

# Hon Chris Bishop

Minister of Housing  
Minister for Infrastructure  
Minister Responsible for RMA Reform  
Minister for Sport and Recreation  
Leader of the House  
Associate Minister of Finance



8 April 2024

David Tapsell

s 9(2)(a)

Dear David,

## **Appointment as Chair of the Fast-track Projects Advisory Group**

On behalf of Minister Jones and I, I am pleased to confirm your appointment as Chair of the Fast-track Projects Advisory Group (the Advisory Group).

The purpose of this role is to chair the Advisory Group that will independently assess and provide recommendations to Ministers regarding projects that are suitable for listing in the Fast-track Approvals Bill (as referred to the Environment Select Committee on 7 March 2024).

The primary deliverable is to provide a report to Ministers which recommends projects that should be included in the schedule (both lists) in the Bill and why, and what projects should not be included and why.

The detailed scope and timing of your appointment, as confirmed by Cabinet, is outlined in the attached Terms of Reference.

Stephanie Frame at the Ministry for the Environment is your primary point of contact to discuss any matters related to this appointment. Stephanie will connect you with the officials who are supporting your role, and providing support to the Advisory Group, including with logistics, and administration.

Your remuneration will be a daily rate of \$1,600. A day is considered to be 8 hours. You are also entitled to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out your appointment, in accordance with the Cabinet Fees Framework. The Framework can be viewed online at the Department of the Prime Minister and Cabinet website.

Your appointment will be subject to resolving any necessary procurement, contracting and remuneration processes as required by the Ministry for the Environment.

Please confirm acceptance of your appointment by signing the attached form, scanning and emailing it to email address listed on the following page as soon as possible.

We are pleased to appoint you to this chair role, and trust that you will make a valuable contribution to the work of the Fast-track Advisory Group.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Chris Bishop". The signature is fluid and cursive, with the first name "Chris" and the last name "Bishop" clearly distinguishable.

Hon Chris Bishop  
**Minister Responsible for RMA Reform**  
**Acceptance of Appointment**

Email to: s 9(2)(a)  
Subject: Appointment as **Chair of the Fast-track Projects Advisory Group**  
From: *David Tapsell*

1. I acknowledge my appointment as Chair of the Fast-track Projects Advisory Group for a term commencing on 8 April 2024 and ending on 8 September 2024.
2. I have read, understand, and accept the terms and conditions of my appointment.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

# Hon Chris Bishop

Minister of Housing  
Minister for Infrastructure  
Minister Responsible for RMA Reform  
Minister for Sport and Recreation  
Leader of the House  
Associate Minister of Finance



8 April 2024

David Hunt

s 9(2)(a)

Dear David,

## **Appointment as a member of the Fast-track Projects Advisory Group**

On behalf of both Minister Jones and I, I am pleased to confirm your appointment as a member of the Fast-track Projects Advisory Group (the Advisory Group).

The purpose of this role is to contribute to the Advisory Group that will independently assess and provide recommendations to Ministers regarding projects that are suitable for listing in the Fast-track Approvals Bill (as referred to the Environment Select Committee on 7 March 2024).

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Your remuneration will be a daily rate of \$1,200. A day is considered to be 8 hours. You are also entitled to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out your appointment, in accordance with the Cabinet Fees Framework. The Framework can be viewed online at the Department of the Prime Minister and Cabinet website.

Your appointment will be subject to resolving any necessary procurement, contracting and remuneration processes as required by the Ministry for the Environment.

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We are pleased to appoint you to this role, and trust that you will make a valuable contribution to the work of the Fast-track Advisory Group.

Yours sincerely

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Hon Chris Bishop  
**Minister Responsible for RMA Reform**

## Acceptance of Appointment

Email: s 9(2)(a) [REDACTED]

Subject: Appointment as **Member of the Fast-track Projects Advisory Group**

From: *David Hunt*

1. I acknowledge my appointment as a Member of the Fast-track Projects Advisory Group for a term commencing on 8 April 2024 and ending on 8 September 2024.
2. I have read, understand, and accept the terms and conditions of my appointment.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

# Hon Chris Bishop

Minister of Housing  
Minister for Infrastructure  
Minister Responsible for RMA Reform  
Minister for Sport and Recreation  
Leader of the House  
Associate Minister of Finance



8 April 2024

Mark Davey

s 9(2)(a)

Dear Mark,

## **Appointment as a member of the Fast-track Projects Advisory Group**

On behalf of both Minister Jones and I, I am pleased to confirm your appointment as a member of the Fast-track Projects Advisory Group (the Advisory Group).

The purpose of this role is to contribute to the Advisory Group that will independently assess and provide recommendations to Ministers regarding projects that are suitable for listing in the Fast-track Approvals Bill (as referred to the Environment Select Committee on 7 March 2024).

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We are pleased to appoint you to this role, and trust that you will make a valuable contribution to the work of the Fast-track Advisory Group.

Yours sincerely

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Hon Chris Bishop  
**Minister Responsible for RMA Reform**



## Acceptance of Appointment

Email: s 9(2)(a) [REDACTED]  
Subject: Appointment as **Member of the Fast-track Projects Advisory Group**  
From: *Mark Davey*

1. I acknowledge my appointment as a Member of the Fast-track Projects Advisory Group for a term commencing on 8 April 2024 and ending on 8 September 2024.
2. I have read, understand, and accept the terms and conditions of my appointment.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

# Hon Chris Bishop

Minister of Housing  
Minister for Infrastructure  
Minister Responsible for RMA Reform  
Minister for Sport and Recreation  
Leader of the House  
Associate Minister of Finance



8 April 2024

Murray Parrish

s 9(2)(a)

Dear Murray

## **Appointment as a member of the Fast-track Projects Advisory Group**

On behalf of both Minister Jones and I, I am pleased to confirm your appointment as a member of the Fast-track Projects Advisory Group (the Advisory Group).

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Your appointment will be subject to resolving any necessary procurement, contracting and remuneration processes as required by the Ministry for the Environment.

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We are pleased to appoint you to this role, and trust that you will make a valuable contribution to the work of the Fast-track Advisory Group.

Yours sincerely

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Hon Chris Bishop  
**Minister Responsible for RMA Reform**

## Acceptance of Appointment

Email: s 9(2)(a) [REDACTED]  
Subject: Appointment as **Member of the Fast-track Projects Advisory Group**  
From: *Murray Parrish*

1. I acknowledge my appointment as a Member of the Fast-track Projects Advisory Group for a term commencing on 8 April 2024 and ending on 8 September 2024.
2. I have read, understand, and accept the terms and conditions of my appointment.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

# Hon Chris Bishop

Minister of Housing  
Minister for Infrastructure  
Minister Responsible for RMA Reform  
Minister for Sport and Recreation  
Leader of the House  
Associate Minister of Finance



8 April 2024

Rosie Mercer

s 9(2)(a)

Dear Rosie,

## **Appointment as a member of the Fast-track Projects Advisory Group**

On behalf of Minister Jones and I, I am pleased to confirm your appointment as a member of the Fast-track Projects Advisory Group (the Advisory Group).

The purpose of this role is to contribute to the Advisory Group that will independently assess and provide recommendations to Ministers regarding projects that are suitable for listing in the Fast-track Approvals Bill (as referred to the Environment Select Committee on 7 March 2024).

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Your appointment will be subject to resolving any necessary procurement, contracting and remuneration processes as required by the Ministry for the Environment.

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We are pleased to appoint you to this role, and trust that you will make a valuable contribution to the work of the Fast-track Advisory Group.

Yours sincerely

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Hon Chris Bishop  
**Minister Responsible for RMA Reform**

## Acceptance of Appointment

Email: s 9(2)(a) [REDACTED]

Subject: Appointment as **Member of the Fast-track Projects Advisory Group**

From: *Rosie Mercer*

1. I acknowledge my appointment as a Member of the Fast-track Projects Advisory Group for a term commencing on 8 April 2024 and ending on 8 September 2024.
2. I have read, understand, and accept the terms and conditions of my appointment.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

# Hon Chris Bishop

Minister of Housing  
Minister for Infrastructure  
Minister Responsible for RMA Reform  
Minister for Sport and Recreation  
Leader of the House  
Associate Minister of Finance



8 April 2024

Vaughan Wilkinson  
s 9(2)(a)

Dear Vaughan,

## **Appointment as a member of the Fast-track Projects Advisory Group**

On behalf of both Minister Jones and I, I am pleased to confirm your appointment as a member of the Fast-track Projects Advisory Group (the Advisory Group).

The purpose of this role is to contribute to the Advisory Group that will independently assess and provide recommendations to Ministers regarding projects that are suitable for listing in the Fast-track Approvals Bill (as referred to the Environment Select Committee on 7 March 2024).

The primary deliverable is to provide a report to Ministers which recommends projects that should be included in the schedule (both lists) in the Bill and why, and what projects should not be included and why.

The detailed scope and timing of your appointment, as confirmed by Cabinet, is outlined in the attached Terms of Reference.

Stephanie Frame at the Ministry for the Environment is your primary point of contact to discuss any matters related to this appointment. Stephanie will connect you with the officials who are supporting your role, and providing support to the Advisory Group, including with logistics, and administration.

Your remuneration will be a daily rate of \$1,200. A day is considered to be 8 hours. You are also entitled to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out your appointment, in accordance with the Cabinet Fees Framework. The Framework can be viewed online at the Department of the Prime Minister and Cabinet website.

Your appointment will be subject to resolving any necessary procurement, contracting and remuneration processes as required by the Ministry for the Environment.

Please confirm acceptance of your appointment by signing the attached form, scanning and emailing it to email address listed on the following page as soon as possible.



We are pleased to appoint you to this role, and trust that you will make a valuable contribution to the work of the Fast-track Advisory Group.

Yours sincerely

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Hon Chris Bishop  
**Minister Responsible for RMA Reform**

## Acceptance of Appointment

Email: s 9(2)(a) [REDACTED]

Subject: Appointment as **Member of the Fast-track Projects Advisory Group**

From: *Vaughan Wilkinson*

1. I acknowledge my appointment as a Member of the Fast-track Projects Advisory Group for a term commencing on 8 April 2024 and ending on 8 September 2024.
2. I have read, understand, and accept the terms and conditions of my appointment.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

## **Fast-Track Projects Advisory Group: Terms of Reference**

### **Interpretation**

In these Terms of Reference:

*'Advisory Group' refers to the Fast-Track Projects Advisory Group*

*'Bill' refers to the Fast-Track Approvals Bill (as introduced and referred to the Environment Select Committee on 07 March 2024)*

*'Ministers' refers to the Ministers of Infrastructure, Transport and Regional Development.*

### **Background and context**

1. The Government introduced the Bill on 07 March 2024. It has been referred to the Environment Select Committee for consideration and they have opened public submissions from 08 March 2024 until 19 April 2024.
2. The purpose of the Bill is “to provide a Fast-Track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits”. It relates to approvals across a range of regulatory systems. A broad range of activities will have access to the new approval pathway, including those relating to infrastructure, housing, resource extraction, aquaculture, agriculture, and other developments.
3. For ‘referred projects’, complete applications will initially be considered by Ministers who will decide whether to refer it to an Expert Panel (provided they are not ineligible for the reasons specified in the final Act). The Expert Panel will provide a recommendation to Ministers on a proposal, including conditions, with Ministers then making a final decision.
4. The Bill also contains a schedule of ‘listed projects’, being:
  - a) Part A projects are projects which might have applications containing all information requirements in the Bill, ready within the next two or more years, are not ineligible, and which meet the purpose and eligibility provisions of the Bill. These applications can be directly made to an Expert Panel following enactment (ie, a referral decision by Ministers is not firstly required)
  - b) Part B projects are projects that are likely to meet the purpose of the Act, but for which there is insufficient information ready to determine whether the project meets ineligibility and eligibility criteria. These will likely be considered for referral by Ministers in the future.
5. While the schedule is currently empty, Ministers have agreed that listed projects will be added to the Bill by calling for applications for consideration by an independent Advisory Group. The Advisory Group will make recommendations to Ministers on which projects to include in the Bill. Ministers will then decide and add projects to the schedule in the Bill at a later stage during the Parliamentary process.
6. Applications to be a listed project can be submitted to central government agencies following Ministerial announcement and likely between 04 April 2024 and 03 May 2024 via a dedicated portal with supporting guidance. Central government agencies will undertake an initial check and related tasks before passing applications to the Advisory Group, as further detailed below.

## **Part One: Purpose of the Advisory Group**

7. The purpose of the Advisory Group is to independently assess and provide recommendations to Ministers regarding projects that are suitable for listing in the Bill.

## **Part Two: Advisory Group - key deliverable, scope and secretariat support**

### Key deliverable and timing

8. The primary deliverable is to provide a report to Ministers which recommends projects that should be included in the schedule in the Bill and why (both Parts A and B), and what projects should not be included and why.
9. The report should also include:
  - a) recommendations on the priority of projects, both in terms of their worthiness of being listed as well as the order in which they should be referred to an Expert Panel post-enactment
  - b) any risks related to projects that Ministers should consider.
10. The report must be delivered to Ministers by 02 August 2024, with Ministers able to extend the date.
11. The report recommendations must reflect the majority views of the Advisory Group, but dissenting views and reasons of any member may also be succinctly recorded.

### Scope of Advisory Group

12. To assist in the successful delivery of the report, the Advisory Group:
  - a) will be provided with applications which have:
    - had an initial information check undertaken by central government agencies (ie, all information for a Part A or B application has been provided)
    - feedback from any consultation undertaken (ie, as undertaken by applicants or central government agencies)
    - a summary from central government agencies on the impacts of a project on Māori development and local Post Settlement Governance Entity settlement priorities
  - b) will assess and recommend applications to be listed based on the provisions in the Bill, in particular, but not necessarily limited to, sections 3 (purpose), 17 (eligibility), 18 (ineligibility) and 21-22 (decisions), as attached in Appendix 1
  - c) must operate subject to the terms, conditions and timeframes outlined in this Terms of Reference
  - d) must not assess, consider, or recommend applications in a way that would rely on changes to the Bill provisions
  - e) must not consult as part of their assessment, except as explicitly provided for in these Terms of Reference
  - f) may, when required, request access to specialist advisers from relevant central government agencies, and specialists outside of government. Any specialists consulted outside of government would be subject to the same confidentiality provisions as the Advisory Group itself. The Advisory Group is to seek access to specialist and technical advice via the secretariat (as detailed below) and in such a manner that ensures the report deadline in these Terms of Reference is met
  - g) may request additional information from applicants, but only insofar as is necessary to inform their recommendations and within such time that ensures the report deadline in this Terms of Reference are met.

13. The Advisory Group does not hold decision-making or directive powers on government policy, the provisions of the Bill, or central government agency officials. This will remain with Ministers or chief executives as appropriate.

#### Supporting secretariat

14. A secretariat will support the effective and efficient functioning of the Advisory Group, including:

- a) liaison with Ministers
- b) liaison with organisations submitting applications for listed projects
- c) arranging for the provision of policy advice on interpretation and application of Bill provisions
- d) providing summary information on applications, if requested by the Advisory Group
- e) administrative support such as:
  - arranging for the provision of legal advice
  - support to compile papers for the Advisory Groups deliberations, and its final report
  - organising meetings, including liaising with Advisory Group members to find a suitable time and location
  - drafting the meeting agenda and circulating the meeting papers to Advisory Group members prior to each meeting
  - taking minutes and distributing them to Advisory Group members after the meeting
  - booking travel, accommodation, catering, and venues as required
  - administering expenditure requests, member remuneration and reimbursement.

15. The Secretariat will operate subject to a confidentiality agreement.

### **Part Three: Membership**

#### Advisory Group

16. The Advisory Group is made up of six independent members who represent a range of expertise and experience on matters such as infrastructure, economic development, environment, conservation, Treaty of Waitangi and local government. The Group will be appointed by Cabinet and will comprise 6 members, including a Chair.

17. The composition of the Advisory Group is:

- a) Chair: David Tapsell
- b) Other members: Rosie Mercer, Murray Parrish, Vaughan Wilkinson, David Hunt and Mark Davey.

18. Members' appointments are on the terms and conditions specified in individual contracts and this Terms of Reference.

19. Members may be reappointed or have their terms extended.

20. A member's appointment may be terminated at any time by Ministers.

21. A member may resign from the Advisory Group at any time by notifying the Chair, secretariat and Ministers in writing.

22. Ministers may appoint additional or replacement Advisory Group members without having to re-engage with Cabinet.

## Roles and responsibilities

### 23. The Chair is responsible for:

- a) agreeing a forward work programme with the secretariat and overseeing the progression of the work to ensure a quality recommendations report is delivered on time
- b) setting meeting agendas, with the assistance of the secretariat, and approving meeting minutes
- c) chairing and facilitating meetings in a way that is encouraging and modelling open communication where all members contribute effectively and efficiently
- d) determining, with assistance from the secretariat, what action is appropriate if a member has a potential conflict of interest
- e) representing the Advisory Group in any meetings with Ministers or other parties, as required
- f) designating an Acting Chair in their absence. If the Chair does not designate an Acting Chair, then the Acting Chair shall be elected by simple majority of those members present at the meeting when an election is required.

### 24. Advisory group Members will:

- a) make every effort to attend each meeting and report anticipated absences to the Chair and the secretariat
- b) prepare adequately prior to each meeting by reading all papers provided to them
- c) participate actively in meetings and contribute to actions when agreed
- d) bring matters of significance to the attention of the Advisory Group and use professional perspectives to undertake analysis or prepare advice as required
- e) bring independent judgement, and will not regard themselves as representatives or advocates for sectors or interests
- f) respect the confidentiality of specific topics discussed at the meeting including as requested by other members
- g) declare and adequately manage any conflict of interest, or potential conflicts of interest, that may arise.

## **Part Four: Advisory Group operation**

### Quorum Requirements

25. A minimum of four Advisory Group members are required for the meeting to be recognised as an authorised meeting for the recommendations to be valid and the Chair (or a designated Acting Chair) must be present.

### Differences of opinion

26. Decisions for will be by Group member majority. In the event of a 'stalemate' caused when Group members cannot agree about the appropriateness of including a project in the Schedule, or about any aspect of that inclusion, such as the ranking of the project, or which Schedule to include it on (A or B) the Chair (or Designated Acting Chair) will have a casting vote. The views of the dissenting Group members may be briefly summarised to Ministers alongside the recommendation.

## Meetings

27. How the Advisory Group operates will be agreed by the Advisory Group itself, under the guidance of the Chair and in accordance with the Terms of Reference.
28. The Advisory Group will hold meetings at sufficient frequency to ensure the recommendations report to Ministers is delivered on time. The Chair will forward plan meetings with the support of the secretariat.
29. The Advisory Group may meet in-person or virtually. A suitable space will be provided by central government agencies for in-person meetings.
30. Members may not send proxies to attend Advisory Group meetings in their place unless prior approval has been obtained from the Chair (and a confidentiality agreement is in place).
31. The Chair may cancel or defer a meeting if an insufficient number of members are able to attend.
32. The Advisory Group must keep a formal record of all its meetings and business. This record must be made available to the Minister or relevant central government agencies upon request.

## Health and Safety

33. The Advisory Group should ensure health and safety information is discussed and acted on at meetings.

## Media

34. All media enquiries are to be referred to the communications lead in the secretariat who will manage the enquiry and work with the Chair on an appropriate response.
35. Advisory Group members may identify themselves as members of the Advisory Group but, unless prior agreement is received from the Chair and Ministers, must refrain from representing the Advisory Group to the media and at public forums.
36. A member may only participate in a media interview or public statement about the business of the Advisory Group if they have obtained the prior written approval of the Chair and Ministers.

## Conflicts of Interest

37. A conflict of interest will occur when a member's private or professional interest interferes with, or appears to interfere with, an issue that faces the Advisory Group. A conflict of interest will also occur when there is a possibility that a benefit may apply to a sector, industry or organisation with which a member is affiliated. A conflict of interest may be real or perceived.
38. Any situation that involves or may be expected to involve any real or potential conflict of interest must be declared immediately to the Chair, as soon as the conflict arises, using the form in Appendix 3. This includes how any conflict of interest will be managed.
39. At the discretion of the Chair, members may participate in discussions about issues in which they have declared a conflict of interest.

## Confidentiality

40. Advisory Group members may be privy to confidential information provided from many sources. Members must keep such information confidential unless the release of the information is explicitly agreed by Ministers.
41. Members of the Advisory Group must not disclose details of discussions held within the

Advisory Group without Ministers consent or unless otherwise required by law.

42. Members must comply with the privacy principles as outlined in section 22 of the Privacy Act 2020 and keep personal information about identifiable individuals confidential.
43. The provisions of this confidentiality requirement will cover before, during and after the activities of the Advisory Group.

#### Requests for Official Information

44. All advice provided to the Minister and central government agencies is subject to the Official Information Act 1982. Information must be made available if requested, unless the Minister or a central government agency determines that there is good reason to withhold that information under the Official Information Act.
45. If an Official Information Act request is received asking for advice provided to the Minister by the Advisory Group, the Chair will be notified by central government agencies. It is the responsibility of the Chair to notify other Advisory Group members where appropriate.
46. If the Advisory Group receives any request for information from a third party, it must immediately refer that request to the relevant central government agency (ie, via the secretariat).

#### Dispute Resolution

47. In the event of any dispute arising from the terms of this document the members will meet at the earliest opportunity in order to resolve the dispute and agree that discussions aimed at dispute resolution will be undertaken by central government officials as appropriate.

#### Corporate opportunities

48. Members must not exploit any opportunity that is discovered through access to non-public information within the Advisory Group for their own personal gain or that of any industry, sector or organisation that they are affiliated to.

#### Remuneration and expenses

49. Remuneration and expenses provisions are as outlined in individual contracts.

#### Termination, extension and amendment

50. The Advisory Group will terminate on 5 September 2024.
51. Ministers may, with the agreement of the Advisory Group, extend the termination date of the Advisory Group if so required to fulfil their primary purpose.
52. Ministers may amend these Terms of Reference following consultation with the Chair and members.



## Appendix 1: Sections 3, 17, 18, 21 and 22 of the Fast-Track Approvals Bill as introduced on 07 March 2024

### 3 Purpose

The purpose of this Act is to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits.

### 17 Eligibility criteria for projects that may be referred to panel

- (1) An application to use the fast-track approval process in this Act must be considered by the joint Ministers after being forwarded by the responsible agency.
- (2) The joint Ministers must consider the following criteria:
  - (a) whether referring the project is consistent with the purpose of this Act:
  - (b) whether access to the fast-track process will enable the project to be processed in a more timely and cost-efficient way than under normal processes:
  - (c) the impact referring this project will have on the efficient operation of the fast-track process:
  - (d) whether the project would have significant regional or national benefits:
  - (e) whether the application contains sufficient information to inform the referral decision.
- (3) In considering under **subsection (2)(d)** whether the project would have significant regional or national benefits, the joint Ministers may consider whether the project—
  - (a) has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy) or central government infrastructure priority list:
  - (b) will deliver regionally or nationally significant infrastructure:
  - (c) will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):
  - (d) will deliver significant economic benefits:
  - (e) will support primary industries, including aquaculture:
  - (f) will support development of natural resources, including minerals and petroleum:
  - (g) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:
  - (h) will support adaptation, resilience, and recovery from natural hazards:
  - (i) will address significant environmental issues:
  - (j) is consistent with local or regional planning documents, including spatial strategies.
- (4) A project is considered to have significant regional or national benefits for the purpose of **subsection (2)(d)** if it involves a resource consent application for an aquaculture activity within—
  - (a) an aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 where the applicant holds the relevant authorisation; or
  - (b) an area identified within an individual iwi settlement as being reserved for aquaculture activities.
- (5) A project is not ineligible just because the project includes an activity that is a prohibited activity under the Resource Management Act 1991.

## 18 Ineligible projects

A project must not include any of the following activities:

- (a) an activity that—
  - (i) would occur on land returned under a Treaty settlement or on identified Māori land; and
  - (ii) has not been agreed to in writing by the relevant landowner:
- (b) an activity that would occur on any of the following classes of Māori land:
  - (i) Māori customary land;
  - (ii) land set apart as Māori reservation under Part 17 of Te Ture Whenua Maori Act 1993:
- (c) an activity that—
  - (i) would occur in a customary marine title area under the Marine and Coastal Area (Takutai Moana) Act 2011; and
  - (ii) has not been agreed to in writing by the holder of the relevant customary marine title order issued under that Act:
- (d) an activity that—
  - (i) would occur in a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011 and have a more than minor adverse effect on the exercise of the protected customary right; and
  - (ii) has not been agreed to in writing by the holder of a relevant protected customary rights order issued under that Act:
- (e) an aquaculture activity or other incompatible activity that would occur within an aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 or identified within an individual iwi settlement, unless the applicant holds the relevant authorisation under that Act or the relevant Treaty settlement Act:
- (f) an activity that would require an access arrangement under section 61 or 61B of the Crown Minerals Act 1991 for an area for which a permit cannot be granted under that Act:
- (g) an activity that would be prevented under section 165J, 165M, 165Q, 165ZC, or 165ZDB of the Resource Management Act 1991:
- (h) an activity (other than an activity that would require an access arrangement under the Crown Minerals Act 1991) that would occur on land that is listed in items 1 to 11 or 14 of Schedule 4 of that Act:
- (i) an activity on a national reserve held under the Reserves Act 1977 that requires approval under that Act:
- (j) a prohibited activity under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or regulations made under that Act:
- (k) decommissioning-related activities within the meaning of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012:
- (l) offshore renewable energy projects (whether under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or the Resource Management Act 1991) that begin before separate offshore renewable energy permitting legislation comes into force.

## 21 Decision to decline application for referral

- (1) The joint Ministers must decline an application for referral if the Ministers are satisfied that—
  - (a) referral of the project to a panel is inconsistent with the purpose of this Act; or
  - (b) the project does not meet the criteria in **section 17**; or
  - (c) the project includes and ineligible activity.
- (2) The Ministers may decline an application, even if they are satisfied that it meets the eligibility criteria, if the Ministers consider that—
  - (a) the project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHNP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement; or
  - (b) it is more appropriate to deal with the application under another Act; or
  - (c) the project may have significant adverse effects on the environment; or
  - (d) the applicant has a poor compliance history under the relevant legislation; or
  - (e) the project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes; or
  - (f) the project includes an activity that is a prohibited activity under the Resource Management Act 1991; or
  - (g) the application should be declined for any other relevant reason.
- (3) A decision to decline an application may be made—
  - (a) before or after a report on the application is obtained under **section 13**; and
  - (b) before or after comments on the application are invited; and
  - (c) whether or not further information on the application is requested and provided.
- (4) However, if a report has been obtained, or if comments or further information have been sought and provided within the required time frame, the Ministers must consider those things, along with the application and any consultation required to be undertaken with relevant Māori groups, before deciding to decline the application.
- (5) A decision under this section may be made in respect of all or part of the project that is the subject of an application for referral, and the Ministers may decline some parts of an application and accept others.
- (6) Even if a project or part of a project meets all the eligibility criteria, the Ministers may decide not to refer it to an expert panel.

## 22 Decision to accept application for referral

- (1) Before deciding to accept an application for referral, the joint Ministers must consider—
  - (a) the application; and
  - (b) the report obtained under **section 13**; and
  - (c) any consultation required to be undertaken with relevant Māori groups; and
  - (d) any comments received within the required time frame; and
  - (e) any further information requested and provided under **section 20** within the required time frame.
- (2) In considering the referral application, the joint Ministers must,—
  - (a) if a Treaty settlement or related arrangement provides for the consideration of any document, arrangement, or other matter (including any statutory planning document amended as a result of that Treaty settlement or related arrangement), give that document, arrangement, or other matter the same or equivalent effect through the joint Ministers' process and decision making as it would have under the relevant legislation (if relevant); and
  - (b) if a Treaty settlement or related arrangement provides for procedural matters, comply with those requirements (if applicable) and direct the expert panel to comply with those matters (if relevant).
- (3) If the joint Ministers are satisfied that all or part of a project meets the eligibility criteria in **section 17**, the Ministers may decide—
  - (a) to refer all or part of a project to a panel;
  - (b) to refer the initial stages of a project to the panel while deferring decisions about the project's remaining stages.
- (4) A decision under this section may be made in respect of all or part of the project that is the subject of an application for referral, and the joint Ministers may accept some parts of an application and decline others.

Appendix 2: Indicative milestones

<b>Date</b>	<b>Milestone</b>
7 March 2024	Introduction and first reading of Fast-Track Approvals Bill
8 April 2024	Advisory Group members confirmed
TBC by Advisory Group	Advisory Group and secretariat convenes for initial meetings and to confirm process and administrative arrangements
4 April 2024	Project nominations open
3 May 2024	Closing date for project nominations
2 April – 2 August 2024	Advisory Group assesses project nominations
2 August 2024	Advisory Group submits recommendations to the Ministers
TBC by Ministers	Ministers confirm the projects to list in the Bill
5 September 2024	Advisory Group terminates

## Appendix 3: Conflict of Interest Form

### Guidelines for completing the Conflict-of-Interest Declaration Form

PLEASE NOTE - Members should have already completed their declarations at introduction stage. Any additional conflicts that are identified during the course of the appointment may be reported on the form below.

Members of the Advisory Group may have direct or indirect dealing with organisations or persons, both commercial and other, which could lead to a perceived or actual conflict of interest. By disclosing interests, members ensure that they are accountable and that the integrity and public confidence in the Advisory Group is maintained.

Members should be pragmatic about disclosing interests and are not required to include an interest that is remote or insignificant so that it cannot reasonably be regarded as likely to influence the member in carrying out their responsibilities. In deciding whether a member is interested, they should consider whether it would be reasonable to see the interest as likely to influence decision-making.

As a guide, an interest may be financial, professional, personal, direct or indirect and may include:

- you or your spouse, de facto partner, child, or parent may derive a financial benefit from the matter
- you may have a financial interest in a person to whom the matter relates
- you are a partner, director, officer, council member, or trustee of a person who may have a financial interest in a person to whom the matter relates
- you are otherwise directly or indirectly interested in the matter.

For example, the following types of interest might be relevant:

- employment/directorship within an institution applying for a listed project
- interests in business enterprises or professional practices
- sharing ownership/beneficial interests in a trust
- existing professional or personal associations with applicants
- professional and personal associations with organisations applying for a listed project
- a family relationship (including a member with shares/ benefits in trusts etc).

Members may be concerned about the privacy of such information. Information held by the Advisory Group is subject to the Official Information Act 1982. Central Government officials will consult with the person who provided the information before making a final decision on release. If that person cannot be located, officials will consult with the Chair on behalf of that person.

Conflict of Interest Declaration Form

Name:	
I declare that there are no conflicts of interest could compromise my objectivity, judgement, integrity or ability to perform the responsibilities of the Advisory Group	
I declare the following situation(s) that would cause a conflict of interest to exist	
Please describe how this conflict of interest will be managed	
I declare the following situation(s) that may be perceived as a conflict of interest	
Please describe how this conflict of interest will be managed	

Date:  
Signed:



## BRIEFING

### Fast-Track Projects Advisory Group – Terms of Reference

<b>Date:</b>	3 May 2024	<b>Priority:</b>	Urgent
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	MfE: BRF-4701 MBIE: 2324-3247

Action sought		
	Action sought	Deadline
Hon Chris Bishop <b>Minister for Infrastructure</b>  Minister Responsible for RMA Reform	<p><b>Agree</b> that officials clarify in the Terms of Reference that the Fast-Track Projects Advisory Group can assess and consider projects that officials have identified may be ineligible (including where applicants have not been able to obtain all relevant Clause 18(1) approvals before the closing date for applications).</p> <p><b>Agree</b> that officials amend the Terms of Reference to clarify that the Fast-Track Projects Advisory Group will not be able to consider Clause 13 “Treaty settlements and other obligations reports” in making their recommendations and that this is not a reason for excluding the projects.</p>	6 May 2024
<p><b>Copy to:</b> Hon Simeon Brown <b>Minister of Transport</b></p> <p>Hon Shane Jones <b>Minister for Regional Development</b></p>	<b>Acknowledge</b> receipt of this briefing	

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
<b>Ministry of Business, Innovation and Employment</b>			
Paul Stocks	Deputy Secretary, Building, Resources & Markets Group, MBIE	s 9(2)(a)	
Abby Cheeseman	Policy Director, Building, Resources & Markets Group	s 9(2)(a)	✓
<b>Ministry for the Environment</b>			
Nadeine Dommissie	Deputy Secretary, Environmental Management and Adaptation	s 9(2)(a)	
Ilana Miller	Programme Director	s 9(2)(a)	✓

Max Gander-Cooper	Senior Analyst, Fast-track Listed Projects	s 9(2)(a)	
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**Minister's office to complete:**

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

**Comments**



# BRIEFING

## Fast-Track Projects Advisory Group – Terms of Reference

<b>Date:</b>	3 May 2024	<b>Priority:</b>	Urgent
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	MfE: BRF-4701 MBIE: 2324-3247

### Purpose

Two matters have arisen relating to the Terms of Reference (ToR) for the Fast-Track Projects Advisory Group (the Advisory Group) and references to application of the Fast-Track Approvals Bill (the Bill) (as introduced 7 March 2024). These relate to:

1. Paragraph 12d of the ToR, in relation to Clause 18 of the Bill (ineligibility) and the requirement to obtain certain parties' agreement for the project at the time of application.
2. Paragraph 12b of the ToR, in relation to Clauses 21 and 22 (decisions) which reference a "Clause 13 report". Due to timing constraints these reports will not be available for assessment by the Advisory Group.

We seek your agreement for officials to amend the ToR to address these matters.

### Recommended action

The Ministry of Business, Innovation and Employment and the Ministry for the Environment recommend that you:

- a **Note** we have identified two matters with the Terms of Reference for the Fast-Track Projects Advisory Group and references to application of the Fast-Track Approvals Bill (as introduced 7 March 2024).  
*Noted*
- b **Note that paragraph 12(b)** of the Terms of Reference requires the Fast-Track Projects Advisory Group to assess and recommend applications based on the provisions in the Bill, including 17 (eligibility), 18 (ineligibility) and that paragraph 12(d) of the Terms of Reference requires that the Group must not assess, consider or recommend applications in a way that would rely on changes to the Bill provisions.  
*Noted*
- c **Note** the ineligibility clause in Clause 18 of the Fast-Track Approvals Bill requiring applicants to have obtained landowner and or customary title holder and rights holder agreement at the time of application, risks excluding key projects from being considered by the Fast-Track Projects Advisory Group due to paragraph 12(d) of the Terms of Reference.  
*Noted*
- d **Agree** that officials clarify in the Terms of Reference that the Fast-Track Projects Advisory Group can assess and consider projects that officials have identified may be ineligible (including where applicants have not been able to obtain all relevant Clause 18(1) approvals before the closing date for applications).  
*Agree / Disagree*
- e **Note** that paragraph 12(b) of the Terms of Reference states that the Fast-Track Projects Advisory Group will assess and recommend applications based on Clauses 21 and 22 of the

Fast-Track Approvals Bill (amongst others) and that Clauses 21 and 22 reference Clause 13 "Treaty settlements and other obligations reports". The Group will not have access to Clause 13 reports because they will not have been prepared by the time the panel makes its assessment.

*Noted*

- f **Agree** that officials amend the Terms of Reference to clarify that the Fast-Track Projects Advisory Group will not be able to consider Clause 13 "Treaty settlements and other obligations reports" in making their recommendations and that this is not a reason for excluding the projects.

*Agree / Disagree*



Paul Stocks  
**Deputy Secretary**  
Building, Resources & Markets Group, MBIE

3 / 05 / 2024



Nadeine Dommissse  
**Deputy Secretary**, Environmental  
Management and Adaptation, MfE

3 / 05 / 2024

Hon Chris Bishop  
**Minister for Infrastructure**

..... / ..... / .....

## Background

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1. In March, Cabinet agreed to:
  - Endorse the proposed assessment process for applications to include projects on Schedule 2 of the Bill (via Cabinet Economic Policy Committee). This included agreement to the role of officials and the Advisory Group in the assessment process. (Ref CAB-24-MIN-0109.01)
  - The appointment of the Advisory Group (via Cabinet Appointments and Honours Committee). This appointment was subject to a ToR for the Advisory Group. (Ref CAB-24-MIN-0108 & CAB-24-MIN-0114)
2. Subsequently the Advisory Group was publicly announced 8 April 2024, with the ToR circulated to group members. The ToR was provided to your offices in advance of the announcement. The ToR is attached as **Annex one**.

### **The Bill enables projects to be considered for approval that meet certain eligibility criteria**

3. The purpose of the Bill is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits. All applications are subject to checks to determine if they meet the eligibility criteria, or trigger the ineligibility criteria in the Bill.
4. Project applications are currently able to be made to the Ministry for the Environment until 3 May 2024. The Advisory Group will then conduct assessments of the projects and provide an independent recommendation report to you as joint Ministers.

### **The Terms of Reference for the Advisory Group**

#### *Application process according to the ToR*

5. The ToR outlines the purpose of the Advisory Group, to independently assess and provide recommendations to Ministers regarding projects that are suitable for listing in the Bill. This includes assessing and recommending applications to be listed based on the provisions in the Bill, in particular, but not necessarily limited to, Clauses 3 (purpose), 17 (eligibility), 18 (ineligibility) and 21-22 (decisions).
6. The Bill contains a schedule of 'listed projects', being:
  - a. Part A projects, which might have applications containing all information requirements in the Bill ready within the next two or more years, are not ineligible, and which meet the purpose and eligibility provisions of the Bill.
  - b. Part B projects, which are projects that are likely to meet the purpose of the Act, but for which there is insufficient information ready to determine whether the project meets ineligibility and eligibility criteria.

#### *Matters to be resolved with the current ToR*

7. We have identified two matters relating to the ToR for the Advisory Group and references to application of the Bill (as introduced 7 March 2024). These relate to:
  - a. Paragraph 12d of the ToR, in relation to Clause 18 of the Bill (ineligibility) and the requirement to obtain landowners' agreement if the activity would occur on land returned under a Treaty settlements or on identified Māori land.
  - b. Paragraph 12b of the ToR, in relation to Clauses 21 and 22 (decisions) which reference a "Clause 13 report".

8. Paragraph 12(b) of the ToR requires the Advisory Group to assess and recommend applications to be listed, based on the provisions of the Bill and refers to certain provisions in the Bill. This includes Clause 18 which prescribes ineligibility criteria for fast-track approvals and Clauses 21 and 22 which prescribe the criteria for accepting and rejecting applications and refer to the requirement in Clause 13 of the Bill for joint Ministers to obtain and consider a report relating to treaty settlements and other obligations.
9. Paragraph 12(d) of the ToR states that the Advisory Group must not assess, consider or recommend applications in a way that would rely on changes to the Bill provisions.

### **Clause 18(1) and the need to obtain agreement**

10. The ToR can be interpreted as requiring both officials and the Advisory Group to exclude projects that are ineligible in terms of Clause 18 of the Bill. This includes projects that are ineligible under Clause 18(1)(a), (c) and (d). Projects that are ineligible under these provisions but which may become eligible may not be put forward for inclusion in Schedule 2 and the Advisory Group may need to treat them as ineligible if they are put forward.
11. Under Clause 18(1)(a), a project is ineligible if it includes an activity that would (i) occur on land returned under a Treaty settlement or on identified Māori land; and (ii) has not been agreed to in writing by the relevant landowner.
12. There are similar requirements for activities in the customary marine area and customary rights areas under the Marine and Coastal Area (Takutai Moana) Act 2011 under Clauses 18(1)(c) and (d).
13. There is a risk that Clause 18(1)(a)(c) and (d) will exclude projects where landowner consent is very unlikely to be obtained by the application date but would otherwise be key infrastructure and development projects with significant regional or national benefits.
14. It is unclear how many projects will be affected by this, or whether potential applicants have paused or not put in applications due to the absence of all required landowner consent. Officials are aware that major applicants which may have been caught by this uncertainty where multiple landowner permissions are required such as transmission lines and roads have proceeded to submit applications.
15. Given this we propose clarifying the ToR to make it clear that the Group may consider and assess projects where agreements under Clause 18(1)(a), (c) and (d) of the Bill have not yet been obtained.
16. The ToR are generally reflected in the description of the listed project process available on the MfE website. There is a risk that some potential applicants may have already determined they were ineligible and not submitted an application. This could raise issues of fairness in relation to the application process, if others have not. As noted above our view is that this is on balance not likely to be a widespread issue. Any applicant will have the option of applying for acceptance into the Fast-Track process once the Bill is passed.
17. While there is an option of extending the deadline for applications, this is not considered administratively workable. There would be significant practical resourcing and communication steps required to extend the deadline and to publicise the clarification. MfE considers it would also lead to increased risks of inconsistency if officials and Advisory groups are considering different information provided at different times. It may also lead to confusion on whether the Advisory Group is continuing to apply the eligibility criteria in the Bill as introduced. As a result, we do not recommend this step.

## **Requirement for Clause 13 reports by the Advisory Group**

### *Unavailability of Clause 13 reports before Bill takes effect*

18. Clause 21 (decision to decline application for referral) and Clause 22 (decision to accept application for referral) refer to decisions being based on the report obtained under Clause 13 (Treaty settlements and other obligations report). After enactment of the Bill, a Clause 13 report would be a report prepared by officials on the relevant Treaty settlements, effects on Māori development, and Post-Settlement Governance Entity priorities relating to the applicant project.
19. The ToR state that the Advisory Group will carry out its assessments based on Clauses 21 and 22 of the Bill. Accordingly, the ToR can be read as requiring the Advisory Group to consider Clause 13 reports before making its recommendations.
20. Given the time constraints of the Advisory Group process, no Clause 13 reports will be available at the time that the Advisory Group makes its assessment.

### *There are options to address the Clause 13 reports issue*

21. The Advisory Group could address this in their final report to Ministers, by noting that Clause 13 reports were not available to the Group and so have not been considered.
22. Alternatively, you could agree to officials amending the ToR to make it clear that you are aware that, in the time available, the Group will not have access to Clause 13 reports and so will not be able to consider them. This would make it clear that the unavailability of these reports are not a barrier to considering a project for inclusion in the Bill's schedules.
23. We note that the intended content of Clause 13 reports should be considered later in the process by Ministers.

## **Next Steps**

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24. If Ministers agree to the recommendations in this briefing, officials will amend the ToR for the Advisory Group.

## **Annexures**

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Annex one: Terms of Reference, Fast-track Projects Advisory Group

## **Annex one: Terms of Reference, Fast-Track Projects Advisory Group**

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# Fast-Track Projects Advisory Group: Terms of Reference

## Interpretation

In these Terms of Reference:

***'Advisory Group'*** refers to the Fast-Track Projects Advisory Group

***'Bill'*** refers to the Fast-Track Approvals Bill (as introduced and referred to the Environment Select Committee on 07 March 2024)

***'Ministers'*** refers to the Ministers of Infrastructure, Transport and Regional Development.

## Background and context

1. The Government introduced the Bill on 07 March 2024. It has been referred to the Environment Select Committee for consideration and they have opened public submissions from 08 March 2024 until 19 April 2024.
2. The purpose of the Bill is “to provide a Fast-Track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits”. It relates to approvals across a range of regulatory systems. A broad range of activities will have access to the new approval pathway, including those relating to infrastructure, housing, resource extraction, aquaculture, agriculture, and other developments.
3. For ‘referred projects’, complete applications will initially be considered by Ministers who will decide whether to refer it to an Expert Panel (provided they are not ineligible for the reasons specified in the final Act). The Expert Panel will provide a recommendation to Ministers on a proposal, including conditions, with Ministers then making a final decision.
4. The Bill also contains a schedule of ‘listed projects’, being:
  - a) Part A projects are projects which might have applications containing all information requirements in the Bill ready within the next two or more years, are not ineligible, and which meet the purpose and eligibility provisions of the Bill. These applications can be directly made to an Expert Panel following enactment (ie, a referral decision by Ministers is not firstly required)
  - b) Part B projects are projects that are likely to meet the purpose of the Act, but for which there is insufficient information ready to determine whether the project meets ineligibility and eligibility criteria. These will likely be considered for referral by Ministers in the future.
5. While the schedule is currently empty, Ministers have agreed that listed projects will be added to the Bill by calling for applications for consideration by an independent Advisory Group. The Advisory Group will make recommendations to Ministers on which projects to include in the Bill. Ministers will then decide and add projects to the schedule in the Bill at a later stage during the Parliamentary process.
6. Applications to be a listed project can be submitted to central government agencies following Ministerial announcement and likely between 04 April 2024 and 03 May

2024 via a dedicated portal with supporting guidance. Central government agencies will undertake an initial check and related tasks before passing applications to the Advisory Group, as further detailed below.

## Part One: Purpose of the Advisory Group

7. The purpose of the Advisory Group is to independently assess and provide recommendations to Ministers regarding projects that are suitable for listing in the Bill.

## Part Two: Advisory Group - key deliverable, scope and secretariat support

### Key deliverable and timing

8. The primary deliverable is to provide a report to Ministers which recommends projects that should be included in the schedule in the Bill and why (both Parts A and B), and what projects should not be included and why.
9. The report should also include:
  - a) recommendations on the priority of projects, both in terms of their worthiness of being listed as well as the order in which they should be referred to an Expert Panel post-enactment
  - b) any risks related to projects that Ministers should consider.
10. The report must be delivered to Ministers by 02 August 2024, with Ministers able to extend the date.
11. The report recommendations must reflect the majority views of the Advisory Group, but dissenting views and reasons of any member may also be succinctly recorded.

### Scope of Advisory Group

12. To assist in the successful delivery of the report, the Advisory Group:
  - a) will be provided with applications which have:
    - had an initial information check undertaken by central government agencies (ie, all information for a Part A or B application has been provided)
    - feedback from any consultation undertaken (ie, as undertaken by applicants or central government agencies)
    - a summary from central government agencies on any relevant Treaty settlement provisions and the impacts of a project on Māori development and local Post Settlement Governance Entity settlement priorities. [*Note: A section 13 report (as described in the Bill) will not be provided to the Advisory Group because the section 13 report includes the outcome of Ministers' consultation with relevant Māori groups and the Ministers for Māori Crown Relations: Te Arawhiti and Māori Development, and this consultation will not occur by the time of the Advisory Group's assessment.*]
  - b) Subject to (i) and (ii) below, will assess and recommend applications to be listed based on the provisions in the Bill, in particular, but not necessarily limited to, sections 3 (purpose), 17 (eligibility), 18 (ineligibility) and 21-22



(decisions), as attached in Appendix 1:

- (i) The Advisory Group may assess, consider, and make recommendations on applications that are ineligible under clause 18 if it appears that the reason for that ineligibility is only that an agreement or approval that is required under section 18 has yet to be obtained.
    - (ii) *The Advisory Group may assess, consider and make recommendations on applications, even though no section 13 reports have been prepared]*
  - c) must operate subject to the terms, conditions and timeframes outlined in this Terms of Reference
  - d) must not assess, consider, or recommend applications in a way that would rely on changes to the Bill provisions
  - e) must not consult as part of their assessment, except as explicitly provided for in these Terms of Reference
  - f) may, when required, request access to specialist advisers from relevant central government agencies, and specialists outside of government. Any specialists consulted outside of government would be subject to the same confidentiality provisions as the Advisory Group itself. The Advisory Group is to seek access to specialist and technical advice via the secretariat (as detailed below) and in such a manner that ensures the report deadline in these Terms of Reference is met.
  - g) may request additional information from applicants, but only insofar as is necessary to inform their recommendations and within such time that ensures the report deadline in this Terms of Reference are met.
13. The Advisory Group can only assess, consider and make recommendations on applications based on the information available to them.
14. The Advisory Group does not hold decision-making or directive powers on government policy, the provisions of the Bill, or central government agency officials. This will remain with Ministers or chief executives as appropriate.

## Supporting secretariat

15. A secretariat will support the effective and efficient functioning of the Advisory Group, including:
- a) liaison with Ministers
  - b) liaison with organisations submitting applications for listed projects
  - c) arranging for the provision of policy advice on interpretation and application of Bill provisions
  - d) providing summary information on applications, if requested by the Advisory Group
  - e) administrative support such as:
    - arranging for the provision of legal advice
    - support to compile papers for the Advisory Groups deliberations, and its final report
    - organising meetings, including liaising with Advisory Group members

to find a suitable time and location

- drafting the meeting agenda and circulating the meeting papers to Advisory Group members prior to each meeting
- taking minutes and distributing them to Advisory Group members after the meeting
- booking travel, accommodation, catering, and venues as required
- administering expenditure requests, member remuneration and reimbursement.

16. The Secretariat will operate subject to a confidentiality agreement.

## Part Three: Membership

### Advisory Group

17. The Advisory Group is made up of six independent members who represent a range of expertise and experience on matters such as infrastructure, economic development, environment, conservation, Treaty of Waitangi and local government. The Group will be appointed by Cabinet and will comprise 6 members, including a Chair.

18. The composition of the Advisory Group is:

- a) Chair: David Tapsell
- b) Other members: Rosie Mercer, Murray Parrish, Vaughan Wilkinson, David Hunt and Mark Davey.

19. Members' appointments are on the terms and conditions specified in individual contracts and this Terms of Reference.

20. Members may be reappointed or have their terms extended.

21. A member's appointment may be terminated at any time by Ministers.

22. A member may resign from the Advisory Group at any time by notifying the Chair, secretariat and Ministers in writing.

23. Ministers may appoint additional or replacement Advisory Group members without having to re-engage with Cabinet.

### Roles and responsibilities

24. The Chair is responsible for:

- a) agreeing a forward work programme with the secretariat and overseeing the progression of the work to ensure a quality recommendations report is delivered on time
- b) setting meeting agendas, with the assistance of the secretariat, and approving meeting minutes
- c) chairing and facilitating meetings in a way that is encouraging and modelling open communication where all members contribute effectively and efficiently
- d) determining, with assistance from the secretariat, what action is appropriate if a member has a potential conflict of interest

- e) representing the Advisory Group in any meetings with Ministers or other parties, as required
- f) designating an Acting Chair in their absence. If the Chair does not designate an Acting Chair, then the Acting Chair shall be elected by simple majority of those members present at the meeting when an election is required.

25. Advisory group Members will:

- a) make every effort to attend each meeting and report anticipated absences to the Chair and the secretariat
- b) prepare adequately prior to each meeting by reading all papers provided to them
- c) participate actively in meetings and contribute to actions when agreed
- d) bring matters of significance to the attention of the Advisory Group and use professional perspectives to undertake analysis or prepare advice as required
- e) bring independent judgement, and will not regard themselves as representatives or advocates for sectors or interests
- f) respect the confidentiality of specific topics discussed at the meeting including as requested by other members
- g) declare and adequately manage any conflict of interest, or potential conflicts of interest, that may arise.

## Part Four: Advisory Group operation

### Quorum Requirements

26. A minimum of four Advisory Group members are required for the meeting to be recognised as an authorised meeting for the recommendations to be valid and the Chair (or a designated Acting Chair) must be present.

### Differences of opinion

27. Decisions for will be by Group member majority. In the event of a 'stalemate' caused when Group members cannot agree about the appropriateness of including a project in the Schedule, or about any aspect of that inclusion, such as the ranking of the project, or which Schedule to include it on (A or B) the Chair (or Designated Acting Chair) will have a casting vote. The views of the dissenting Group members may be briefly summarised to Ministers alongside the recommendation.

### Meetings

28. How the Advisory Group operates will be agreed by the Advisory Group itself, under the guidance of the Chair and in accordance with the Terms of Reference.

29. The Advisory Group will hold meetings at sufficient frequency to ensure the recommendations report to Ministers is delivered on time. The Chair will forward plan meetings with the support of the secretariat.

30. The Advisory Group may meet in-person or virtually. A suitable space will be

provided by central government agencies for in-person meetings.

31. Members may not send proxies to attend Advisory Group meetings in their place unless prior approval has been obtained from the Chair (and a confidentiality agreement is in place).
32. The Chair may cancel or defer a meeting if an insufficient number of members are able to attend.
33. The Advisory Group must keep a formal record of all its meetings and business. This record must be made available to the Minister or relevant central government agencies upon request.

## Health and Safety

34. The Advisory Group should ensure health and safety information is discussed and acted on at meetings.

## Media

35. All media enquiries are to be referred to the communications lead in the secretariat who will manage the enquiry and work with the Chair on an appropriate response.
36. Advisory Group members may identify themselves as members of the Advisory Group but, unless prior agreement is received from the Chair and Ministers, must refrain from representing the Advisory Group to the media and at public forums.
37. A member may only participate in a media interview or public statement about the business of the Advisory Group if they have obtained the prior written approval of the Chair and Ministers.

## Conflicts of Interest

38. A conflict of interest will occur when a member's private or professional interest interferes with, or appears to interfere with, an issue that faces the Advisory Group. A conflict of interest will also occur when there is a possibility that a benefit may apply to a sector, industry or organisation with which a member is affiliated. A conflict of interest may be real or perceived.
39. Any situation that involves or may be expected to involve any real or potential conflict of interest must be declared immediately to the Chair, as soon as the conflict arises, using the form in Appendix 3. This includes how any conflict of interest will be managed.
40. At the discretion of the Chair, members may participate in discussions about issues in which they have declared a conflict of interest.

## Confidentiality

41. Advisory Group members may be privy to confidential information provided from many sources. Members must keep such information confidential unless the release of the information is explicitly agreed by Ministers.
42. Members of the Advisory Group must not disclose details of discussions held within the Advisory Group without Ministers consent or unless otherwise required by law.

43. Members must comply with the privacy principles as outlined in section 22 of the Privacy Act 2020 and keep personal information about identifiable individuals confidential.
44. The provisions of this confidentiality requirement will cover before, during and after the activities of the Advisory Group.

### Requests for Official Information

45. All advice provided to the Minister and central government agencies is subject to the Official Information Act 1982. Information must be made available if requested, unless the Minister or a central government agency determines that there is good reason to withhold that information under the Official Information Act.
46. If an Official Information Act request is received asking for advice provided to the Minister by the Advisory Group, the Chair will be notified by central government agencies. It is the responsibility of the Chair to notify other Advisory Group members where appropriate.
47. If the Advisory Group receives any request for information from a third party, it must immediately refer that request to the relevant central government agency (i.e. via the secretariat).

### Dispute Resolution

48. In the event of any dispute arising from the terms of this document the members will meet at the earliest opportunity in order to resolve the dispute and agree that discussions aimed at dispute resolution will be undertaken by central government officials as appropriate.

### Corporate opportunities

49. Members must not exploit any opportunity that is discovered through access to non-public information within the Advisory Group for their own personal gain or that of any industry, sector or organisation that they are affiliated to.

### Remuneration and expenses

50. Remuneration and expenses provisions are as outlined in individual contracts.

### Termination, extension and amendment

51. The Advisory Group will terminate on 5 September 2024.
52. Ministers may, with the agreement of the Advisory Group, extend the termination date of the Advisory Group if so required to fulfil their primary purpose.
53. Ministers may amend these Terms of Reference following consultation with the Chair and members.

## Appendix 1: Sections 3, 17, 18, 21 and 22 of the Fast-Track Approvals Bill as introduced on 07 March 2024

### 3 Purpose

The purpose of this Act is to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits.

### 17 Eligibility criteria for projects that may be referred to panel

- (1) An application to use the fast-track approval process in this Act must be considered by the joint Ministers after being forwarded by the responsible agency.
- (2) The joint Ministers must consider the following criteria:
  - (a) whether referring the project is consistent with the purpose of this Act:
  - (b) whether access to the fast-track process will enable the project to be processed in a more timely and cost-efficient way than under normal processes:
  - (c) the impact referring this project will have on the efficient operation of the fast-track process:
  - (d) whether the project would have significant regional or national benefits:
  - (e) whether the application contains sufficient information to inform the referral decision.
- (3) In considering under **subsection (2)(d)** whether the project would have significant regional or national benefits, the joint Ministers may consider whether the project—
  - (a) has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy) or central government infrastructure priority list:
  - (b) will deliver regionally or nationally significant infrastructure:
  - (c) will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):
  - (d) will deliver significant economic benefits:
  - (e) will support primary industries, including aquaculture:
  - (f) will support development of natural resources, including minerals and petroleum:
  - (g) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:
  - (h) will support adaptation, resilience, and recovery from natural hazards:
  - (i) will address significant environmental issues:
  - (j) is consistent with local or regional planning documents, including spatial strategies.
- (4) A project is considered to have significant regional or national benefits for the purpose of **subsection (2)(d)** if it involves a resource consent application for an aquaculture activity within—
  - (a) an aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 where the applicant holds the relevant authorisation; or
  - (b) an area identified within an individual iwi settlement as being reserved for aquaculture activities.
- (5) A project is not ineligible just because the project includes an activity that is a prohibited activity under the Resource Management Act 1991.

## 18 Ineligible projects

A project must not include any of the following activities:

- (a) an activity that—
  - (i) would occur on land returned under a Treaty settlement or on identified Māori land; and
  - (ii) has not been agreed to in writing by the relevant landowner:
- (b) an activity that would occur on any of the following classes of Māori land:
  - (i) Māori customary land;
  - (ii) land set apart as Māori reservation under Part 17 of Te Ture Whenua Maori Act 1993:
- (c) an activity that—
  - (i) would occur in a customary marine title area under the Marine and Coastal Area (Takutai Moana) Act 2011; and
  - (ii) has not been agreed to in writing by the holder of the relevant customary marine title order issued under that Act:
- (d) an activity that—
  - (i) would occur in a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011 and have a more than minor adverse effect on the exercise of the protected customary right; and
  - (ii) has not been agreed to in writing by the holder of a relevant protected customary rights order issued under that Act:
- (e) an aquaculture activity or other incompatible activity that would occur within an aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 or identified within an individual iwi settlement, unless the applicant holds the relevant authorisation under that Act or the relevant Treaty settlement Act:
- (f) an activity that would require an access arrangement under section 61 or 61B of the Crown Minerals Act 1991 for an area for which a permit cannot be granted under that Act:
- (g) an activity that would be prevented under section 165J, 165M, 165Q, 165ZC, or 165ZDB of the Resource Management Act 1991:
- (h) an activity (other than an activity that would require an access arrangement under the Crown Minerals Act 1991) that would occur on land that is listed in items 1 to 11 or 14 of Schedule 4 of that Act:
- (i) an activity on a national reserve held under the Reserves Act 1977 that requires approval under that Act:
- (j) a prohibited activity under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or regulations made under that Act:
- (k) decommissioning-related activities within the meaning of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012:
- (l) offshore renewable energy projects (whether under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or the Resource Management Act 1991) that begin before separate offshore renewable energy permitting legislation comes into force.

## 21 Decision to decline application for referral

- (1) The joint Ministers must decline an application for referral if the Ministers are satisfied that—
  - (a) referral of the project to a panel is inconsistent with the purpose of this Act; or
  - (b) the project does not meet the criteria in **section 17**; or
  - (c) the project includes and ineligible activity.
- (2) The Ministers may decline an application, even if they are satisfied that it meets the eligibility criteria, if the Ministers consider that—
  - (a) the project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHNP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement; or
  - (b) it is more appropriate to deal with the application under another Act; or
  - (c) the project may have significant adverse effects on the environment; or
  - (d) the applicant has a poor compliance history under the relevant legislation; or
  - (e) the project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes; or
  - (f) the project includes an activity that is a prohibited activity under the Resource Management Act 1991; or
  - (g) the application should be declined for any other relevant reason.
- (3) A decision to decline an application may be made—
  - (a) before or after a report on the application is obtained under **section 13**; and
  - (b) before or after comments on the application are invited; and
  - (c) whether or not further information on the application is requested and provided.
- (4) However, if a report has been obtained, or if comments or further information have been sought and provided within the required time frame, the Ministers must consider those things, along with the application and any consultation required to be undertaken with relevant Māori groups, before deciding to decline the application.
- (5) A decision under this section may be made in respect of all or part of the project that is the subject of an application for referral, and the Ministers may decline some parts of an application and accept others.
- (6) Even if a project or part of a project meets all the eligibility criteria, the Ministers may decide not to refer it to an expert panel.

## 22 Decision to accept application for referral

- (1) Before deciding to accept an application for referral, the joint Ministers must consider—
  - (a) the application; and
  - (b) the report obtained under **section 13**; and
  - (c) any consultation required to be undertaken with relevant Māori groups; and
  - (d) any comments received within the required time frame; and
  - (e) any further information requested and provided under **section 20** within the required time frame.
- (2) In considering the referral application, the joint Ministers must,—
  - (a) if a Treaty settlement or related arrangement provides for the consideration of any document, arrangement, or other matter (including any statutory planning document amended as a result of that Treaty settlement or related arrangement), give that document, arrangement, or other matter the same or equivalent effect through the joint Ministers' process and decision making as it would have under the relevant legislation (if relevant); and
  - (b) if a Treaty settlement or related arrangement provides for procedural matters, comply with those requirements (if applicable) and direct the expert panel to comply with those matters (if relevant).
- (3) If the joint Ministers are satisfied that all or part of a project meets the eligibility criteria in **section 17**, the Ministers may decide—
  - (a) to refer all or part of a project to a panel:
  - (b) to refer the initial stages of a project to the panel while deferring decisions about the project's remaining stages.
- (4) A decision under this section may be made in respect of all or part of the project that is the subject of an application for referral, and the joint Ministers may accept some parts of an application and decline others.



## Appendix 2: Indicative milestones

<b>Date</b>	<b>Milestone</b>
07 March 2024	Introduction and first reading of Fast-Track Approvals Bill
08 April 2024	Advisory Group members confirmed
TBC by Advisory Group	Advisory Group and secretariat convenes for initial meetings and to confirm process and administrative arrangements
04 April 2024	Project nominations open
03 May	Closing date for project nominations
02 April – 02 August 2024	Advisory Group assesses project nominations
02 August 2024	Advisory Group submits recommendations to the Ministers
TBC by Ministers	Ministers confirm the projects to list in the Bill
05 September 2024	Advisory Group terminates

## Appendix 3: Conflict of Interest Form

### Guidelines for completing the Conflict-of-Interest Declaration Form

**PLEASE NOTE** - Members should have already completed their declarations at introduction stage. Any additional conflicts that are identified during the course of the appointment may be reported on the form below.

Members of the Advisory Group may have direct or indirect dealing with organisations or persons, both commercial and other, which could lead to a perceived or actual conflict of interest. By disclosing interests, members ensure that they are accountable and that the integrity and public confidence in the Advisory Group is maintained.

Members should be pragmatic about disclosing interests and are not required to include an interest that is remote or insignificant so that it cannot reasonably be regarded as likely to influence the member in carrying out their responsibilities. In deciding whether a member is interested, they should consider whether it would be reasonable to see the interest as likely to influence decision-making.

As a guide, an interest may be financial, professional, personal, direct or indirect and may include:

- you or your spouse, de facto partner, child, or parent may derive a financial benefit from the matter
- you may have a financial interest in a person to whom the matter relates
- you are a partner, director, officer, council member, or trustee of a person who may have a financial interest in a person to whom the matter relates
- you are otherwise directly or indirectly interested in the matter.

For example, the following types of interest might be relevant:

- employment/directorship within an institution applying for a listed project
- interests in business enterprises or professional practices
- sharing ownership/beneficial interests in a trust
- existing professional or personal associations with applicants
- professional and personal associations with organisations applying for a listed project
- a family relationship (including a member with shares/ benefits in trusts etc).

Members may be concerned about the privacy of such information. Information held by the Advisory Group is subject to the Official Information Act 1982. Central Government officials will consult with the person who provided the information before making a final decision on release. If that person cannot be located, officials will consult with the Chair on behalf of that person.

## Conflict of Interest Declaration Form

Name:	
I declare that there are no conflicts of interest could compromise my objectivity, judgement, integrity or ability to perform the responsibilities of the Advisory Group	
I declare the following situation(s) that would cause a conflict of interest to exist	
Please describe how this conflict of interest will be managed:	
I declare the following situation(s) that may be perceived as a conflict of interest	
Please describe how this conflict of interest will be managed:	

Date:

Signed:

## Aide memoire: Final Terms of reference for Fast-track Projects Advisory Group

Date submitted: 15/05/2024

Tracking number: BRF-4756

Security level: Policy and Privacy

Actions sought from ministers	
<i>Name and position</i>	<i>Action sought</i>
To Hon Chris BISHOP <b>Minister Responsible for RMA Reform</b>	For noting only
CC Hon Shane JONES <b>Minister for Regional Development</b>	For noting only
CC Hon Simeon BROWN <b>Minister of Transport</b>	For noting only

Appendices and attachments
<ol style="list-style-type: none"> <li>1. Amended Terms of Reference</li> <li>2. Signed BRF-4408</li> </ol>

Key contacts at Ministry for the Environment			
<i>Position</i>	<i>Name</i>	<i>Cell phone</i>	<i>First contact</i>
Principal Author	Max Gander-Cooper		
Responsible Manager	Stephanie Frame	s 9(2)(a)	✓
Programme Director	Ilana Miller		

# Final Terms of reference for Fast-track Projects Advisory Group

## Purpose

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1. This aide memoire provides you with the amended Terms of Reference (TOR) for the Fast-track Projects Advisory Group (the Advisory Group) and informs you of the Advisory Group's expectations of what they will consider when assessing projects.
2. The Terms of Reference will be publicly released in the next week or so, as part of a proactive release of Fast-track information.

## Background

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### *Updated TOR*

3. On 6 May 2024 you agreed to recommendations in the joint briefing BRF4701 / MBIE 2324 3247 that officials would amend the TOR to clarify matters relating to:
  - i. whether the Advisory Group would be receiving and considering a Section 13 report; and
  - ii. whether the Advisory Group could consider projects that officials identified may be ineligible because the relevant approvals under clauses 18(a), (c) and (d) have not yet been obtained.
4. We have updated the TOR and these updates have been reviewed by the Chair of the Advisory Group. We attach the amended TOR for your information (Appendix 1). The Advisory Group have advised that they will consider all relevant matters in so far as they relate to s 6 of the Act.

### *Criteria for Schedule 2 Part A and Schedule 2 Part B*

5. At a meeting on 10 May 2024, the Advisory Group noted that there were some differences between the criteria in the TOR for projects to be included in Schedule 2 Part A (2A) and Schedule 2 Part B (2B) and the criteria in the Fast-track Approvals Bill (the Bill).
6. The criteria in paragraph 4 of the TOR state:
  - i. *Part A projects are projects which might have applications containing all information requirements in the Bill, ready within the next two or more years, are not ineligible, and which meet the purpose and eligibility provisions of the Bill. These applications can be directly made to an Expert Panel following enactment (i.e. a referral decision by Ministers is not firstly required)*
  - ii. *Part B projects are projects that are likely to meet the purpose of the Act, but for which there is insufficient information ready to determine whether the project meets*

*ineligibility and eligibility criteria. These will likely be considered for referral by Ministers in the future.*

7. The reference to Part A projects being projects that might have applications ready within the next two or more years was to reflect your decision on MFE briefing BRF-4408/MBIE 2324-2522 in which you agreed that “*Schedule 2A will be a broad list, capturing all projects that might be ready to apply to an Expert Panel within two or more years after enactment (noting this could make it difficult to prioritise assessment of any significant projects identified post-enactment)*”, at recommendation (e).
8. The Advisory Group have asked us to draw to Ministers’ attention that in accordance with the TOR, they will be considering the likely timeframe within which the information requirements in the Bill will be met (through reference to “within the next two or more years”) even though this assessment criteria is not in the Bill (as introduced).

## Next steps

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9. If you are comfortable with the Advisory Group’s approach, and the TOR as attached (reflecting your earlier decisions), then no further action is required from you at this time.

## Signatures

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Ilana Miller  
Programme Director  
**Ministry for the Environment**  
**15/05/2024**

Hon Chris BISHOP  
**Minister Responsible for RMA Reform**  
**Date**