



15 July 2024

OIAD-1121

9(2)(a)

Tēnā koe 9(2)(a)

Thank you for your email of 31 May 2024, and your follow-up clarification email of 5 June 2024, requesting under the Official Information Act 1982 (the Act) information concerning matters related to fast-track consenting.

The Government has committed to introducing a permanent approvals regime to deliver a range of regionally and nationally significant housing, infrastructure, renewable energy, and development projects. The Fast-track Approvals Bill is part of the Government's wider resource management reform programme.

Public submissions on the Fast-track Approvals Bill closed on 19 April 2024. The Environment Select Committee will report back to the House with a revision tracked version of the Bill later in the year. Progress on the Bill can be followed on the Environment Select Committee page at: <https://bills.parliament.nz/v/Bill/083f0a7b-f182-41d5-0897-08dc3e31559c>.

The criteria for the Advisory Group process to consider whether a project is eligible for the proposed fast track process is set out in its Terms of Reference, which are publicly available at <https://environment.govt.nz/assets/Package-2-Letters-of-Appointment-Terms-of-Reference-for-Advisory-Group.pdf>. Note that criteria for Ministers' decision making on projects have not yet been finalised by Ministers, to date.

I have addressed 17 of your 21 questions in your request in turn below. Your questions are in bold and the respective responses below them are not. Some information has been:

- refused under section 18(d) of the Act as the information requested is publicly available
- withheld under section 9(2)(f)(iv) of the Act to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

## Questions on Fast-track Projects Advisory Group ("Group") and process

### First order of priority:

1. Under what delegation authority did the "Delegated Ministers" agree as follows?  
**18. Delegated Ministers agreed that the introduced version of the Bill would include empty lists as a placeholder for listed projects, and that projects would be added to these Schedule [sic] later in the legislative process.**  
<https://environment.govt.nz/assets/Package-1-Briefing-Cab-papers-re-establishment-of-Advisory-Group.pdf> p 9

Cabinet authorised the delegation authority of the “Delegated Ministers” via Cabinet decision on 23 January 2024.

**2. What criteria is the Group using to make its assessment as to the order in which projects should be referred to panels post-enactment ie what criteria is informing this prioritisation process (cl 9(a))?**

Criteria for assessment are stated in the Advisory Group’s (the Group) Terms of Reference: <https://environment.govt.nz/assets/Package-2-Letters-of-Appointment-Terms-of-Reference-for-Advisory-Group.pdf>. Therefore, I am refusing your request for this information under section 18(d) of the Act on the basis that the information sought is already publicly available.

**3. The Group does not have conservation expertise as required by Cabinet. How is this knowledge gap intended to be filled?**

The Cabinet paper titled *Fast-Track Approvals Bill – Appointments to Fast-Track Project Advisory Group* contains an overview of the expertise and backgrounds of the Group members: <https://environment.govt.nz/assets/Package-1-Briefing-Cab-papers-re-establishment-of-Advisory-Group.pdf>. The Group is also able to commission specialist advice, including from government departments.

**4. What option did the Ministers agree to in BRF-4408 (Recommendations (c) and (d))?** <https://environment.govt.nz/assets/Package-1-Briefing-Cab-papers-re-establishment-of-Advisory-Group.pdf> p 6

In BRF-4408 *Fast-Track Approvals - Draft Cabinet Papers - Listed Projects Draft Cabinet Paper and Nominees for the Fast-Track Projects Advisory Group*, Ministers Bishop and Jones agreed to:

- (c)(i) *Preferred option - officials assess projects on the grounds of completeness of application and ineligibility and provide information to the Advisory Group to assist with its assessment (with the support of a secretariat) of the project against the eligibility criteria and recommendation (this will be more resource-intensive on the Advisory Group).*
- (d)(ii) *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).*

Final executive decisions on policy were made by Cabinet on 2 April 2024.

**5. What criteria are the Ministers applying to their final decisions to list projects?**

Criteria for Ministers’ decision-making on projects have not been finalised by Ministers to date. I consider that the release of draft criteria would result in public lobbying on the criteria ahead of Cabinet consideration. I am therefore withholding this information

under section 9(2)(f)(iv) of the Act to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

**6. What is the process (including timing) of introducing the list to the House?**

It is intended that the list will be introduced as an Amendment Paper at the Committee of the Whole House stage. No date has been decided yet.

**Second order of priority:**

**1. The Group has advised that it will consider s6 RMA matters. Where is this reflected in the ToR assessment criteria?**

***“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 [sic] advised that they [sic] will consider all relevant matters in so far as they relate to s 6 of the Act”***

**<https://environment.govt.nz/assets/Package-2-Letters-of-Appointment-Terms-of-Reference-for-Advisory-Group.pdf> p 53**

“Section 6 of the Act” was intended to refer to Clause 6 of the Fast-track Approvals Bill, not the RMA. This reflects the Group’s advice at the time.

**2. How many applications are before the Group for consideration?**

The Advisory Group has received 78 applications, as of 5 June 2024.

**3. When was the Group’s first meeting? When is its next meeting?**

The first meeting was on 17 April 2024. The next meeting was on 13-14 June 2024.

**4. Are any projects that were not submitted by 3 May being assessed by the Group (ie late applications or applications received via submissions to the Select Committee on the Bill)?**

No.

**5. Has any Group member declared a conflict of interest for any project? If so, what?**

Yes, conflicts of interest for proposed projects have been declared to date. Conflicts are being identified and carefully managed throughout the Advisory Group’s consideration of projects. As secretariat, MBIE holds the conflicts register for the Group. Conflicts of interest not specific to particular projects were also declared by Advisory Group members prior to any applications being received.

As releasing the nature of these conflicts has the potential to release information about applicants and projects that Ministers are yet to make final decisions on, we are refusing information on the details of these conflicts under section 9(2)(f)(iv) of the Act to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

**Third order of priority:**

**6. Will MfE's policy advice (cl 15(c)) be made publicly available as it is provided to the Group?**

Ministers have not made decisions to date on if, how, or when policy advice to the Group will be made publicly available.

**7. The ToR state that to assist the Group the Ministry will provide it with feedback from any consultation undertaken (cl 12(a), 2<sup>nd</sup> bullet point). Has this included (and will it include going forward) any feedback the Ministry has received on any project by people other than the applicant?**

The Ministry for the Environment (the Ministry) is providing the Advisory Group with any feedback from those parties whose comments were sought, on a case-by-case basis.

**8. What (if any) cost recovery mechanisms are there with respect to applications submitted to the Group?**

Cost recovery mechanisms may be enabled by the Bill when enacted but there are currently none in place.

**9. The ToR state that a report must be delivered to the Ministers by 2 August 2024 (cl 10). Is it intended that the Group will provide its recommendations all at once, or might the Group drip feed its recommendations to Ministers?**

The Group has not yet finalised how it will provide its recommendations to Ministers.

**Information requests**

**1. EDS has already requested the names of the applicants who have submitted applications to the Group. When will that list be released given our requests for urgency and the extension of 20 working days just advised?**

A response to the EDS request for a list of applicants was provided to Gary Taylor on 3 July 2024.

**2. The Ministry's report to the Group, as per:**

**“ii. an assessment team of officials from the Fast-Track cross-agency group will carry out a stage 1 analysis of the application, which includes an initial completeness assessment of the application and an assessment against the ineligibility criteria set out in the Bill and *provide a report to the Fast-Track Projects Advisory Group*”**  
**<https://environment.govt.nz/assets/Package-1-Briefing-Cab-papers-re-establishment-of-Advisory-Group.pdf> p 5**

The Ministry provides a report to the Group for each application, not one report for all applications.

Decisions on applications for inclusion in the Fast-track Approvals Bill are yet to be made by Ministers. Releasing the reports at this time would impact the orderly and effective conduct of executive government decision-making processes. I consider that the release of the reports would result in extensive lobbying for and against applications ahead of Cabinet consideration. Attempts would likely be made to influence Cabinet Ministers outside of the prescribed process and without the benefit of the full information and advice that Ministers will receive. We are therefore withholding these documents under section 9(2)(f)(iv) of the Act to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

As you are aware, on 4 July 2024, the Ministry has transferred the last four questions of your request, which correspond to specific Cabinet minutes, to Minister Bishop's office. The office will respond to you directly to answer these questions.

There has been significant public interest in Fast-track project applications and the Fast-track Approvals Bill more generally. However, in terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest. Official information regimes globally and the Chief Ombudsman's guidance recognise that the Government and Ministers need to be able to take advice and to deliberate on it, in private, and without fear of premature disclosure. For the reasons already articulated, I consider that it is likely that releasing the information and reports about applications at this time would impact the orderly and effective conduct of executive government decision making processes.

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at:  
[www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent. If you have any queries about this, please feel free to contact our Ministerial Services team: [ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz).

Yours sincerely

A stylized, handwritten signature in dark ink, consisting of a large loop followed by a horizontal stroke that tapers to a point.

**Ilana Miller**

Programme Director – Fast-Track Approvals  
Ministry for the Environment | Manatū Mō Te Taiao