

**SUBMISSION ON THE FAST-TRACK APPROVALS BILL**

**TO:** Environment Select Committee

**SUBMITTER:** NZ Airports Association Incorporated ("**NZ Airports**")

**SUBMISSION ON:** Fast-track Approvals Bill

**SUMMARY**

1. NZ Airports represents the interests of airports across New Zealand. NZ Airports members<sup>1</sup> operate 46 airports across the country, including the international gateways to New Zealand and the domestic airports which make up the national air transportation network. New Zealand's airports are essential infrastructure of national and regional significance which play a crucial role in the socio-economic wellbeing of our communities.
2. Airports are significant contributors to regional and national economies, including through their role in New Zealand's tourism and trade sectors. Airports have a strong multiplier effect on the economies they serve, enabling the development of additional industry and employment in their regions. Airports keep New Zealanders connected with family and friends, domestic and abroad, and enable Kiwis to enrich their lives and careers through national and international connectivity.
3. NZ Airports welcomes the Government's introduction of the Fast-Track Approvals Bill, and we are highly supportive of the Bill's intent. We support ongoing legislative and administrative efforts to provide owners of nationally or regionally significant infrastructure a more straight-forward and timelier pathway that simplifies the costly consenting process that unduly hinders or prevents complex projects and upgrades.
4. Efforts to reduce the complexity of consenting infrastructure projects, which frequently must obtain several layers of approvals in addition to the RMA, such as the Conservation or Wildlife Acts, are strongly supported by NZ Airports.
5. The Bill is important not only for enabling essential aviation infrastructure to be built for the purpose of air transport. Our regionally significant airport members are designated as lifeline utilities in the Emergency Management legislation, and these have legislated obligations to be able to operate during times of emergencies. This Bill will enable airports to more easily build the necessary infrastructure for both climate adaptation and greater resilience.
6. The goal of the fast-track process must be to reach the right consenting decision faster and more predictably – not to inadvertently make poor consenting decisions more quickly because essential factors are set aside or downplayed in the faster process.

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<sup>1</sup> Our member airports include Ardmore Airport, Ashburton Airport, Auckland Airport, Chatham Islands Airport, Christchurch Airport, Dunedin Airport, Gisborne Airport, Hamilton Airport, Hawke's Bay Airport, Hokitika Airport, Invercargill Airport, Kapiti Coast Airport, Kaikohe Airport, Katikati Airport, Kerikeri Airport, Marlborough Airport, Masterton Airport, Matamata Airport, Motueka Airport, Nelson Airport, New Plymouth Airport, Oamaru Airport, Pauanui Airfield, Palmerston North Airport, Queenstown Airport, Rangiora Airport, Rotorua Airport, Takaka Airport, Taupo Airport, Tauranga Airport, Te Kowhai Aerodrome, Thames Aerodrome, Timaru Airport, Wairoa Airport, Wanaka Airport, Whanganui Airport, Wellington Airport, West Auckland Airport, Westport Airport, Whakatane Airport, and Whangarei Airport.

7. With this in mind, it is important that the fast-track process does not lead to reverse sensitivity effects on critical infrastructure. For airports, reverse sensitivity effects have the potential to arise when noise sensitive activities establish or intensify in areas affected by aircraft noise. NZ Airports does not consider the fast-track process is appropriate for such activities as the risks of these activities to the operation of essential infrastructure are too high. In NZ Airports' submission the establishment or intensification of noise sensitive activities in aircraft noise effects areas should be assessed under the standard RMA process.
8. At a minimum, we would like to ensure that the fast-track process does not enable applications for noise sensitive activities within aircraft noise effects areas where those activities are currently prohibited in a district plan developed under the RMA. These activities are prohibited because the scientific analysis and modelling supports doing so, and because these prohibitions have been carefully tested through planning processes. Enabling these activities in aircraft noise effects areas would have the effect of increasing the number of people exposed to significant adverse noise, thereby significantly increasing the potential for complaints about airport operations.
9. It is also critical that the standard tests for non-complying activities set out in the RMA are applied to noise sensitive activities in aircraft noise effects areas to allow careful consideration of their effects and alignment with relevant objectives and policies.
10. Finally, the fast-track process should not apply to activities that could affect Obstacle Limitation Surfaces ("**OLS**"), which are critical to the safety of aircraft taking off and landing. Airport operations could be impacted or constrained by the consenting of activities that have previously been appropriately prohibited in aircraft noise effects areas (which are agreed to, and provided for, in plans), or by a dilution in the application of the non-complying tests applying to such activities or by effects on an airport's OLS. In such cases, there will be significant implications for critical transport and freight connections and an airport's ability to contribute to local and regional economies, leading to negative flow-on effects for those communities and regions.
11. For these reasons, NZ Airports seeks:
  - (1) an amendment to clause 18 of the Bill to make it clear that noise sensitive activities within aircraft noise effects areas are ineligible to use the fast-track process;  
  
as a minimum the following amendments:
  - (2) changes to clause 18 of the Bill to make it clear that noise sensitive activities within aircraft noise effects areas that are prohibited in a district plan, and activities that affect an airport's OLS, are ineligible to use the fast-track process;
  - (3) amendment to clause 35 of the Bill to clarify that the non-complying gateway test set out in s104D of the RMA applies to any noise sensitive activities within aircraft noise effects areas; and
  - (4) amendment to clause 19 to include requiring authorities in the parties invited to comment at the referral stage.

**General comment**

12. Infrastructure projects, in particular large-scale infrastructure projects with regional or national benefits, are generally complex, costly and time consuming. NZ Airports strongly supports

providing an alternative fast-track consenting pathway for infrastructure projects that would streamline that process and provide for a faster and more certain outcome. The Bill could have immense benefits for the renewal of consents for existing infrastructure and for the maintenance of infrastructure to improve resilience and capacity to respond to population growth.

13. NZ Airports proposes amendments to ensure that the fast-track process does not weaken reverse sensitivity protections provided for in district plans. These protections are critical to protect the ability of airports to deliver services, carry out operations and accommodate the needs of New Zealand's growing population as well as sectors such as tourism and freight exports.

#### **Need for aircraft noise effects areas**

14. A critical part of ensuring the safe and efficient operation of airports over the medium and long-term is managing development around airports. The establishment or intensification of noise sensitive activities (dwellings, schools and hospitals among others) in areas affected by aircraft noise results in people being exposed to significant levels of aircraft noise, which in turn generates an annoyance from a noise sensitive activity to the effects of that aircraft noise. This has the potential to give rise to reverse sensitivity effects which can (and does) result in constraints being placed on that infrastructure.
15. Reverse sensitivity effects are adverse effects on an existing, lawful land use that arise from a conflict with a new or intensified land use that is sensitive to the existing activities (like housing). These effects are typically associated with activities like airports which cannot internalise all adverse effects within their landholdings.
16. Failure to manage reverse sensitivity effects would undermine the current and future operation of New Zealand's nationally and regionally significant infrastructure. It could also result in adverse health and wellbeing effects for the occupants of those sensitive activities.
17. Many airports in New Zealand have worked to ensure district planning controls appropriately avoid or minimise potential adverse reverse sensitivity effects on their operations. These typically include "effects areas" defined around airports in existing district plans, including noise boundaries and obstacle limitation surfaces, which control the type and scale of activities that can locate near airports. These are often not designated areas, but rather spatially defined areas that control land uses. Such measures are necessary because airports, by their nature, have effects (such as aircraft noise) that extend beyond the boundaries of their designations or landholdings, and cannot be internalised. Aircraft noise effects areas have been developed and maintained over many years, with extensive public and community consultation and input.
18. These effects areas are based on extensive modelling, scientific analysis and data, and case law, all of which demonstrate exposure to noise levels can cause adverse health and wellbeing effects, and therefore has the very real potential to give rise to reverse sensitivity effects on airports. Aircraft noise effects areas are not appropriate areas to establish or intensify noise sensitive activities such as housing.
19. The inclusion of aircraft noise areas in district plans is also consistent with New Zealand Standard 6805:1992 Airport Noise Management and Land Use Planning, which provides guidance to local authorities in relation to airport planning.

20. To avoid such effects, many district plans contain rules restricting or prohibiting new noise sensitive activities from establishing or intensifying in the high aircraft noise effects areas. Where not prohibited resource consent is generally required with assessment against criteria, including the risk of reverse sensitivity effects on the airport. Noise sensitive activities in other aircraft noise effects areas are also managed, including through density controls, acoustic insulation and ventilation requirements and directive objectives and policies which recognise the importance of protecting airports. Where the requirements are not complied with, resource consent is required. These district plan provisions minimise health effects on communities, and protect airports from reverse sensitivity.
21. NZ Airports does not consider the fast-track process is appropriate for noise sensitive activities seeking to establish or intensify in aircraft noise effects areas. Any time a noise sensitive activity establishes or intensifies there is the potential for reverse sensitivity effects. For noise sensitive activities that require resource consent, the RMA provides for airports to participate in the Council process, the evidence of the applicant to be tested by the Council in a s42A report and for the airport's concerns to be presented in a hearing. There is recourse to the Environment Court on a de novo basis rather than being limited to points of law. These are all important considerations to test and assess an application for noise sensitive activities. In NZ Airports' submission noise sensitive activities establishing or intensifying in aircraft noise effects areas should be assessed under the standard RMA process, and should be ineligible to use the fast-track process. Aircraft noise effects areas are spatially defined areas in district plans that control the type and scale of activities that can locate near airports.<sup>2</sup>

22. NZ Airports seeks an amendment to clause 18 as follows:

**18 Ineligible projects**

A project must not include any of the following activities:

[...]

(m) a noise sensitive activity in an aircraft noise effects area.

23. At a minimum the provisions of the Bill relating to prohibited and non-complying activities need to be amended in relation to noise sensitive activities in aircraft noise effects areas. The Bill currently provides that a project is not ineligible to use the fast-track process just because it includes a prohibited activity under the RMA.<sup>3</sup> While NZ Airports supports more streamlined consenting pathways for large scale infrastructure, it is critical that the fast-track process cannot be used to enable noise sensitive activities to establish or intensify in areas where they are currently prohibited. Such activities currently cannot even make a resource consent application.

24. As a minimum, NZ Airports seeks an amendment to clause 18 as follows:

**18 Ineligible projects**

A project must not include any of the following activities:

[...]

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<sup>2</sup> These could be identified as a variety of terms including contours, boundaries or overlays. Under the National Planning Standards noise effects areas are termed overlays and this will be introduced as each district plan goes through its plan review processes.

<sup>3</sup> Clause 17(5).

(m) a noise sensitive activity in an aircraft noise effects area that is a prohibited activity in a district plan.

### **Obstacle Limitation Surface restrictions**

25. Obstacle Limitation Surfaces ("OLS") are internationally accepted areas to protect the safety of aircraft operations in and around an aerodrome. The surfaces are primarily intended to protect the safe arrival and departure of aircraft using a runway in the critical operational areas. Typically OLS are protected in district plans through designations or district plan rules.
26. While s176 of the RMA requires requiring authority written consent to prevent or hinder a designation, it is critical that there is no expectation that a fast-track process could be used for activities that penetrate the OLS around an airport. This is particularly important given the limited participation and lack of appeal rights involved in the fast-track process. The standard RMA process is the appropriate process for any project including an activity that affects an OLS.
27. NZ Airports seeks an additional amendment to clause 18 as follows:

#### **18 Ineligible projects**

A project must not include any of the following activities:

[...]

(n) an activity that affects an Obstacle Limitation Surface restriction in a district plan that has not been agreed to in writing by the relevant airport operator.

### **Non-complying activities**

28. In the Bill's current form, the non-complying gateway (contained in s104D of the RMA) only applies to listed projects, not referred projects. The gateway test is an important threshold for non-complying activities, which are activities that are not squarely contemplated within a particular zone and require careful consideration of their effects and alignment with relevant objectives and policies. As with prohibited activity status in high aircraft noise effects areas, non-complying status for noise sensitive activities in aircraft noise effects areas has been tested through a planning process and supported by scientific analysis.
29. It is critical that the non-complying activity status of these specific activities in aircraft noise effects areas are not undermined by the Bill, with the potential for entirely inappropriate activities to establish or intensify in close proximity to airports without having demonstrated that they meet the effects or objectives and policy gateway.
30. Requiring applications for non-complying activities within aircraft noise effects areas to meet the s104D threshold will not inhibit the goal of streamlining consenting processes nor will it prevent the development of new housing. Instead, it will help manage development expectations in areas affected by aircraft noise and ensure development appropriately considers potential effects on significant infrastructure.
31. NZ Airports seeks an amendment to clause 35 as follows:

**35 Further matters relevant to considering consent applications for referred projects**

[...]

(5) To avoid doubt, section 104D of the Resource Management Act 1991 does not apply to a panel's consideration of a resource consent for a referred project (unless the application is for a noise sensitive activity within an aircraft noise effects area).

#### **Parties invited to comment**

32. While requiring authorities must be invited for comment on substantive consent applications under Schedule 4, Clause 20, there is no similar obligation with respect to applications for referral to the joint Ministers. As with consideration by expert consenting panels, the Ministers would benefit from input provided by affected requiring authorities at the referral application stage. NZ Airports seeks an amendment to clause 19 as follows:

#### **19 Process after joint Ministers receive application**

(1) Unless the joint Ministers decide to decline the application before inviting comments, the Ministers must copy the application to, and invite written comments from,

[...]

(i) Any requiring authority that has a designation on land on which the project is to be undertaken, or on land that is adjacent to the land on which the project is to be undertaken.

#### **Next steps**

33. NZ Airports, and the airports we represent, welcome the opportunity to engage further with the Ministry for the Environment and to present to the Select Committee on its submission.

#### **NZ AIRPORTS ASSOCIATION**

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