant is needed before more out-of-sequence housing can be enabled). This type of lens would be helpful when considering the criteria for projects.

Introduction

6. Hamilton City Council welcomes the opportunity to make a submission on the **Fast Track Approvals Bill (FTA)**.
7. Hamilton City Council welcomes the purpose and concept of having an alternative tool to streamline infrastructure planning processes. However, we believe there are several refinements required.
8. We understand the FTA was introduced to the House under urgency and acknowledge that it will contain inconsistencies with other existing legislation, policies, or planning documents. Notwithstanding this, the FTA contains several critical issues which we outline in this submission as “themes” that should be addressed, or at least carefully considered, before it becomes operative.
9. Failing to address these issues could lead to long-term negative unintended consequences of the FTA.
10. Hamilton City Council takes a considerable interest in matters regarding resource management reform and has made several submissions in this space in recent years.
11. All submissions made by Hamilton City Council can be [accessed here](#)

Key Submission Feedback/Points

12. The following feedback is structured by Hamilton City Council’s key themes – noting that we have only provided responses on the sections that are most relevant to Council.
13. **Hamilton City Council seeks changes to the FTA in its current form.**
14. Hamilton is New Zealand’s fourth most populous city, yet the footprint is just 110km². It is New Zealand’s fastest growing city, located within the ‘golden triangle’ where more than half of New Zealand’s population live, and two-thirds of its recent population growth has occurred.
15. Hamilton relies on a mix between new greenfield growth areas, alongside brownfield intensification to enable growth and drive competitive land markets. Hamilton’s long term identified and sequenced greenfield growth areas are currently outside Hamilton City’s boundary and are subject to strategic agreements to bring them into our boundary prior to development. We anticipate fast-track proposals within these areas.
16. Hamilton and our neighbouring councils have a history of working in collaboration to plan the subregion across territorial boundaries. The partnership (known as Future Proof) has an agreed subregional settlement pattern upon which detailed infrastructure planning and funding is based. Developments that are part of an agreed settlement pattern contained within a growth strategy or spatial plan, such as Future Proof, should be prioritised above unanticipated developments where infrastructure funding constraints mean we cannot support multiple new areas of development simultaneously.
17. If a fast-track application located outside of Hamilton’s jurisdictional boundary, but contiguous with its urban area is progressed, then this in our view must necessitate a boundary transfer under the Local Government Act 2002 to allow long term integrated servicing. Furthermore, a boundary change would be required for Hamilton City Council to charge development contributions in relation to the project. Hamilton City Council would need to work with our neighbouring local authority partners to progress a boundary change prior to development starting. This would help deliver integrated planning for the expansion of the urban environment and the required infrastructure to service it. The current Local Government Commissions process to change jurisdictional boundaries is costly, slow and resource intensive – this process could take 2-years or more under the existing process. A fast-track application which necessitates a boundary change for servicing, funding and integrated delivery reasons needs to occur swiftly and as part of the FTA process. We seek a fast-track boundary adjustment process as part of the FTA.

18. In the FTA's current form, there is no safeguard to ensure that if an urban development project is fast-tracked, there will be corresponding infrastructure to service it. We seek that a bundled consenting approach is taken, whereby the urban development project is consented along with the required infrastructure and environment consents to service it. For example, housing and growth that is out-of-sequence with planned strategic infrastructure will unlikely be serviced. Coupled with this, funding certainty on the provision of infrastructure is a critical factor in decision-making.
19. The FTA appears to underestimate pre-consultation requirements with local authorities and infrastructure provided, which could result in unsynchronised timing and inefficient delivery. Pre-consultation is a critical aspect for a project's delivery. Should a project receive approval under the FTA's procedure, it would still be subject to existing limitations (e.g., capacity for local networks, absence of required infrastructure).
20. Infrastructure such as three waters or major road networks are needed to support most proposals or projects. Currently, Local Authorities only plan for known or planned growth, any fast-tracked project will likely compete with existing projects for resources (e.g. water allocation or require self-servicing utilities (e.g., new water sources such bores and reservoirs). The lack of safeguards could force authorities to be more reactive, leading to inefficient and unoptimised infrastructure being rushed, while further burden is placed on ratepayers.
21. The FTA needs to address funding and financing of infrastructure in a cross-boundary scenario. As such, we seek changes to enable the collection of development contributions and rates to pay for the servicing solutions required to enable urban development. Conversely, there might be infrastructure projects which Hamilton City Council seek to have fast-tracked that will service urban growth beyond Hamilton City Council's boundaries - there is no ability for Hamilton City Council to recoup the costs.
22. Hamilton City Council seeks some form of value capture within the FTA. In an urban development context, the fast-tracking could take rurally zoned land and up-zone to urban – significant value is conferred at this decision-making point. Value capture mechanisms are crucial for ensuring costs required to enable urban development rests with the developers who are benefiting. This is often best achieved through private development agreements prior to land use rights being conferred (e.g., commercial negotiations or a new form of development contribution). The Bill would benefit from explicit clauses which direct the Expert Panel to require this as part of any conditions associated with a project.
23. The practical application of the eligibility criteria remains uncertain. The ambiguity of the eligibility criteria, particularly considering the purpose of the Bill, will undermine the purpose of the FTA to create a streamlined process for significant development and infrastructure. Additionally, the overly broad criteria may unintentionally encourage out-of-sequence or minor projects to overload the system.
24. Finally, Hamilton City Council is concerned about the limited opportunities for Local Authorities to provide meaningful input. The limitation may inadvertently lead to aspects of a proposal not being sufficiently addressed by the Expert Panel.

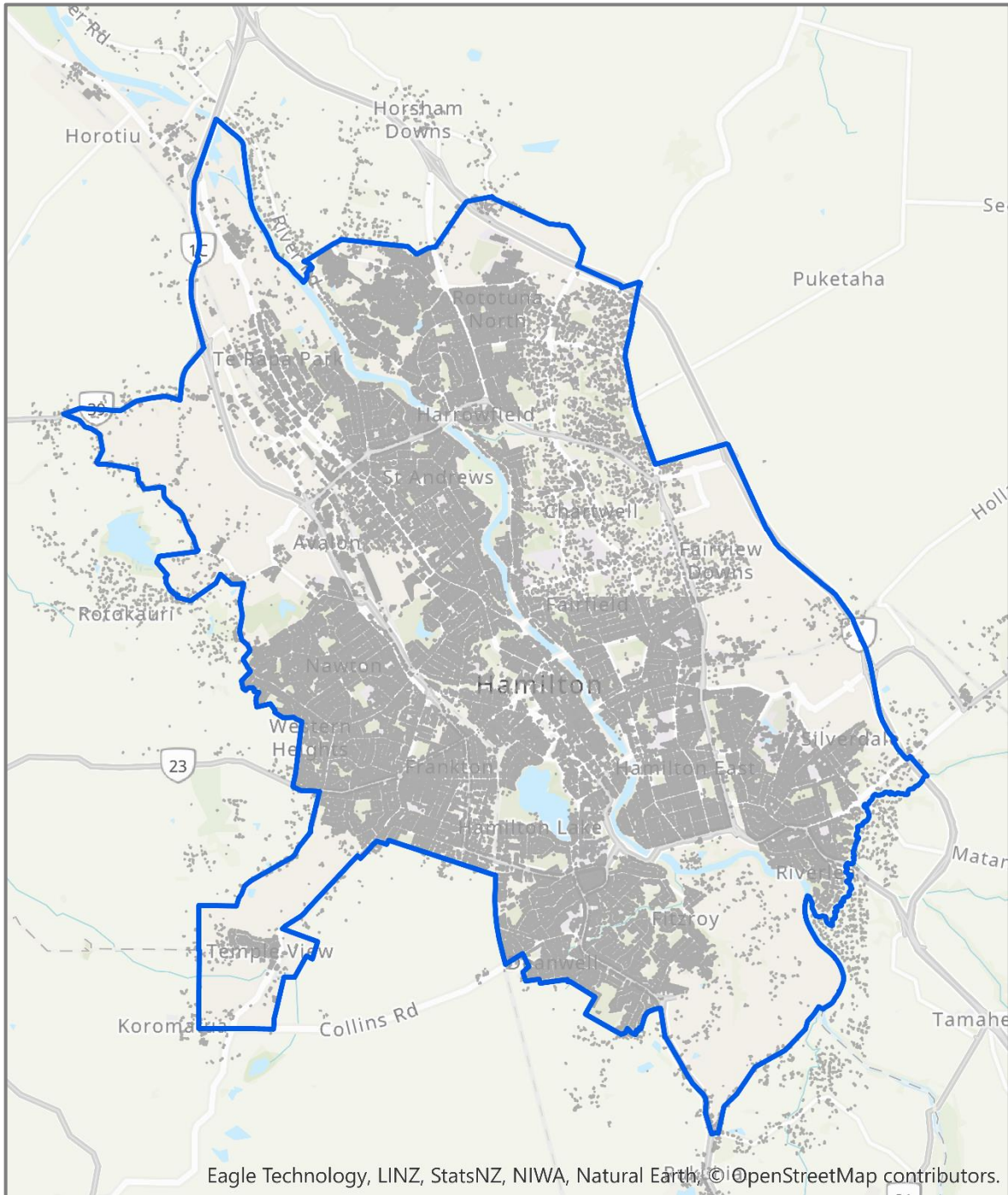
Theme One – Planning-Related Concerns

Cross-Boundary Effects

25. Projects that are regionally and nationally significant will from time to time affect more than one local authority. This raises concerns regarding who the "relevant" Local Authority is, an issue further detailed in Theme Five. We seek that this is addressed, and a mechanism provided so that when required, multiple "relevant" territorial authorities can be involved.

26. The FTA provides machinery for a panel to grant a range of different approvals as per the various schedules (e.g., under the Wildlife Act, HNZPT etc.) There needs to be a similar extension of this approval process into the Local Government Act, enabling any necessary territorial boundary adjustments where transfer is agreed by all relevant Local Authorities including enabling cross-boundary funding and financing. A boundary adjustment would ensure a project's delivery and proper integration with the required infrastructure networks to service the development in the event it is on the edge of Hamilton City.

*Hamilton's Urban Development Footprint
(Note that Hamilton's boundary is generally where urban development stops)*



Pre-Consultation and Delivery

27. Pre-consultation is a critical aspect for a project's delivery. Should a project receive approval under the FTA's procedure, it would still be subject to existing limitations (e.g., capacity for local networks, absence of required infrastructure). In its current form, the FTA appears to underestimate pre-consultation requirements which could result in unsynchronised timing and inefficient delivery.
28. The approval of a project does not guarantee development. It is not clear what safeguards exist to ensure that development proposals are granted only when adequate infrastructure exist for that purpose (e.g., housing and growth that is out of sequence with planned strategic infrastructure). Certainty on the provision of infrastructure, including funding, is a critical factor in decision-making.
29. Finally, the lapse period proposed in s39(9) may be overly optimistic. An approved resource consent for large infrastructure projects provides the certainty required to secure financing and funding to enable the project to proceed, a procedure which requires more than two years' time.
30. In addition, for greenfield development, other matters such as external infrastructure delivery can sit outside the control of the applicant which would take longer to resolve. The Committee should consider stronger requirements for consented developments to proceed within certain timeframes – this will help ensure the benefits are realised and opportunistic proposals are avoided.

Infrastructure

31. Out-of-boundary developments do not pay Hamilton City Council development contributions or rates but will be reliant on our infrastructure, absorbing network capacity without properly contributing to its funding. While an alternative would be denying access and enforce self-sufficiency, this would lead to inefficiency, lack of integration, and derail Hamilton City Council's ability to plan for long-term infrastructure demands. Any development must be considered in a cross-boundary and integrated manner which takes full account of the infrastructure to service it – including matters such as water allocation.
32. Infrastructure such as three waters or major road networks are needed to support most proposals or projects. Due consideration must be given to the up-stream and down-stream infrastructure and utility requirements to enable a project. These costs must be then placed on the consent holder for the project to pay for and the interventions must be consented as a bundle alongside the project itself. Without this consideration, it will lead to increased demand on infrastructure with the cost burden to upgrade the infrastructure being unfairly placed on ratepayers. The lack of safeguards to ensure infrastructure matters are comprehensively addressed would ultimately force authorities to be more reactive which will present its own set of poor unintended consequences.
33. In addition, it is unclear how the FTA considers wastewater discharges or water allocation. With Local Authorities now having more responsibility to maintain their three waters infrastructure, drastic changes may lead to further pushback or hinder a project's delivery.
34. In a Hamilton context, water allocation, discharge consents and treatment plant upgrades are all critical for enabling further urban development. Currently, our water supply and wastewater consents only cater towards known or planned growth (e.g., existing and planned development in the Hamilton Urban Growth Strategy). New fast-tracked projects outside of existing plans and strategies will necessitate new allocation and discharge consents; otherwise, the consented urban development projects will lack essential resources and utilities to function.
35. We seek a bundling approach to consents for urban development projects, which provide consents not only for the urban development proposal itself, but also for the required enabling infrastructure and associated consents. Depending on the nature of the proposal, this might also include transport upgrades, such as road widening and intersection upgrades.

36. Infrastructure planning, as well as delivery and funding considerations, may need to extend beyond simply the immediate needs of an individual proposal. As indicated in paragraph 25, the FTA is ambiguous on a “relevant” Local Authority. The need for collaboration with Local Authorities and utility providers is critical for a project’s delivery.
37. Failure to consider the wider network, delivery, and funding leads to adverse effects on existing and future strategic network, causing increased costs, negative environmental outcomes, and missed opportunities for additional growth.

Integration with Other Legislation

38. The FTA is ambiguous in terms of its integration with other legislation. Interactions and an appropriate hierarchy must be considered before a project can proceed, or it would stagnate due to looming concerns.
39. Hamilton City Council is committed to giving effect to *Te Ture Whaimana o te Awa o Waikato* and welcomes its inclusion within the FTA. However, the FTA should consider that we may need to offset impacts from any proposal that can affect the Waikato River. This needs to be considered at a project level and links back to issues such as water allocation from and discharges to the Waikato River.

Recommendation - Cross-Boundary Effects

40. We recommend inserting a new schedule which incorporates either the joint Ministers or Expert Panel giving approval for any necessary underlying territorial boundary adjustment where all relevant local councils agree.
41. We seek that the FTA enables expedited boundary changes between local authorities to occur to enable integrated servicing, including the collection of rates and development contributions.

Recommendation - Pre-Consultation and Delivery

42. We recommend revising s16 to contain explicit references to the infrastructure issues concerning affected Local Authorities, which should be a mandatory consultation subject, reporting item, and assessment criteria for any FTA applicant. Additionally, the position on draft conditions, and whether that is agreed or not, should be a mandatory reporting requirement. Activities which fail to adequately address infrastructure in the proposal should be a clause within s18.
43. We recommend that the Government consider and establish a 30-year or long-term Infrastructure Plan. Certain infrastructure projects will be inherently more urgent than other developments (e.g., a large road network or water plant is needed before more out-of-sequence housing can be enabled).
44. We recommend reviewing s39(9) and revise or introduce a provision that provides large greenfield or infrastructure projects with a longer consent lapse time. We also recommend that for certain scale projects they have key delivery milestones to ensure the benefits of the projects are realised within a timely manner in line with the intent of the legislation.

Recommendation - Infrastructure

45. The initial screening for eligibility within the FTA process must have strengthened criteria addressing infrastructure capacity and integration. Sections 14 and 17 must be strengthened to ensure that any project approved has fully addressed infrastructure capacity, expansion, and integration issues, including funding issues arising.

46. We recommend inserting a provision in s14 that includes consideration for utilities and their legislative requirements for (e.g., Water Services Act 2021 for drinking water suppliers) as required information. The provision would assist in alleviating pressure on subject matter experts and streamline the overall procedure.
47. We seek a bundled consent approach for urban developments that also includes the consents related to the enabling infrastructure, for example, potable water, wastewater discharges and treatment plan upgrades.

Recommendation - Integration with Other Legislation

48. We recommend that the Government clarify how the FTA will integrate with other legislation. Specifically, a proper hierarchy on which legislation has priority and the relationship to a Specified Development Project (under the Urban Development Act 2020).
49. We recommend that any fast-tracked project, if relevant, must consider the impacts on the ability for Local Authorities to meet their obligations regarding the Te Ture Whaimana o te Awa o Waikato, as opposed to Schedule 2 projects only as the FTA currently implies.

Theme Two – Timeframes

Explanation

50. The timeframes imposed within the FTA are strict. The pre-consultation with affected Local Authorities is critical for fast and successful delivery. Currently, the first early touch point with councils is a consultation requirement under s16, prior to lodging a referral application. There should be a more directive requirement to engage with the affected Local Authorities, seeking feedback and agreement, if possibly on draft conditions.
51. Key issues concerning infrastructure connections, funding etc should be prescribed as mandatory discussion points during pre-consultation. Additionally, unresolved infrastructure related issues must be fully reported on by the applicant in their application for eligibility.
52. The current time limits for Local Authorities to input may represent a particular hurdle, noting the lack of flexibility around the 10 working days in s19(5). Development proposals require timely technical assessments, in relation to existing and planned infrastructure. Additionally, the FTA only allows a total (including suspension rights) of around 50 working days after comments, when the decision must be made. For complex technical matters, this may lead to compromised decision-making.
53. Given how most Local Authorities already operate with a lean structure, the lack of flexibility places significant stress on a delicate system.
54. In addition, there is a risk relating to the lack of resources of those supporting the Expert Panel during the FTA process. For example, development engineers will be required to provide assessments against relevant design standards to the Expert Panel, as well as the Local Authority who are still required to meet their own time limit.

Recommendation

55. There should be either more flexibility on working days or more input points to compensate for the limited time. A rigid procedure may turn away potential participants if they struggle to meet the demanded time limits.
56. We recommend permitting commentators the ability to seek additional time where the application involves multiple areas of expertise.
57. If the timeframes are to be retained in their current form, the pre-lodgment requirements must be strengthened within s16, so that applications are well understood and engaged with by Local Authorities ahead of the processing timeframes beginning. This will ensure a streamlined process without compromising quality.
58. We recommend that cost recovery provisions are inserted into the Bill to allow Local Authorities to engage upfront in the process with developers – this will ultimately help expedite the process and lead to less conditions by the Expert Panel.

Theme Three – Cost Recovery and Value Capture

Explanation

59. Council consenting processes work on a cost recovery basis, with the developer reimbursing Local Authorities for costs incurred in accordance with the Fees and Charges Policy. The FTA should be no different, particularly where Local Authorities are expected to engage actively in both the pre-consultation and comments phase, which can often involve engaging its own experts and technical advice. This can be a costly process and without cost recovery or a budget allocated, there is a risk that quality engagement will not occur.
60. Given the rigid time limit for Local Authorities to respond to joint Ministers, there should be some form of cost recovery. Most Local Authorities already operate at their limits, combined with the fact that Ministers can override recommendations from the Expert Panel, which could result in minimal incentive to participate.
61. Successful projects will have more upfront input from local authorities and their subject-matter experts. As such, the sooner Local Authorities can be made aware of projects, the sooner staff can start to work with the respective developers to work through relevant matters. However, it is important to note that Local Authorities are not resourced to do this, so we therefore seek that a cost recovery mechanism be inserted.
62. While Clause 14 of Schedule 3 provides an opportunity for Local Authorities to recover costs incurred, it appears limited to where they are performing functions prescribed by the Expert Panel. There is no reference to cost recovery for the pre-consultation phases, comment phases, and the reviewing/drafting of conditions. These wider processes are where the significant costs will be incurred.
63. The FTA appears to be silent on direct contributions or financial contributions. Hamilton City Council seeks some form of value capture within the FTA. In an urban development context, the fast-tracking could take rurally zoned land and up-zone to urban – significant value is conferred at this decision-making point. Value capture mechanisms are crucial for ensuring costs required to enable urban development rest with the developers who are benefiting. This is often best achieved through private development agreements prior to land-use rights being conferred (e.g., commercial negotiations or a new form of development contribution).

64. Following a successful FTA application, Local Authorities can make plans for the necessary infrastructure investment and amend their development contributions policy accordingly. However, Local Authorities can only charge the contributions from the development contributions policy that was operative at the time the consent application was lodged. As a result, consents lodged as part of an FTA application will not be liable for contributions under the new policy. The burden of required infrastructure costs that developers would typically pay will instead be placed on ratepayers.
65. Development contributions, the main growth funding tool, are based on cost recovery and therefore require a full planning infrastructure response to recover the costs of cumulative infrastructure. Implementing a Development Contributions Policy that responds to the urbanisation of an area or adequately includes infrastructure required to service the growth of an existing urban area requires significant technical work, public consultation, and Governing Body approval.
66. The FTA provides for activities (including housing and urban development) that would often attract a development contribution charge in accordance with a Council's Development Contributions Policy. The statutory provisions around Development Contributions are set out in the Local Government Act 2002. These provisions provide for Development Contributions to be required on resource consents under the Resource Management Act.
67. These provisions do not extend to cover resource consents granted under the FTA. We anticipate that this is an oversight, and that the intention is not for development progressed this way to be exempt from Development Contributions. Developments that proceed ahead of an updated Development Contributions Policy will not be paying their share towards growth, resulting in a funding gap.
68. In addition, investments that improve infrastructure to support growth generally also provide benefits to existing residents (including accelerated renewals) and therefore need to be partially funded from other sources for which there are competing priorities. This is much more pronounced in existing urban areas than in greenfield development.

Recommendation

69. Clause 14 of Schedule 3, and any related provisions should be updated to make express reference to Local Authority cost recovery for pre-consultation, comments, and condition writing phases. Cost recovery should not be limited to where Local Authorities perform functions at the Expert Panel's directive.
70. We recommend that cost recovery provisions are inserted into the Bill to allow Local Authorities to engage upfront in the process with developers – this will ultimately help expedite the process and lead to less conditions by the Expert Panel.
71. We recommend inserting a provision for high-growth Local Authorities to impose a "growth levy" on the development to pay for required infrastructure. The FTA should provide a value capture mechanism for any fast-track decisions that is not in line with underlying zoning. Additional amendments to the Local Government Act and related legislation are also required to ensure that developers meet the full share of the costs of growth.
72. We request that the Expert Panel should be required to place conditions for such commercial arrangement to be entered into and/or provide new funding and financing powers through existing Acts.
73. We request that clear provision is made within the FTA to enable all the Local Government Act 2002 Development Contributions provisions and Council Development Contribution Policies to apply as if the consent was granted under the RMA.

Theme Four – Criteria for Schedule 2

Explanation

74. Overall, Hamilton City Council appreciates criteria that are supportive of developing infrastructure. Specifically, s17(3a), (3b), (3h), (3i), and (3j). We believe projects that facilitate growth fit the FTA’s purpose and would benefit from avoiding a conventional consenting process.
75. However, the practicality and the reasoning for the eligibility criteria is a concerning matter. The ambiguity of the eligibility criteria, particularly considering the purpose of the Bill, presents the following problems:
- i. An overarching issue is that the criteria is overly broad. For example, developers may contest that any housing project would contribute towards s17(3c), which states “*increase the supply of housing*” as part of the criterion.
 - ii. Applicants or Requiring Authorities may spend immense resources on pursuing a fast-track approval, where the reality is that their projects may not be of the intended nature or scale. This, in turn, undermines the purpose of the FTA to create a streamlined process for significant development and infrastructure.
 - iii. In its current form, what a “regionally significant” infrastructure or a “significant economic benefit” would be remains unchallenged.
 - iv. The [Ministry for the Environment](#) states that “nationally significant” proposals are exceptionally large and complex proposals with regional or national impacts, with “impacts” not stated as being positive or negative.
 - v. The [Waikato Regional Policy Statement](#) defines “regionally significant infrastructure” which includes significant transport corridors, lifeline utilities, and their associated essential infrastructure and services; municipal treatment plants, conveyance and storage systems, ancillary infrastructure; etc.
 - vi. The phrase “significant” should be defined in the FTA. Clarity on what constitutes significant national and regional proposals is needed for this process to be used successfully. Additionally, there needs to be clarification on the relationship between the Resource Management (Simplifying and Streamlining) Amendment Act 2009 s142 ([Minister may call in matter that is or is part of proposal of national significance](#)) and the provisions laid out in the FTA.
 - vii. The ambiguity surrounding s17(3j) requires clarification:
“(j) is consistent with local or regional planning documents, including spatial strategies.”
Technically, any Plan Change released would be consistent with local planning documents and strategies. While Hamilton City Council is open to streamlining such processes, a drastic change could result in significant public pushback.
 - viii. Enabling Plan Changes to go through the process could potentially encourage out-of-sequence developments. Any large-scale proposal for urban development will need to have strong linkages back into Long Term Plans, with linkages to development contributions, rates and possibly alternate funding and financing levers.
 - ix. We support changes to the underlying zoning being within scope of the FTA when urban development projects are being considered, provided that a comprehensive approach to conditioning is taken which addresses upfront costs and long-term servicing costs, upstream, and downstream infrastructure requirements. The approach of also addressing underlying zoning (where appropriate) will save councils time and cost in the future.

- x. In addition, large-scale urban development proposals will need to consider the lifecycle of the development and the ability for the relevant Local Authority to deal with building consenting and environmental monitoring and enforcement, without taking account of this it risks overloading our current planning system.

76. Without clarification and reconsideration, ambiguity surrounding the FTA will remain. Consequently, Ministers will be inundated with multiple applications, which will either be rejected for not meeting the criteria (thereby wasting resources of those applying for fast tracking), or approved, inundating the process. Either outcomes will undermine the purpose of the FTA to create a streamlined process for significant development and infrastructure.

Recommendation

- 77. Given the purpose of the FTA is for “delivery of infrastructure and development projects with significant regional or national benefits,” the Government should be explicit on the criteria.
- 78. We recommend that the Government consider capital investment as a guideline for a “significant” project. For instance, the New South Wales government has [explicit guidelines](#) on what is “regionally significant”. Alternatively, we recommend that the Government examine the potential capital a project can generate (e.g., 3% of a region’s GDP) to provide guidance.
- 79. We recommend that the FTA being paved only as a path to “regionally or nationally significant” infrastructure projects. The current description for s17(3) may lead to unintentional projects overloading the process.
- 80. While Hamilton City Council welcomes s17(3j) as an alternative pathway for streamlined Plan Changes, we recommend more caution as it could potentially encourage out-of-sequence development. Any large-scale proposal for urban development will need to have strong linkages back into existing plans and procedures to address long-term effects.

Theme Five – Roles and Responsibilities

Composition and Expertise

- 81. According to Schedule 3 s3(1), the Expert Panel may only have up to four people. These four members will need to have an extensive understanding of vastly differing expertise, some of which may not overlap outside of a project.
- 82. To cover all aspects within four people is virtually impossible. While we are aware the Expert Panel can request knowledge from the Environmental Protection Authority and Local Authorities, the potential unfamiliarity with unexplored aspects may lead to poor decision-making.
- 83. Hamilton City Council also seeks clarification on an explicit limit of four people. In Schedule 3 s3(6), the following is stated:

Despite the limit specified on the membership by subclause (1), that number may be exceeded (including by the appointment of more than 1 person nominated under subclause (2)(a) or (b)), at the discretion of the panel convener, if warranted by, or required to accommodate, —

(a) the circumstances unique to a particular district or region; or

(b) the number of applications that have to be considered in that particular district or region; or 10

(c) the nature and scale of the application under consideration; or

(d) matters unique to any relevant iwi participation legislation; or

(e) the collective knowledge and experience needed under clause 7(1).

84. This implies the Expert Panel can go beyond the stated limit and will likely be the case most of the time, which makes the limit potentially redundant.

Roles and Responsibilities

85. As stated in Theme One, the FTA is ambiguous on what a “relevant” Local Authority is. The FTA should be explicit about who the Expert Panel seeks comments from. For example, a regionally significant project would affect more than adjacent landowners, it could also impact neighbouring Local Authorities.

86. In addition, it is unknown if these clauses recognise Council Controlled Organisations. This issue also corresponds with our previous concern regarding composition, where the number of “relevant” Local Authorities can already exceed the stated limit. For instance, a “regionally significant” will at least involve Hamilton City Council, Waikato District Council, Waipa District Council, and Waikato Regional Council in a Hamilton-metro context. When a project is located near the periphery of Hamilton, it’s critical that Hamilton City Council has representation on the Expert Panel and consulted.

87. Hamilton City Council is also concerned about how the proposed FTA severely limits our ability to provide meaningful input and support a project:

- i. The Expert Panel is the primary formal pathway where Local Authorities can provide any meaningful input. In comparison, a standard plan change procedure has multiple points for stakeholders.
- ii. While the joint Ministers will also seek comments from Local Authorities under s19, the time limit under s19(5), compounded with the possibility to reject the Expert Panel recommendations under s25(5), leaves us with little confidence that our comments will be adequately considered.
- iii. Planning-related issues are often procedural. Concerns are raised as events such as pandemics or natural disasters occur and responding to unanticipated events should be part of the procedure. Limiting formal input points to one creates a rigid outcome that is unable to respond to potential impacts.

88. Finally, the FTA is ambiguous on who will take the stand should the need for an appeal arise. Presumably, the Ministers should defend their own decisions, but the rationale is that participants and commentators are not the ones to carry the costs, as they may end up in a position they fundamentally disagree with.

Recommendation

89. The composition of the Expert Panel should be more flexible. Expert Panel members need to be able to decipher the comments they receive and given the wide range of aspects involved, there should be more people involved.

90. We recommend the revising or removing Schedule 3 s3(1) and (6) due to redundancy concerns. Schedule 3 should instead allow a flexible composition that is tailored according to each project’s need. Alternatively, Schedule 3 should include a clause where a joint nominee can be selected.

91. We recommend that the FTA be explicit on *how* Ministers and the Expert Panel should consider comments. A summary of the comments received and the rationale for approving/rejecting such comments should be transparent. Additionally, the Ministers or the Expert Panel should provide a rationale on why someone other than a specified person/entity is allowed to comment under s19(4) or Schedule 4 s20(6).

92. In addition, the FTA needs to be explicit on what a “relevant” Local Authority is. Regionally significant developments will impact multiple authorities as opposed to where the project is situated. We seek that Hamilton City Council has a nominee on any Expert Panel for projects that are near to or on the boundary of the City.

93. We recommend that the FTA outlines how the appeal process should be dealt with.

Further Information and Hearings

94. Should Parliament’s Environment Committee require clarification of this submission from Hamilton City Council, or additional information, please contact **Blair Bowcott** (General Manager Strategy, Growth and Planning), phone **07 838 6742** or **021 775 640**, or email blair.bowcott@hcc.govt.nz in the first instance.

95. Hamilton City Council representatives **do wish to speak** at the Environment Committee hearings in support of this submission.

Yours faithfully



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