



PROACTIVE RELEASE COVERSHEET

Minister	Bishop	Portfolio	RMA Reform
Subject Matter	Fast Track Approvals Bill	Date to be published	24 May 2024

List of documents that have been proactively released

Date	Title	Author
15 Feb 2024	Aide Memoire AM24/061: Advice on delegated decision briefing 'Fast-track Consenting Bill – Policy Decisions Tranche 2A	MCH
1 Mar 2024	Aide Memoire AM24/108: Cabinet consideration of 'Fast-track Approvals Bill: Approval for Introduction'	MCH
7 Feb 2024	Briefing BR24/056: Advice on delegated decision briefing 'Fast-track legislation delegated decisions Paper #1'	MCH
18 Dec 2023	Fortnightly status reports: BR24/113, BR24/077, BR24/047, BR24/028, BR23/510	MCH

Information redacted **YES**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Summary of reasons for redaction

Some information has been withheld for the reasons of a) maintaining legal privilege, b) to protect the privacy of natural persons and c) maintain the constitutional convention protecting the confidentiality of advice rendered by Ministers and officials

Hon Paul Goldsmith

Minister for Arts, Culture and Heritage

AIDE MEMOIRE: Advice on delegated decision briefing ‘Fast-track Consenting Bill – Policy Decisions Tranche 2A’

Date:	15 February 2024	Priority:	Urgent
Security classification:	In Confidence	Reference:	AM24/061
Contact	Polly O’Brien, Manager, Heritage Policy, §9(2)(a)		

Purpose

- 1 This aide memoire supports you to attend the delegated Ministers’ meeting at 3.30pm on 15 February 2024 to provide feedback on ‘Fast-track Consenting Bill – Policy Decisions Tranche 2A’.

Key messages

- 2 A joint briefing from the Ministry for the Environment and the Ministry for Business, Innovation and Employment ‘Fast-track Consenting Bill – Policy Decisions Tranche 2A’ was circulated to delegated Ministers for decision on the afternoon of 14 February 2024.
- 3 You are not in the group of Ministers to whom fast-track consenting (FTC) decisions have been delegated in your arts, culture and heritage (ACH) role. The Ministry is providing you with advice as we anticipate that delegated Ministers will consult you. The ACH portfolio (including legislation you are responsible for) will be affected by the decisions sought.
- 4 The Ministry recommends that you agree to all of the recommendations in the briefing. More detailed advice on the decisions (including what options the Ministry recommends you support) is below at paragraphs 12-18 and in a table at Appendix 1.
- 5 The Ministry understands that Minister Bishop may call on you at the meeting to explain the approach being taken to heritage approvals. Talking points for your consideration are at Appendix 2.
- 6 As agreed at your officials meeting on Monday, 12 February 2024, Emily Fabling, Deputy Chief Executive, will attend the meeting in person with you and Amanda Mulligan, the Ministry’s Resource Management System Reform Lead will attend online as the subject matter expert.

Background

- 7 On 23 January 2023, Cabinet agreed [CAB-24-MIN-0008]:

- a. to develop a new permanent fast-track consenting regime aimed at enabling infrastructure and other projects that have significant local, regional and national benefits
- b. that the fast-track regime will be a 'one-stop-shop' for approvals under other legislation in addition to the Resource Management Act 1991 (RMA)
- c. to authorise delegated Ministers to jointly make further detailed decisions on policy¹
- d. that delegated Ministers will consult with other Ministers on matters that are relevant to their portfolios.

8 On 8 February 2024, delegated Ministers considered a joint briefing from the Ministry for the Environment (MfE) and the Ministry of Business, Innovation and Employment 'Fast-track legislation delegated decisions Paper #1'. The Ministry provided you with advice on this briefing on 7 February 2024 [BR24/056].

The decisions being sought in the briefing have implications for the heritage aspect of the arts, culture and heritage portfolio

- 9 The main implications are that:
- a. fast-track Resource Management Act (RMA) approvals will apply less weight to the protection of historic heritage from inappropriate subdivision, use and development²
 - b. Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) approvals will be affected as they are being considered for inclusion in the one-stop-shop aspect of the FTC Bill.
- 10 Key decisions sought in the briefing are set out in Table A (Appendix 1 to the briefing) and relate to:
- a. Decision making
 - b. Purpose
 - c. Expert panel assessment
 - d. Ineligible activities
 - e. Ministerial referral assessment
 - f. Listed projects
 - g. Upholding Treaty settlements/specified arrangements
 - h. Conservation, heritage and Exclusive Economic Zone Act approvals.

¹ The delegated Ministers are Hon Chris Bishop, Hon Simeon Brown, Hon Tama Potaka, Hon Penny Simmonds, Hon Shane Jones and you in your Justice role.

² A matter of national importance at s6(f) or Part 2 of the RMA.

- 11 Specific advice on key recommendations in the briefing is in Appendix 1 and additional context is provided below.

Decision-making, purpose and expert panel assessment

- 12 All of the options for the purpose and the decision-making proposed mean that Part 2 of the RMA will be given less weight in decisions. This means that environmental values (such as heritage) may not be adequately protected from inappropriate development.
- 13 In the past, similar approaches (where the purpose of development-focused legislation is elevated above consideration of RMA policies and plans) have led to loss of heritage and long project delays.
- 14 The Housing Accords and Special Housing Areas Act 2013 (HASHAA), for example, made some sites with significant cultural heritage values (e.g. Erskine College, Shelly Bay and Ihumatao) into Special Housing Areas. Outcomes at these sites included project delays (up to a decade), demolition of a Category 1 heritage place, protest occupation and, in one case, subsequent purchase by government.
- 15 However, the FTC Bill may also mean that some projects get consented faster.

Heritage approvals

- 16 Table A recommends on p.20 that approvals under the HNZPTA are included in the FTC Bill. You are responsible for this legislation.
- 17 The Ministry has worked closely with the Ministry for the Environment and the Ministry of Business, Innovation and Employment, HNZPT and other agencies with an interest in the FTC Bill to develop the recommendations in Table A for heritage approvals.
- 18 The Ministry recommends that you support the proposal to include the HNZPTA in the one-stop-shop by enabling the Expert Panel to coordinate approvals. It is proposed that Heritage New Zealand Pouhere Taonga (HNZPT) would still make decisions on the approvals under the HNZPTA.

Upholding Treaty settlements/specified arrangements

- 19 Including HNZPTA approvals in the one-stop-shop has the potential to expose the Crown to risk in relation to compliance with the Treaty and Treaty settlements. The Ministry recommends that you support Option A in Table A, which ensures that the same Treaty provisions as would otherwise apply under the HNZPTA are applied to decisions made under the FTC Bill. In the Ministry's view, this is the least risky approach.

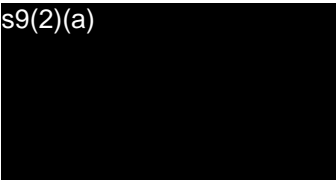
Consultation

- 20 The Ministry consulted with HNZPT (who administer approvals under the HNZPTA) prior to developing this briefing.

Next steps

- 21 Delegated Ministers are meeting to discuss 'Fast-track Consenting Bill – Policy Decisions Tranche 2A' at 3.30pm on 15 February 2024. The Ministry recommends that you attend the meeting so that your feedback can inform Ministers' decisions.
- 22 The Ministry understands that another delegated Ministers meeting is to be held on 16 February 2024 to confirm whether it is Ministers or Expert Panels who decline projects. We recommend that you also attend this meeting.
- 23 In the time available we have not drafted a feedback letter for your consideration; however, we can liaise with your office to prepare written feedback to delegated Ministers.
- 24 Ministers are expected to make final decisions on the briefing on 16 February 2024.
- 25 The Ministry continues to work with MfE and other agencies on fast-track consenting through our ongoing membership of fast-track consenting interagency groups at DCE, Director and working group level.
- 26 After the policy decisions have been finalised, the Ministry expects to be involved in reviewing drafting of the new legislation from the Parliamentary Counsel Office.
- 27 We will provide you with further advice on the FTC Bill when your decisions are sought on detailed drafting instructions and procedural matters in relation to the HNZPTA.

s9(2)(a)



Polly O'Brien
Manager Heritage Policy

Appendices

- Appendix 1: Table of advice on options
- Appendix 2: Talking points

Appendix 1: Table of advice on options

Decision	Recommended action	Advice
1. Decision making	Support Option 1 – panels make substantive decisions	s9(2)(h) [REDACTED]
2. Purpose	Support either option	All of the options mean that the environment will be given less weight in decisions. This means that environmental values (such as historic heritage) may not be adequately protected from inappropriate development. It could also mean that some projects can be done more quickly.
3. Expert panel assessment	Support the recommendations	As above.
4. Ineligible activities	Support Option 2 – prohibited activities are ineligible	Some RMA plans have made demolition of significant heritage buildings a prohibited activity. Choosing this option would mean that projects that involved the demolition of a significant heritage building subject to such a plan would not be eligible for fast tracking.
5. Ministerial referral assessment	Support the recommendations	Recommend that you particularly support the ability for Ministers to decline to refer if ‘the activity may have significant adverse effects on the environment’ and ‘for any other relevant reason’. These options provide for the protection of heritage.
6. Listed projects	Support the recommendations	The Ministry anticipates that as the HNZPTA is proposed to be included in the one-stop-shop, HNZPT will have a role in assessing listed projects.

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Upholding Treaty settlements/specified arrangements	Support Option A	This option reduces risk by ensuring that the same provisions as would otherwise apply under the HNZPTA are applied to decisions made under the FTC Bill.
Conservation approvals		The Ministry does not have a view on the conservation approvals, other than that where practicable they should align with the approach taken to heritage approvals.
Heritage authorisations	<p>Support Option 2 - enable heritage applications to be made with FTC applications but to be otherwise processed separately by HNZPT under the HNZPTA.</p> <p>Support either option in relation to who should be able to decide whether HNZPT approvals are included on a case by case basis</p> <p>Support the proposal that the FTC Bill purpose does not prevail over the HNZPTA purpose</p>	<p>Note that this is a typographical error and there is no Option 1.</p> <p>The Ministry does not have a preference for who (either the Minister or the Expert Panel) should decide whether HNZPT approvals are included on a case by case basis.</p> <p>Approvals under the Heritage Act are already operating effectively and this approach reduces unnecessary complexity and risk. Similar to our recommended option for a Treaty clause above, this option also reduces risk by ensuring that the same provisions as would otherwise apply under the HNZPTA are applied to decisions made under the FTC Bill.</p>
Exclusive Economic Zone Act		The Ministry does not have a view on these approvals.

Appendix 2: Talking points

Inclusion of Heritage New Zealand Pouhere Toanga Act (Heritage Act) approvals in the one-stop-shop

- Page 20 of Table A seeks your agreement to include heritage approvals (archaeological authorities) in the one-stop-shop.
- As the Minister responsible for the Heritage New Zealand Pouhere Toanga Act, I support this recommendation.
- Assessment of heritage approvals is highly specialised, and in practice very few are refused.
- Heritage approvals are already operating in a timely and efficient manner, but I am aware that applicants may benefit from timeframes, information requirements and consultation being coordinated by an Expert Panel.
- That is why it is proposed that:
 - the Expert Panel coordinate heritage approvals with RMA approvals and
 - Heritage New Zealand Pouhere Taonga continues to take decisions on the approvals under the Heritage Act.
- I also advise you to agree to recommendations 4 and 5 on page 20 of Table A:
 - that the responsible Minister or the Expert Panel will have the ability to decide whether heritage approvals should be bundled with other consents on a case-by-base basis
 - that the purpose of the Fast-Track Bill should not prevail over the purpose of the Heritage Act.
 - Approvals under the Heritage Act are already operating effectively and this approach reduces unnecessary complexity and risk.

Hon Paul Goldsmith

Minister for Arts, Culture and Heritage

AIDE MEMOIRE: Cabinet consideration of 'Fast-Track Approvals Bill: Approval for Introduction'

Date:	1 March 2024	Priority:	Urgent
Security classification:	In Confidence	Reference:	AM24/108
Contact	Polly O'Brien, Manager, Heritage Policy, s9(2)(a)		

Purpose

- 1 This aide memoire supports your attendance at the Cabinet meeting at 11.00am on Monday 4 March 2024 where the 'Fast-Track Approvals Bill: Approval for Introduction' paper is being considered.

Key messages

- 2 The Minister Responsible for RMA Reform and the Minister for Regional Development, Oceans and Fisheries, and Resources are seeking Cabinet's agreement to:
 - a. authorise introduction of the Fast-Track Approvals Bill (FTAB) to the House
 - b. endorse decisions made by delegated Ministers on the Bill
 - c. decide on next steps for the Bill.
- 3 The Bill is intended to improve decision making timeframes and give greater investment certainty for projects that have significant regional or national benefits, by providing an efficient and clear approval pathway.
- 4 The Bill is relevant to the arts, culture and heritage (ACH) portfolio because:
 - a. projects applied for under the Bill are likely to have effects on historic heritage¹ (the protection of which from inappropriate subdivision, use and development is a matter of national importance under the Resource Management Act 1991)
 - b. the one-stop-shop for approvals under the Bill includes archaeological authorities (usually granted under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA), legislation that you are responsible for).

¹ Historic heritage is defined in the RMA as those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures. It includes historic sites, structures, places and areas, archaeological sites, site of significance to Māori, including wāhi tapu, and surroundings associated with the natural and physical resources.

- 5 The Ministry has had limited time to review the version of the Bill proposed for introduction, but we are largely content with the Bill as drafted and therefore recommend that you support all of the recommendations in the paper.
- 6 The Ministry is confident that our outstanding concerns (outlined in more detail below) will be raised in submissions and considered by select committee.

Background

- 7 On 23 January 2024, Cabinet agreed to introduce legislation for a permanent fast-track regime by 7 March 2024 (within 100 days of taking office) [CAB-24-MIN-0008].
- 8 Introducing the Bill within the government's first 100 days in office is part of the National/NZ First Coalition Agreement.
- 9 The Ministry has been working closely with the Ministry for the Environment (MfE), Ministry for Business, Innovation and Employment (MBIE) and other agencies as this legislation has been developed.

Delegated Ministers have made decisions about key elements of the legislation

- 10 The key elements of the design of the legislation are:
- a. referral by Ministers to Expert Panels of applications for approvals (across a range of regulatory systems including the HNZPTA) of projects of regional and national significance
 - b. Expert Panels to recommend any appropriate conditions within a maximum 6-month timeframe
 - c. Ministers to make final decisions on applications
 - d. incorporation of a range of procedural and administrative provisions from the COVID-19 Recovery (Fast-track Consenting) Act 2020 and the Natural and Built Environment Act 2023 fast-track process.

The Bill as currently drafted is likely to have implications for historic heritage

Weighting of considerations could speed up some projects, but could also lead to project delays and inappropriate development of historic heritage

- 11 The purpose of the Bill² is weighted above the purpose and provisions of other Acts in the one-stop-shop.

² 'to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits'.

- 12 The weighting of considerations is based on the Housing Accords and Special Housing Areas Act 2013. Under this legislation some sites with significant cultural heritage values (e.g. Erskine College, Shelly Bay and Ihumātao) were made Special Housing Areas. Outcomes at these sites included delays (up to a decade), demolition of a Category 1 historic place, protest occupation and, in one case, subsequent purchase by government.
- 13 The Ministry's view, therefore, is that while weighting the purpose of the Bill above the provisions of other Acts may mean that some projects are completed faster, it could also lead to long project delays and inappropriate development of heritage.

A requirement to bundle consents and permissions may not be supported by applicants

- 14 Clause 11(4) of the Bill requires that 'an approval under this Act may be for a single approval or a bundle of all the approvals required for the project'.
- 15 The Ministry's view is that applicants should retain the ability to seek archaeological authorities under the HNZPTA, separately from their other FTCB approvals.
- 16 Developers may wish to retain this option to ensure they maintain relationships with iwi and other stakeholders and retain their social licence to develop.
- 17 We nevertheless recommend that you support introduction of the Bill, as if this matter is of concern to developers and other stakeholders, the select committee is likely to receive submissions on the topic.

Listed projects will have implications for heritage, including archaeology

- 18 Cabinet agreed [CAB-24-MIN-0008] that the Bill would contain a schedule of projects (listed projects) to be automatically referred to an Expert Panel.
- 19 The paper is seeking your agreement that listed projects will be:
- a. proposed for inclusion into the Bill through the Departmental Report to the Environment Committee, and/or Amendment Paper when the Bill has returned to the House
 - b. added by calling for nominations for consideration by an expert independent panel, supported by an officials' secretariat, which would make recommendations to Ministers on which projects to include in the Bill.
- 20 It remains unclear what the implications of these projects will be for heritage and archaeology. The Ministry anticipates that Heritage New Zealand Pouhere Taonga (HNZPT), Councils, advocacy groups and others will take an interest in listed projects.

Fast-track consenting could impact HNZPT's ability to achieve a KPI in their Statement of Performance Expectations


- 21 The Bill provides for HNZPT to make recommendations to Expert Panels on archaeological authorities before joint Ministers take final decisions.

- 22 HNZPT are developing an online portal for archaeological authority applications. Delivery of this portal is a KPI in their Statement of Performance Expectations agreed with Ministers.
- 23 It is currently unclear how the portal will interface with the fast-track process and there may be additional costs and delays in delivery. The Ministry will keep you informed of any implications of the Bill for HNZPT's KPIs.

Next steps

- 24 If Cabinet agrees, the Bill will be introduced on 7 March 2024 and have its first reading the same day under urgency.
- 25 Following introduction, you may receive queries about the Bill. MfE are currently finalising FTAB communications, including key messages and Q&A to support introduction. The Ministry will refer to these to adapt and tailor responses should you receive queries that are specifically related to your ACH portfolio.
- 26 A 4-6 month select committee process will start later in March. MCH officials may be appointed to advise the committee (proposed to be the Environment Committee) given the implications for the portfolio. It is also likely that HNZPT will make a submission.
- 27 It is proposed that the Bill be enacted by the end of 2024.
- 28 In the meantime, the Ministry will continue to work with MfE, MBIE and other agencies through our ongoing membership of fast-track consenting interagency groups at DCE, Director and working group level.

s9(2)(a)



Polly O'Brien
Manager Heritage Policy

Hon Paul Goldsmith
Minister for Arts, Culture and Heritage

Advice on delegated decision briefing 'Fast-track legislation delegated decisions Paper #1'

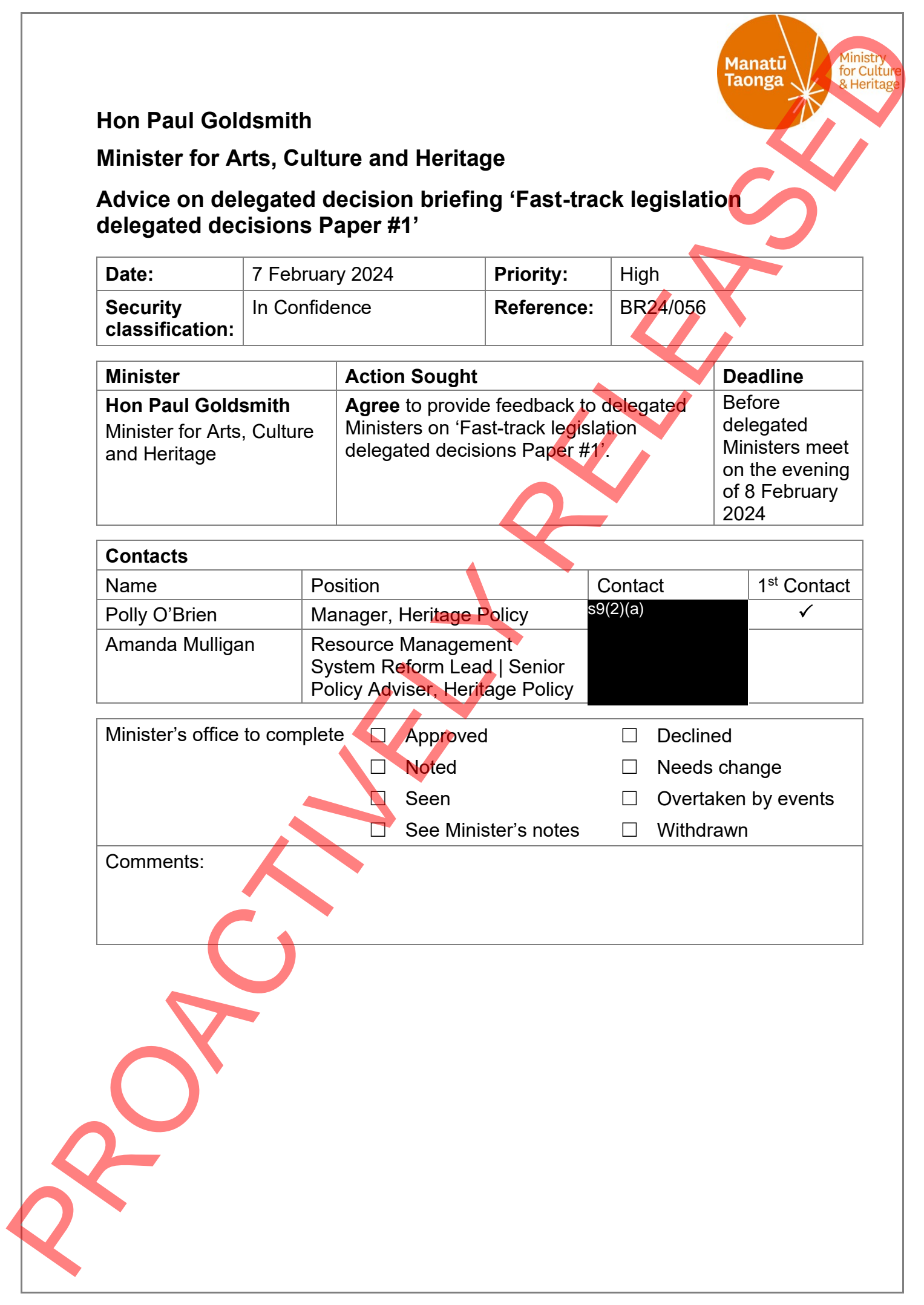
Date:	7 February 2024	Priority:	High
Security classification:	In Confidence	Reference:	BR24/056

Minister	Action Sought	Deadline
Hon Paul Goldsmith Minister for Arts, Culture and Heritage	Agree to provide feedback to delegated Ministers on 'Fast-track legislation delegated decisions Paper #1'.	Before delegated Ministers meet on the evening of 8 February 2024

Contacts			
Name	Position	Contact	1 st Contact
Polly O'Brien	Manager, Heritage Policy	s9(2)(a)	✓
Amanda Mulligan	Resource Management System Reform Lead Senior Policy Adviser, Heritage Policy		

Minister's office to complete	<input type="checkbox"/> Approved <input type="checkbox"/> Declined
	<input type="checkbox"/> Noted <input type="checkbox"/> Needs change
	<input type="checkbox"/> Seen <input type="checkbox"/> Overtaken by events
	<input type="checkbox"/> See Minister's notes <input type="checkbox"/> Withdrawn

Comments:



Purpose

- 1 This briefing supports you to provide feedback to delegated Ministers on 'Fast-track legislation delegated decisions Paper #1'.

Key Messages

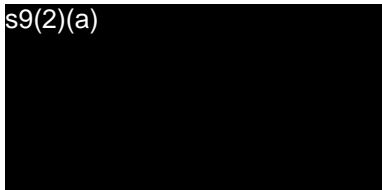
- 2 On 23 January 2023, Cabinet agreed [CAB-24-MIN-0008]:
 - a. to develop a new permanent fast-track consenting regime aimed at enabling infrastructure and other projects that have significant local, regional and national benefits
 - b. that the fast-track regime will be a 'one-stop-shop' for approvals under other legislation in addition to the Resource Management Act 1991 (RMA).
- 3 Cabinet also authorised delegated Ministers to jointly make further detailed decisions on policy and agreed that delegated Ministers will consult with other Ministers on matters that are relevant to their portfolios.
- 4 You are not in the group of delegated Ministers in your arts, culture and heritage role. The Ministry is providing you with advice as we anticipate that delegated Ministers will consult you on the paper as the portfolio is likely to be affected by the decisions sought.
- 5 We have drafted for your consideration a feedback letter (Appendix 1) to delegated Ministers seeking to amend two recommendations in 'Fast-track legislation delegated decisions Paper #1'.
- 6 The pace of the policy development for fast-track consenting may mean that Treaty of Waitangi settlement commitments held by the arts, culture and heritage portfolio may not be able to be fully upheld.

Recommendations

- 7 The Ministry for Culture and Heritage recommends that you:
 - 1 **Note** that on 23 January 2023, Cabinet agreed [CAB-15-MIN-0035]:
 - a to develop a new permanent fast-track consenting regime aimed at enabling infrastructure and other projects that have significant local, regional and national benefits
 - b that the fast-track regime will be a 'one-stop-shop' for approvals under other legislation in addition to the RMA.
 - c to authorise delegated Ministers to jointly make further detailed decisions on policy

- d that delegated Ministers will consult with other Ministers on matters that are relevant to their portfolios.
- 2 **Note** that decisions in this paper are relevant to the arts, culture and heritage portfolio
- 3 **Note** that timeframes are truncated and therefore you may be receiving this briefing before delegated Ministers consult you on 'Fast-track legislation delegated decisions Paper #1' (sent to them on 5 February 2024)
- 4 **Agree** to provide feedback to delegated Ministers on 'Fast-track legislation delegated decisions Paper #1': **YES / NO**
- a supporting most of the recommendations
 - b seeking amendments to two recommendations
- 5 **Sign** the draft letter to delegated Ministers at Appendix 1 **YES / NO**
- 6 **Note** that the pace of the policy process may mean that Treaty of Waitangi settlement commitments held by the arts, culture and heritage portfolio are not fully upheld.

s9(2)(a)



Polly O'Brien
Manager Heritage Policy

Hon Paul Goldsmith
Minister for Arts, Culture and Heritage

_____ / _____ / 2024

Background

- 8 On 23 January 2023, Cabinet agreed [CAB-24-MIN-0008]:
- a. to develop a new permanent fast-track consenting regime aimed at enabling infrastructure and other projects that have significant local, regional and national benefits
 - b. that the fast-track regime will be a 'one-stop-shop' for approvals under other legislation in addition to the RMA
 - c. to authorise delegated Ministers to jointly make further detailed decisions on policy
 - d. that delegated Ministers will consult with other Ministers on matters that are relevant to their portfolios.
- 9 A joint briefing from the Ministry for the Environment (MfE) and the Ministry of Business, Innovation and Employment was sent to delegated Ministers on 5 February 2024. You are not in the group of delegated Ministers in your role as Minister for Arts, Culture and Heritage; however, the Ministry anticipates that you will be consulted on this briefing by delegated Ministers as there are matters that affect the arts, culture and heritage portfolio (outlined below).
- 10 In anticipation of you being consulted, the Ministry has drafted feedback for you to consider providing to delegated Ministers (Appendix 1).

Fast-track legislation delegated decisions Paper #1

Implications for the arts, culture and heritage portfolio

- 11 The decisions being sought in 'Fast-track legislation delegated decisions Paper #1' have implications for the heritage aspect of the arts, culture and heritage portfolio for several reasons:
- a. resource management legislation and regulations are the primary vehicle for statutory protection for heritage places and changes to those regulations may have implications for the protection of places¹
 - b. decisions under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) have been proposed for inclusion in the 'one-stop-shop'.
- 12 The fast-track consenting regime will need to be carefully designed to mitigate the risks that are outlined in the briefing paper **§9(2)(h)** **████████████████████** Ensuring that the heritage portfolio is appropriately accounted for in the design of the regime reduces the risk of:

¹ Of particular note is that the protection of historic heritage from inappropriate use, subdivision and development is a matter of national importance at section 6 of the Resource Management Act 1991.

- a. unnecessary losses of heritage value because consents and approvals are granted without adequate consideration of historic heritage
- b. legal challenges that will likely arise from (a) or any reduced rights of stakeholders to engage.

One-stop-shop and archaeological authorities

- 13 The paper signposts at several points that further decisions will be taken by delegated Ministers when they are asked to consider 'Fast-track legislation delegated decisions Paper #2' next week. Decisions taken by delegated Ministers in this second paper could have significant implications for the HNZPTA. In particular, the archaeological authority provisions could be included in the fast-track consent 'one-stop-shop'.
- 14 Archaeological authorities are required from Heritage New Zealand Pouhere Taonga (HNZPT) where there is cause to suspect a recorded or unrecorded archaeological site may be affected by works.² The authority regulates the recovery of information from that site and has conditions that must be followed. It is unlawful to modify or destroy an archaeological site without an authority from HNZPT.
- 15 To inform Paper #2, MfE has commissioned the Ministry to prepare some advice on how archaeological authorities could be incorporated into fast-track consenting and the opportunities and risks that arise.
- 16 We will provide you with more advice (in consultation with HNZPT) on including the archaeological authority provisions in the one-stop-shop when we advise you on Paper #2.

Implications for Treaty settlement commitments held by the portfolio

- 17 The potential for archaeological authority approvals to be included in the one-stop-shop has implications for Treaty of Waitangi settlement commitments held by the arts, culture and heritage portfolio.
- 18 In a number of cases, settlements require the Crown to engage with relevant parties on the development of new policy; however, these commitments may not be able to be fully upheld due to the speed with which this policy is being developed.
- 19 MfE are leading preliminary discussions with post settlement governance entities (PSGEs) prior to the introduction of the legislation. The Ministry will join in the MfE consultation process once policy decisions on the one-stop-shop and archaeological authority provisions have been taken.

² Examples of the types of work which may require an authority include: forestry operations, building demolition or strengthening, mining, road construction, building, landscaping, alteration of a shipwreck, harvesting, planting or fencing.

Recommended feedback

- 20 In light of the implications of decisions sought by 'Fast-track legislation delegated decisions Paper #1' outlined above, the Ministry recommends that you provide feedback to delegated Ministers:
- a. indicating your overall support for the detailed decisions being sought to develop a fast-track regime for consenting projects that have significant benefits
 - b. noting that the regime should be carefully designed to avoid the risks that are outlined in the briefing paper and the legal advice from Crown Law appended to the paper.
- 21 The Ministry recommends that you provide the following specific feedback on four of the recommendations:

Support or amend	Reasons
Amend recommendation (c) in the briefing to ' agree to delegate detailed decisions to enable drafting instructions and some procedural matters to Minister Bishop <u>in consultation with other Ministers on matters that are relevant to their portfolios</u> '.	This ensures that relevant Ministers are consulted should detailed decisions be taken by Minister Bishop that have implications for other portfolios. For example, the information requirements for a referral application do not appear to be covered in Table B. The application should address likely effects on the environment, including historic heritage.
Amend Table A Row III recommendation 1 to ' agree in principle that the purpose of the FTC bill is generally to be weighted above the purpose and provisions of other Acts in the one stop shop'.	The Ministry's view is that decisions about weighting the purpose of the fast-track consenting bill should not be made until it has been confirmed which other Acts should be included in the one-stop-shop.
Support recommendation at row II of table A, to only agree in principle at this stage to include the HNZPTA in the one-stop-shop	It has not yet been decided that a legislative approach will be taken to the 'one-stop-shop' and in our view, the approach could be administrative i.e. a single application portal. This decision has significant implications for legislation that you are responsible for (the HNZPTA) should it be included in the 'one-stop-shop'. In the Ministry's view the decision about the weighting of the purpose should be

	taken in the full knowledge of the implications for the application of other Acts in the one stop shop.
Support recommendation at row VI, to note that officials are working through circumstances where a panel can decide not to grant approvals	In the Ministry's view, consistency with Part 2 of the RMA should be added to the list of considerations at row IV to ensure historic heritage is adequately taken account of. This is because there is currently no dedicated national direction for historic heritage so effects on historic heritage will likely only be able to be adequately considered if EPs are able to decline applications if they are inconsistent with Part 2.

- 22 If your recommended amendments are upheld, there will be more opportunity for you to influence future decisions that affect your portfolio, including around how the purpose of the fast-track consenting bill will interact with the purpose of acts in the one-stop-shop, which may include the HNZPTA.

Consultation

- 23 The Ministry consulted with HNZPT (who administer the archaeological authority process) prior to developing this briefing.
- 24 MfE is leading the all-of-government stakeholder and treaty partner engagement programme for this work. Individual agencies are responsible for engaging with stakeholders specific to their portfolio interests. Consequently, the Ministry has contacted key heritage stakeholders (ICOMOS Aotearoa New Zealand, Historic Places Aotearoa, New Zealand Archaeological Association) to advise them of this work.
- 25 The Ministry has also attended one engagement meeting lead by MfE with a PSGE that we have a settlement agreement with.

Next steps

- 26 The Ministry understands that delegated Ministers are meeting to discuss 'Fast-track legislation delegated decisions Paper #1' on the evening of 8 February 2024 and are expected to make decisions on the paper on 9 February 2024.
- 27 We therefore recommend that you provide your feedback to delegated Ministers before their meeting on 8 February 2024 so that it can inform their discussions.
- 28 The Ministry continues to work with MfE and other agencies on the policy for fast-track consenting through our continued membership of fast-track consenting interagency groups at DCE, Director and officer level.

29 We will provide you with advice to support you to provide feedback to delegated Ministers on future fast-track related briefings. We understand that the Paper #2 is scheduled to arrive in Ministers' offices on 13 February 2024.

Appendices

Appendix 1: Draft letter to delegated Ministers

PROACTIVELY RELEASED

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Hon Chris BISHOP
Minister of Housing
Minister for Infrastructure
Minister Responsible for RMA Reform

Hon Simeon BROWN
Minister for Energy
Minister of Local Government
Minister of Transport

Hon Tama POTAKA
Minister of Conservation
Minister for Māori Crown Relations: Te Arawhiti

Hon Penny SIMMONDS
Minister for the Environment

Hon Shane JONES
Minister for Oceans and Fisheries
Minister for Regional Development
Minister for Resources

Dear colleagues

Feedback on Fast-track legislation delegated decisions Paper #1

I am writing to you to provide my feedback on the above joint briefing (MFE BRF-4115 and MBIE # 2324-1800), sent to you on 5 February 2024.

Background

On 23 January 2023, Cabinet agreed (CAB-24-MIN-0008) to develop a new permanent fast-track consenting regime aimed at enabling infrastructure and other projects that have significant local, regional and national benefits. It was agreed that the fast-track regime will be a 'one-stop-shop' for approvals under other legislation in addition to the RMA.

Cabinet also authorised you (the "delegated Ministers") to jointly make further detailed decisions and agreed that you would consult with other Ministers on matters that are relevant to their portfolios.

There are matters that are relevant to my portfolio because:

- the protection of historic heritage from inappropriate use, subdivision and development is a matter of national importance at section 6 of the Resource Management Act 1991
- resource management legislation and regulations are the primary vehicle for providing statutory protection for heritage places and changes to those regulations via a fast-track consenting regime may have implications for protection and development of heritage
- decisions under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) are being considered for inclusion in the 'one-stop-shop'.

Feedback

While I support the proposal to provide fast-track for consenting for projects that have significant benefits, the regime will need to be carefully designed to mitigate the risks that are outlined in the briefing paper s9(2)(h)

I support most of the recommendations in the paper. Please note my feedback on four of the recommendations below:

Support or amend	Reasons
Amend recommendation (c) in the briefing to 'agree to delegate detailed decisions to enable drafting instructions and some procedural matters to Minister Bishop <u>in consultation with other Ministers on matters that are relevant to their portfolios</u> '.	<p>This ensures that relevant Ministers are consulted should detailed decisions be taken by Minister Bishop that have implications for other portfolios.</p> <p>For example, the information requirements for a referral application do not appear to be covered in Table B. The application should address likely effects on the environment, including historic heritage.</p>

<p>Amend Table A Row III recommendation 1 to 'agree in principle that the purpose of the FTC bill is generally to be weighted above the purpose and provisions of other Acts in the one stop shop'.</p>	<p>Decisions about weighting the purpose of the fast-track consenting bill should not be made until it has been confirmed which other Acts should be included in the one-stop-shop.</p>
<p>Support recommendation at row II of table A, to only agree in principle at this stage to include the HNZPTA in the one-stop-shop</p>	<p>It has not yet been decided that a legislative approach will be taken to the 'one-stop-shop' and the approach could be administrative i.e. a single application portal.</p> <p>This decision has significant implications for legislation that I am responsible for (the HNZPTA) should it be included in the one-stop-shop'.</p> <p>The decision about the weighting of the purpose should be taken in the full knowledge of the implications for the application of other Acts in the one stop shop.</p>
<p>Support recommendation at row VI, to note that officials are working through circumstances where a panel can decide not to grant approvals</p>	<p>Consistency with Part 2 of the RMA should be added to the list at row VI to ensure historic heritage is adequately considered. This is because there is currently no dedicated national direction for historic heritage so effects on historic heritage will only be able to be adequately considered if EPs are able to decline applications if they are inconsistent with Part 2.</p>

I look forward to contributing further to this important legislation as it develops.

Yours sincerely

Hon Paul Goldsmith
Minister for Arts, Culture and Heritage

BR23/510

Fortnight beginning: Tekau mā waru o Hakihea | 18 December 2023

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Fortnightly Status Report for the Minister for Arts, Culture and Heritage

Prepared for:

Hon Paul Goldsmith, Minister for Arts, Culture and Heritage

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[IN CONFIDENCE]

Priority Updates

This section provides an update on Ministerial priorities and programmes which are either ongoing or require regular updates.

Strengthening the heritage protection system

Current
Status

Resource management reform

OUT OF SCOPE

The Ministry understands that the Minister Responsible for RMA Reform will shortly be consulting you on a briefing seeking decisions on the longer-term fast-track consenting regime to be introduced in the first 100 days. Based on the draft of this paper on which we have provided comments, we do not have any particular concerns to raise from a culture and heritage standpoint.

OUT OF SCOPE

	OUT OF SCOPE
Next Steps	<p><u>Resource management reform</u></p> <p>The Ministry will provide you with advice when the Minister Responsible for RMA Reform consults you on BRF-3993: Resource Management (Fast-track consenting and other matters) Amendment Bill.</p> <p>OUT OF SCOPE</p>
Notes	

Sovereign's Birthday Observance Act 1952

Current Status	OUT OF SCOPE
Next Steps	

BR24/028

Fortnight beginning: Rua tekau mā iwa o Kai-tātea | 29 January 2024

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Priority Updates

This section provides an update on Ministerial priorities and programmes which are either ongoing or require regular updates.

Strengthening the heritage protection system

<p>Current Status</p>	<p><u>Resource management (RM) reform</u></p> <p>OUT OF SCOPE</p> <p>Cabinet considered a paper on a new fast-track consenting regime on 23 January 2023 (see Cabinet paper section below). The Ministry continues to contribute to this work through interagency workshops, in particular on the proposed ‘one stop shop’ for approvals under other legislation in addition to the Resource Management Act 1991. As noted below, this is of particular interest to the Arts, Culture and Heritage portfolio as archaeological authority decisions under the Heritage New Zealand Pouhere Taonga (HNZPT) Act 2014 are being considered for inclusion.</p> <p>OUT OF SCOPE</p>
<p>Next Steps</p>	<p><u>Resource management reform</u></p> <p>The Ministry will provide you with advice when you are consulted on briefings seeking policy decisions on the new fast-track consenting regime.</p>
<p>Notes</p>	
<p>Sovereign’s Birthday Observance Act 1952</p>	
<p>Current Status</p>	<p>OUT OF SCOPE</p>

Cabinet Papers

Upcoming ACH Cabinet Papers

This section provides an overview of upcoming Arts, Culture and Heritage Cabinet papers.

Lead Minister	Cabinet Paper	Committee and date
No updates this fortnight.		

Cabinet papers for Ministerial/Departmental Consultation

This section provides comment on Cabinet papers received for Ministerial and/or Departmental consultation.

Lead Agency	Cabinet paper	Committee and date
Ministry for the Environment (MfE)	A permanent fast-track consenting regime for regional and national projects of significance	Direct to Cabinet 23 January 2024

Background

This paper seeks Cabinet's agreement to:

- key policy decisions to provide for a permanent fast-track consenting regime that will provide a more efficient pathway for consenting significant infrastructure and development projects
- issue drafting instructions to the Parliamentary Counsel Office (PCO) to enable a Bill to be introduced within the first 100 days in office.

The fast-track consenting regime is likely to affect matters of interest to the Arts, Culture and Heritage portfolio as this legislative pathway can be used for resource consents, notices of requirement, or certificates of compliance under the RMA, the main legislative tool to protect cultural heritage.

If Cabinet agrees, the Minister Responsible for RMA Reform will bring the Bill and accompanying LEG paper to Cabinet on 4 March 2024, seeking approval to introduce the Bill on 7 March 2024.

Advice

The Ministry provided the following advice to your office on 18 January 2024, recommending that you respond to Minister Bishop:

- supporting all of the recommendations in the draft paper, including recommendation 5 which seeks agreement to delegate the ability to jointly make further detailed decisions to a select list of ministers
- noting that a number of the upcoming decisions listed in Appendix 2 will be relevant to the arts, culture and heritage portfolio
- seeking an amendment to paragraph 27 before lodgement, that being the addition of the Ministry and/or Heritage New Zealand Pouhere Taonga to the list of agencies to be consulted on the operation of the fast-track consenting regime.

The list of Ministers at recommendation 5 does not include the Minister for Arts, Culture and Heritage. However, recommendation 6 agrees that delegated ministers will consult with other ministers on matters that are relevant to their portfolios. Appendix 2 provides a table of policy areas for which further decisions will be needed to finalise the proposed fast-track consenting regime. There are a number of detailed decisions listed in Appendix 2 that will be relevant to the Minister for Arts, Culture and Heritage.

Neither the Ministry nor Heritage New Zealand Pouhere Taonga (HNZPT) are listed at paragraph 27 as relevant portfolio officials to be consulted on the operation of the fast-track consenting regime. This creates a risk that effects on heritage may not be adequately considered. Heritage matters were able to be adequately considered under the COVID-19 Recovery (Fast-track Consenting) Act 2020 because the Minister for Arts, Culture and Heritage was included as a Minister with a relevant portfolio to be invited to comment on referral and consent applications. The Ministry and HNZPT supported the Minister to provide comments. HNZPT was also listed in the Act as persons who must be invited to comment on referred projects.

Next steps

The Ministry continues to work with the MfE to:

- develop a shared understanding of the delegated detailed decisions that are relevant to the ACH portfolio
- ensure the effects to cultural heritage are appropriately considered in the proposed permanent fast-track consenting regime.

We will provide you with further advice when the Bill and accompanying LEG paper are lodged with Cabinet on 4 March 2024.

BR24/047

Fortnight beginning: Tekau mā rua o Rūhī-te-rangi | 12 February 2024

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	OUT OF SCOPE
Next Steps	
Notes	

Strengthening the heritage protection system

Contact: Polly O'Brien, s9(2)(a)

Current Status	<p><u>Resource management (RM) reform</u></p> <p>Last fortnight we provided you with advice on a paper discussed at Cabinet on 23 January 2024 in which ‘a permanent fast-track consenting regime for regional and national projects of significance’ was agreed to.</p> <p>On 7 February 2024, the Ministry provided you with advice (BR24/056 refers) on a briefing for decision by delegated Ministers on the proposed new fast-track consenting regime. You were consulted on this briefing paper by the delegated Ministers as your Arts, Culture and Heritage portfolio may be affected, given that archaeological authority decisions under the Heritage New Zealand Pouhere Taonga (HNZPT) Act 2014 are being considered for inclusion in a one-stop-shop.</p> <p>OUT OF SCOPE</p>
Next Steps	<p><u>Resource management reform</u></p> <p>The Ministry continues to contribute to policy development through interagency workshops, and we will provide you with advice when you are consulted on further briefings seeking policy decisions on the new fast-track consenting regime.</p>

BR24/077

Fortnight beginning: Rua tekau mā ono o Rūhī-te-rangi | 26 February 2024

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	OUT OF SCOPE
Next Steps	
Notes	

Resource Management (RM) Reform

Contact: Polly O'Brien, S9(2)(a)

Current Status	<p><u>Fast-track consenting (FTC)</u></p> <p>On 15 February 2024, we provided you with advice (BR24/061 refers) to support your attendance at the meeting of delegated Ministers to discuss the 'Fast-track Consenting Bill – Policy Decisions Tranche 2A' briefing.</p> <p>At the meeting, Ministers took decisions with implications for the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) legislation you are responsible for. Ministers agreed to:</p> <ul style="list-style-type: none"> include HNZPTA approvals in the one-stop-shop with the purpose of the Fast-track Consenting (FTC) Bill prevailing over HNZPTA provisions delegate to you detailed decisions to enable drafting instructions and some procedural matters in relation to the HNZPTA. <p>OUT OF SCOPE</p>
Next Steps	<p>Manatū Taonga continues to work closely with Heritage New Zealand Pouhere Taonga on RM reform, in particular the implications of FTC for its work processing approvals under the HNZPT Act.</p>

	<p>We are also continuing to contribute to RM Reform policy development through interagency meetings.</p> <p>We expect to receive a first draft of the FTC Bill for comment on 23 February 2024.</p> <p>We will provide you with further advice:</p> <ul style="list-style-type: none"> • when your approval is sought for detailed decisions on the incorporation of the HNZPTA into the one-stop-shop of the FTC Bill • when Cabinet considers the RM Reform paper and the FTC Bill legislation paper.
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Policy for Government Management of Cultural Heritage Places

Contact: Polly O'Brien, s9(2)(a)

Current Status	OUT OF SCOPE
Next Steps	
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Arts sector participation in New Zealand trade missions

Contact: Sebastian Clarke, s9(2)(a)

Current Status	OUT OF SCOPE
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Fortnightly Status Report for the Minister for Arts, Culture and Heritage

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	OUT OF SCOPE
Next Steps	
Notes	

Resource Management (RM) Reform

Contact: Polly O'Brien, s9(2)(a)

Current Status	<p><u>Fast-track consenting (FTC)</u></p> <p>See the Cabinet papers section below.</p> <p>OUT OF SCOPE</p>
Next Steps	<p>OUT OF SCOPE</p> <p>The Ministry continues to work closely with Heritage New Zealand Pouhere Taonga on RM reform, in particular the implications of FTC for its work processing approvals under the HNZPT Act.</p> <p>We are also continuing to contribute to RM Reform policy development through interagency meetings.</p>
Notes	

Ministry for the Environment/ Ministry for Business Innovation and Employment	Fast-Track Approvals Bill: Approval for Introduction	Cabinet 4 March 2024
<p>On 1 March 2024, the Ministry provided you with advice [AM24/108] on this paper seeking Cabinet’s agreement to:</p> <ul style="list-style-type: none"> • authorise introduction of the Fast-Track Approvals Bill (FTAB) to the House • endorse decisions made by delegated Ministers on the Bill • decide on next steps for the Bill. <p>On 7 March 2024, the Bill was introduced, had its first reading under urgency and was referred to the Environment Committee. A four-to-six-month Select Committee process will start later in March and it is proposed that the Bill be enacted by the end of 2024. Ministry officials may be appointed to advise the committee. It is also likely that Heritage New Zealand Pouhere Taonga will make a submission.</p> <p>In the meantime, the Ministry will continue to work with other agencies through our ongoing membership of fast-track consenting interagency groups. If you receive any queries on the Bill related to your ACH portfolio, the Ministry can also support you to respond.</p> <p style="text-align: right;">Contact: Polly O’Brien, Manager, Heritage Policy, s9(2)(a)</p>		

OUT OF SCOPE

