



Briefing: Fast-track Approvals (Listed Projects) – Draft Cabinet Paper and officials’ analysis on the Advisory Group report

Date:	22 August 2024	Priority:	High
Security classification:	In Confidence	Tracking number:	MBIE: 2425-0662 MfE: BRF- 5178
Action sought			
	Action sought	Deadline	
Hon Chris Bishop Minister for Infrastructure Minister Responsible for RMA Reform	Agree to the recommendations in this briefing.	28 August 2024	
Hon Shane Jones Minister for Regional Development			
Hon Simeon Brown Minister of Transport			
Copy to: Hon Tama Potaka Minister of Conservation Minister for Māori Crown Relations: Te Arawhiti	Acknowledge receipt of this briefing by returning the signed briefing to the Ministry for the Environment (RM.Reform@mfe.govt.nz and ministerials@mfe.govt.nz)	28 August 2024	
Annexures			
<ol style="list-style-type: none"> List of projects with agency comments Collated feedback from agencies MfE Treaty Impact Analysis Draft Cabinet Paper on Listed Projects for Fast-track Approvals Bill 			

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
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Ministry for the Environment			
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Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments

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Purpose

1. To provide information to assist Ministers in determining which projects to list in Schedule 2 of the Fast-track Approvals Bill (the Bill). This is to complement the Fast-track Projects Advisory Group – Report to Ministers [*MBIE:2425-0486 and MfE: BRF-5120 refers*].
2. This paper provides you with:
 - a. contextual information including key issues and risks relating to the projects.
 - b. collated officials’ advice and feedback on the projects.
 - c. a full list of the projects as recommended by the Fast-track Projects Advisory Group with agency feedback.
 - d. a draft Cabinet paper seeking agreement on the list of projects, once finalised by Ministers.

Executive Summary

3. The Listed Projects are being incorporated into Schedule 2 of the Bill by way of an Amendment Paper. This is being progressed along with a suite of Amendment Papers which are being considered together by the Economic Policy Committee on 18 September, then at Cabinet on 23 September.
4. Officials have prepared supplementary advice to support your decision making on which projects to list in Schedule 2. This sits alongside the Fast-track Projects Advisory Group’s (Advisory Group) Report to Ministers you received on Friday 2 August 2024.
5. Officials invited agencies to provide specific information on risks relevant to proposed projects in their sector, information around deliverability and readiness, general regional context setting, and sector-wide context to help inform Ministers’ final decisions.
6. Close to 400 applications were received for listing in Schedule 2, demonstrating the demand for a Fast-track Approvals process. The Advisory Group has recommended that, of these projects, a large number are suitable for listing in Schedule 2, with 199 considered suitable for Part A and 142 suitable for Part B. The Advisory Group did not cap the number of projects in each category as this was not part of their remit but prioritised projects in each sector. Ministers can choose to list all or some of the projects that were considered suitable for listing by the Advisory Group.
7. There are system-level considerations which Ministers should be aware of when making decisions on the final list of projects, including the potential capacity constraints in the

operational system to service a high volume of listed projects, if they lodge quickly after enactment.

8. The Bill does not currently include a mechanism to determine which projects are processed first by an Expert Panel and this is currently an applicant driven process. We acknowledge there may be cases where urgency or project significance warrants Ministers prioritising a particular project. Further work is being undertaken on how prioritisation can be implemented within the Fast-track system, and you will receive advice on this in the coming weeks.
9. This additional mechanism would not be intended to override the 'first in, first served' approach, which seeks to prioritise applications for limited resources, but is a process step to ensure that urgent projects are not delayed behind other less urgent projects and recognises the resourcing constraints in New Zealand for progressing projects.
10. This is anticipated to be a mechanism used in extraordinary circumstances, due to the implications on fairness and equity. While this provision is being developed and may need to be included as an amendment to the Bill, we suggest that you indicate which projects they would like to be prioritised at the same time you are making decisions on projects for listing in Schedule 2A and 2B.
11. We have also provided analysis of projects against changes to the Bill proposed through the Departmental Report, as the Advisory Group assessed projects based on the Bill as introduced. There are two additional ineligibility criteria; of these we have identified 21 projects which may trigger the first new criterion, and we do not consider any projects trigger the second criterion.
12. A draft Cabinet paper has been prepared to seek Cabinet agreement to your final recommended list of projects to be included in Schedule 2 once decided.

Recommended action

We recommend that you:

- a) **Note** we have prepared supplementary advice on the Fast-track Projects Advisory Group's Report to support your decision-making on the final list of projects to be included in Schedule 2 of the Fast-track Approvals Bill. The advice includes:
 - i. collated key agency feedback
 - ii. analysis of projects against the Bill as amended by the Select Committee, to the extent that any changes are known
 - iii. commentary on deliverability of Crown projects (including input from the Treasury) and other implications for the Crown
 - iv. Treaty impact analysis of projects recommended for inclusion on the Schedule, to satisfy the Crown's obligations
 - v. consideration of Expert Panel capacity
- b) **Note** the officials' feedback provides high level commentary on the Advisory Group Report, and agencies may still brief their portfolio Ministers separately on any additional context regarding specific projects.

Noted

Noted

- c) **Note** that there are two additional ineligibility criteria proposed through the Departmental Report subsequent to the Advisory Group's consideration:
- i. where a project would occur on a local authority-owned reserve and the applicant has not obtained the approval of the local authority (which affects 21 projects), and,
 - ii. where a project would occur in a mātaihai reserve, taiāpure area or an area subject to bylaws under section 9 of the Fisheries Act 1996 (which will not affect any projects).

Noted

- d) **Note** that Ministers will need to make decisions on the projects for listing by 2 September in order for Ministerial consultation to occur on a Cabinet paper for lodgement on 12 September.

Yes / No

- e) **Agree** to indicate your preferred list of projects (including those to be prioritised) to be included in Schedule 2 of the Fast-track Approvals Bill via the List of Projects with agency comments at **Annex One**.

Yes / No

- f) **Agree** to provide officials with feedback on the draft Cabinet paper.

Yes / No

Signatures



Nadeine Dommissé
Deputy Secretary, Environmental
Management and Adaptation
Ministry for the Environment
22 August 2024



Paul Stocks
Deputy Secretary, Building, Resources &
Markets
**Ministry of Business, Innovation and
Employment**
22 August 2024

Hon Chris Bishop
Minister for Infrastructure
Minister Responsible for RMA Reform
Date:

Hon Shane Jones
Minister for Regional Development
Date:

Hon Simeon Brown
Minister of Transport
Date:

Background

1. The Advisory Group's Report to Ministers which recommended projects for listing in the Bill, was delivered to you on Friday 2 August 2024 [MBIE:2425-0486 and MfE: BRF-5120 refers].
2. In April 2024, Cabinet agreed that the Minister for Infrastructure, Minister of Transport and Minister for Regional Development would receive the Advisory Group's Report and make a decision on which projects from that Report should be included in the Bill [CAB-24-MIN-0109.01 refers].
3. Consultation with relevant agencies has been undertaken on the Advisory Group recommendations to ensure you have access to the full suite of relevant information to inform your decisions on the projects for listing in the Bill. This includes information which could not have been available to the Advisory Group but is relevant to your decision-making on the final list of projects.
4. A Departmental Report to the Environment Committee, which was submitted to Cabinet on 2 August 2024, introduced subsequent policy changes affecting the Bill. These changes have been incorporated into the officials' advice where they may affect projects that have been recommended for inclusion by the Advisory Group.
5. A draft Cabinet paper has been prepared to facilitate consultation with all Ministers on your finalised list of projects once you have made your decisions, and to seek Cabinet agreement to the projects for listing in the Bill.

Officials' advice on the Advisory Group Report

Scope and consultation of agency feedback

6. Officials invited agencies to provide specific information on risks relevant to proposed projects in their sector, information around deliverability and readiness, general regional context setting, and sector-wide context to help inform Ministers' final decisions. This is attached at **Annex Two**.
7. Agencies that were consulted in preparation of the officials' feedback include: the Ministry of Primary Industries, Ministry for the Environment (MfE), Ministry of Transport, Ministry of Business, Innovation and Employment (MBIE), Department of Conservation, Ministry of Housing and Urban Development, the Treasury, Land Information NZ, NZ Infrastructure Commission Te Waihanga, Department of Internal Affairs, Ministry of Culture and Heritage, Ministry of Māori Crown Relations: Te Arawhiti. Agencies provided varied degrees of feedback.
8. Ministers, the Advisory Group and MfE received a number of unsolicited comments during the application process. Since this was not part of the application material, it was not part of the Advisory Group consideration of projects.
9. In preparing the advice, agencies were provided with extracts from the Advisory Group Report, including lists of projects in relevant sectors. Agencies were not provided with the full Report or applications as some of the information is commercially sensitive.

10. The full list of projects with the Advisory Group recommendations, and agency comments is attached as **Annex One**. This document is intended to be used for Ministers to indicate to officials which projects are for listing including those considered a priority and suitable for the prioritisation mechanism.

Sector Commentary

Aquaculture

11. The projects recommended for listing in the aquaculture sector offer a combined 70,000 hectares of new marine farming space. This is a significant increase given the total area currently consented for aquaculture activities is approximately 21,000 ha. Aquaculture initiatives play a critical role in improving regional development where there may otherwise be limited options. The Government has prioritised aquaculture growth with a target of \$3 billion in revenue by 2035. This requires the development of open ocean salmon aquaculture and ensuring security of mussel spat supply. Open ocean salmon farming is expected to become New Zealand's most valuable aquaculture sector and supports the Government's goal to double export value by 2034.

Housing and Land Development

12. The projects recommended for listing for the housing and land development sector include a range of retirement villages, industrial developments, tourism and residential projects. They would add approximately 80,000 additional homes, of which 75,000 are in and around New Zealand's major urban growth centres, where there is a degree of housing stress. Additional housing capacity will likely improve housing affordability, especially in areas with poor housing outcomes. It would enable approximately 400 hectares of additional industrial activities, with tourism projects bringing economic benefits through the development of new or existing visitor destinations. The urban development projects should create more competitiveness within land markets and increase the supply of affordable housing.

Infrastructure

13. The projects recommended for listing in the infrastructure sector capture a range of projects, including transport, public service, marine, water and energy infrastructure. The majority of infrastructure sector projects are deemed to be critical to efficient connectivity, by enabling growth across the value chain – such as large ports or Roads of National Significance. The projects have a mix of applicants, from private companies to local councils. Officials have noted these applicants have faced challenges with the traditional consenting process and highlight New Zealand's infrastructure deficit. Many of the projects are expected to deliver significant social and connectivity benefits. Projects that deliver the highest public benefits, and are ready to be progressed, should be dealt with as efficiently as possible.

Mining and Quarrying

14. The projects recommended for listing in the mining and quarrying sector include exploration or extraction of coal, minerals, precious metals and sand. The projects align with the Government objectives for the minerals sector which includes increasing the scale and pace of minerals development to support economic growth and enhance prosperity for New Zealanders. Additionally, with New Zealand's existing minerals exports being mostly gold and coal, projects proposing new development, or expanding development would support the Government's goal in doubling the minerals sector export value to \$2

billion by 2035. The projects align with the Government's objectives for the minerals sector which includes increasing the scale and pace of minerals development to support economic growth and enhance prosperity for New Zealanders.

Renewable Electricity

15. The projects recommended for listing in the renewable electricity sector include solar, wind and hydro projects and would deliver value by contributing to a more resilient energy market. Increasing New Zealand's renewable energy generation and storage (and associated infrastructure, e.g. transmission) is a key economic and environmental priority. Energy supply is currently very tight, due to a combination of low hydro storage and gas supply. We need to significantly and rapidly increase renewable energy generation and storage to ensure future security of supply, keep prices affordable for industry and households, and enable widespread electrification of the economy. Projects with battery storage and higher contribution of new electricity supply have been deemed by officials to be more valuable to the grid. Renewable energy usage is expected to make a substantial impact in New Zealand's emission reduction targets.

Assessment against updates to the Bill

16. The Advisory Group considered project applications against the Bill as introduced, as required by their Terms of Reference. This means there is a risk that any subsequent changes to the Bill through Select Committee could affect the eligibility of listing particular projects (for example if the ineligibility criteria in the Bill changes).
17. The Environment Committee is aware that this work on listing projects in Schedule 2 is progressing in parallel to their own process and are considering changes to the Bill independently to any work taking place on Schedule 2.
18. There have been some proposed changes to the ineligibility criteria in clause 18 through the Departmental Report (as detailed in paragraphs 19 to 22 below). Our assessment is that does raise the risk that some applicants may be delayed in lodging applications, this does not render any of the Advisory Group's recommendations inappropriate.

New ineligibility criteria

19. The Departmental Report recommends the inclusion of two additional ineligibility criteria;
 - a) where a project would occur on a local authority-owned reserve and the applicant has not obtained the approval of the local authority, and,
 - b) where a project would occur in a mātaihai reserve, taiāpure area or an area subject to bylaws under section 9 of the Fisheries Act 1996.
20. We have identified 21 projects which may trigger the first new criterion. We note this is a temporally constrained criterion, so it would only apply if applicants were unable to obtain written approval from the relevant local authority prior to lodging their approval application with an Expert Panel.
21. We consider there is minimal risk associated with listing these projects. We note, but have not yet fully investigated, the extent to which public consultation may be required for each project on the list under the Reserves Act as this is subject to a range of matters including reserve classification. If you are concerned about listing only those projects which are able to lodge applications immediately after enactment, you could list these projects on

Schedule 2B to allow projects without this complication to be prioritised on 2A. We have identified these projects in **Annex One**.

22. Based on our analysis, we do not consider any projects trigger the second criterion.

Change in ineligibility criteria for land transport and electricity network infrastructure

23. The Bill as introduced included an ineligibility criterion if projects were to occur on Māori land, in a customary marine title area or customary rights area and the relevant approval had not been obtained.

24. The Departmental Report now proposes that the Minister can refer projects which trigger that criterion where the project is for a land transport or electricity network infrastructure project. While some of the infrastructure projects recommended for listing by the Advisory Group triggered (or may have triggered) this criterion under the Bill as introduced, they would no longer be ineligible under this change.

25. The Advisory Group's Terms of Reference enabled them to assess projects where this temporary ineligibility criterion applied, so the inclusion of this change does not affect the recommendations of the Advisory Group.

Fish salvage activities

26. The Bill as introduced enabled approvals under section 26ZM of the Conservation Act 1987, which enables the release of live aquatic life into any water. This is proposed to be clarified through the Departmental Report to only sections 26ZM(2)(a) and (3)(b), as the policy intent was only to enable fish salvage activities where the fish are moved within the same water body. This a degree of detail which was not included in most applications, so we have been unable to confirm that this does not affect any projects as lodged. However, we consider this can be effectively resolved for most affected projects by way of a redesign of their relevant fish salvage procedures.

27. We note there are still potential for changes to the Bill through the remainder of the drafting process, which will not be able to be considered as part of the preparation of Schedule 2. There will be an opportunity for final changes to the list prior to the Amendment Paper being considered by the Cabinet Legislation Committee in November.

Crown projects

Prioritisation of Quarterly Investment Report projects

28. Our previous advice [*MBIE:2324-3994 and MfE: BRF-4939 refers*], included comment from the Treasury on the criteria Ministers could consider when deciding which Crown projects to include in Schedule 2A. This included to:

- a) prioritise projects that have secured full funding, and consider additional funding requirements in the context of your fiscal and economic priorities;
- b) give added weight to Crown-funded projects that are at an advanced stage of development;
- c) give added weight to projects with near-term construction start dates.

29. Updated advice from the Infrastructure Commission and the Treasury is to prioritise projects that are in the Treasury Quarterly Investment Report (QIR). There are 33 projects

where the Crown is the applicant, only 11 projects are listed in the QIR database. Of these, five are recommended to be listed in Schedule 2A, and five are recommended to be listed in Schedule 2B. City Rail Link in Auckland is in the QIR and has been recommended by the Advisory Group to not be listed. We note this project is proposed to not be listed because it is seeking approvals not enabled by the Bill, so would not be able to obtain approvals even if listed. More detail on the 11 projects is in **Annexes One and Two**.

30. In addition, if processing capacity leads to bottlenecks, prioritise nationally significant infrastructure applications with public benefits that are ready to go. Our main interest is to ensure that public infrastructure projects that provide the highest public benefits can be assessed and progressed without delay.

Future funding implications for the Crown

31. It is not yet clear what the exact funding implications for the Crown will be from the listed projects. At this early stage of the process, we are unable to indicate whether applicants are Crown-funded or will be Crown-funded in future. It is important to note that being listed on Schedule 2 and/or obtaining Fast-track approval does not guarantee that the project will receive Regional Infrastructure Funding or other Crown funding at a later date.

Expert Panel capacity

32. The Advisory Group were tasked with identifying whether projects meet the purpose of the Bill, have national or regional benefits, and which list (2A or 2B) may be appropriate. They were not asked to cap the number of projects to list.
33. The application process did not explicitly require applicants to demonstrate their readiness to lodge applications to an expert panel, as this was not an eligibility criterion in the Bill as introduced. The Advisory Group was therefore unable to test the readiness of projects.
34. The Advisory Group identified 199 projects for Schedule 2A but raised concern that there may not be sufficient Expert Panel capacity to service that volume if listed. If you decide to list all 199 projects on Schedule 2A listed in the Advisory Group's Report, the immediate post-enactment lodgement of many applications is possible.
35. If a high volume of projects lodge quickly after enactment, this may still cause challenges in the timely decision making on projects, noting that panels under the Fast-track Approvals Act will be considering applications under as many as ten pieces of "parent" legislation, compared to the previous regime.
36. For context, we note that under the similar COVID-19 Recovery (Fast-track Consenting) Act 2020, panels were able to consider on average 30 projects per year. The NZ Infrastructure Commission Te Waihanga have undertaken some analysis which indicates they expect that under the Bill as drafted panels could consider 20-30 projects per year.
37. We are working on approaches to accelerate the panel process to remove some of the barriers that constrained the speed of the previous COVID-19 Fast-track regime. These are being tested for workability and against the legislation as currently drafted to ensure there is sufficient leeway to allow for flexibility of how this could be achieved, while still delivering a robust and defensible process. We anticipate you will receive further advice on this in the coming weeks.
38. Pending the outcome of the work referred to above, we consider there would be advantage in putting some constraints on the number of projects in Schedule 2A.

Prioritisation within Schedules

39. We note that while projects have been assigned a relative priority within each sector by the Advisory Group this prioritisation was based on regional and national significance and did not look at readiness.
40. The Bill does not currently include a mechanism to determine which projects are processed first by an Expert Panel and this is currently an applicant driven process We acknowledge there may be cases where urgency or project significance warrants Ministers prioritising a particular project. Further work is being undertaken on how prioritisation can be implemented within the Fast-track system, and you will receive advice on this in the coming weeks.
41. This additional mechanism would not be intended to override the 'first in, first served' approach, which seeks to prioritise applications for limited resources, but is a process step to ensure that urgent projects are not delayed behind other less urgent projects and recognises the resourcing constraints in New Zealand for progressing projects.
42. This is anticipated to be a mechanism used in extraordinary circumstances, due to the implications on fairness and equity. An example of where this may be appropriate to be exercised is to provide a pathway for a new energy project to be implemented ahead of next winter to respond to an identified energy shortfall.
43. While this provision is being developed and may need to be included as an amendment to the Bill, we suggest that you indicate which projects they would like to be prioritised at the same time you are making decisions on projects for listing in Schedule 2A and 2B. This can be indicated in the list of projects at **Annex One**.
44. This will enable you to identify now which listed projects could utilise the prioritisation mechanism. As noted in paragraph 42, this is expected to be for extraordinary circumstances only, so should be a small and justifiable subset of the list.

Moving projects between 2A and 2B

45. Applicants were able to apply to have their project listed on either Schedule 2A or 2B. The Advisory Group assessed projects on that basis and recommended some projects for inclusion on Schedule 2B, which applied for 2A. This was for a range of reasons such as the projects not meeting the eligibility criteria at that point in time, the applicant not owning land or the applicant identifying in the application that they would not be ready to lodge applications for a number of years.
46. You may consider moving projects between 2A to 2B as part of your decision making on the final makeup of the Schedules. While projects could shift from 2A to 2B, we do not recommend elevating projects from 2B to 2A.
47. Elevating projects to 2A may risk that applicants are not ready to apply for approvals and take the place of other projects which could be ready to proceed immediately upon enactment.

[Legally privileged]: Legal comments

s 9(2)(h)



MfE Treaty Impact Analysis

55. It is difficult to provide a full assessment of the potential impacts and risks associated with Treaty Settlements and other obligations, however we consider the following risks to be present:
- a) a decision to list certain projects in the Bill may be seen as undermining some settlement mechanisms as it will change the process (in some cases significantly) under which that project is considered, from what would previously have applied under what was agreed in the settlement. This risks undermining Post-Settlement Governance Entities (PSGE) confidence in the commitment to uphold settlements and holds broader relationship risk.
 - b) the threshold for declining a project once it is referred to the Expert Panel is still unclear but may be high. It is unclear at this stage how this high threshold will interact with the overarching requirement to act consistently with Treaty settlements in clause 6, especially in relation to listed projects.
 - c) further relationship risks inherent in progressing with listing projects for which there is a long history of opposition through previous processes, particularly where that opposition is supported by PSGEs.
56. The processes for listed projects which will follow under the Bill once enacted may mitigate some of these risks and enable projects to proceed without undermining settlements, depending on how the provisions of the Bill work once enacted.
57. MfE officials have undertaken a limited assessment that identifies the potential impacts of listing a project on Treaty settlement and other relevant statutory arrangements. This particularly has focused on how this process may create inconsistencies with processes agreed through settlements. This is supported by limited engagement with PSGEs on some projects.

61. A summary of this analysis, including how particular redress mechanisms may be impacted and identified impacts for each project is attached in **Annex Three**.

Draft Cabinet Paper for Ministerial consultation on the final list of projects

62. To support consultation with Cabinet Ministers as part of your decision-making on the final list of projects, a draft Cabinet paper is attached (at **Annex Four**).
63. This paper seeks agreement from Cabinet on the final list of projects to be included in Schedule 2A and 2B of the Bill and seeks approval to draft an Amendment Paper.
64. Officials will lodge the Cabinet paper on 12 September for Cabinet consideration on 23 September. We suggest that appended to the Cabinet paper, you provide the Advisory Group's final Report, the agency feedback and the final list of projects.

Absence of Regulatory Impact Statement

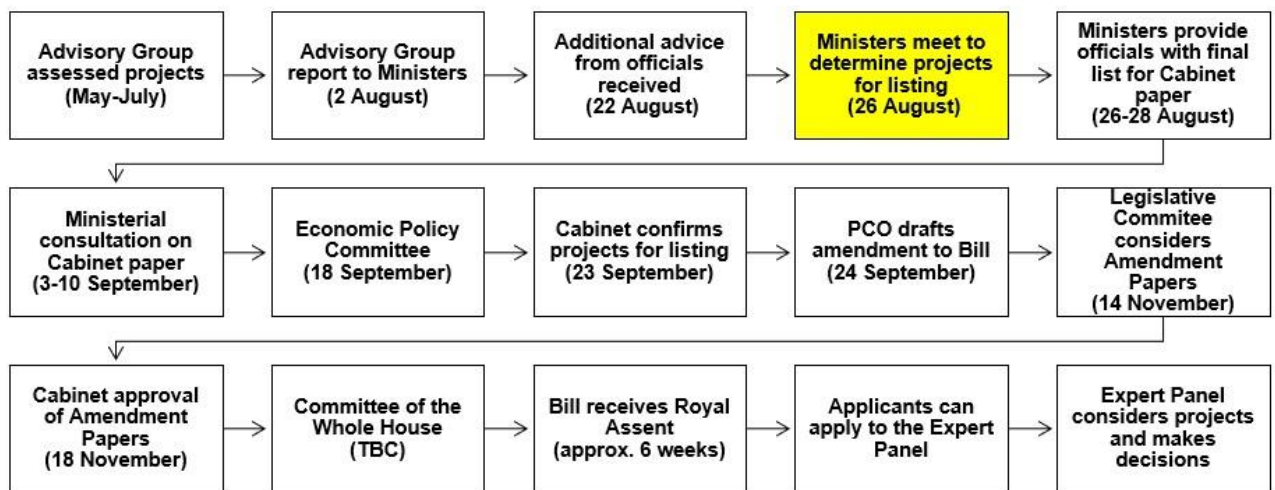
65. The Cabinet paper does not include a Regulatory Impact Statement (RIS) due to the timeframe and scope of information available. A RIS is being completed for amendments to the Bill.

Next steps

66. Below is a timeline for next steps:

- **26 August 2024** – Ministers decide on the projects to be included on the final list
- **26-28 August 2024** – Ministers provide officials with the final list, which will be included in the draft Cabinet paper
- **29 August 2024** – updated Cabinet paper provided to Ministers
- **3-10 September 2024** – Ministerial consultation on Cabinet paper
- **12 September 2024** – Cabinet paper lodged
- **18 September 2024** – Economic Policy Committee
- **23 September 2024** – Cabinet
- **24 September 2024** – drafting instructions to Parliamentary Counsel Office.

Fast-track Approvals Listed Projects – Process (yellow indicates the stage we are at)



Annexures

Annex One: List of projects with agency comments

Annex Two: Collated feedback from agencies

Annex Three: MfE Treaty Impact Analysis

Annex Four: Draft Cabinet Paper on Listed Projects for Fast-track Approvals Bill

Annex One: List of projects with agency comments

Document withheld as all information already publicly available on the Ministry for the Environment website -

<https://environment.govt.nz/acts-and-regulations/acts/fast-track-approvals-bill/>

Annex Two: Collated feedback from agencies

Annex Three: MfE Treaty Impact Analysis

**Annex Four: Draft Cabinet Paper on Listed Projects for
Fast-track Approvals Bill**

Annex two: Collated feedback from agencies

Agency	Sector / Topic	Projects
Ministry of Business, Innovation and Employment	Energy	Total projects analysed: Renewable Electricity and Energy infrastructure projects (71)

Renewable Electricity

Advice from the Advisory Group

1. The Advisory Group assessed 71 project applications for renewable electricity generation projects, such as wind and solar farms. Six applications were for re-consenting existing facilities.
2. The primary basis used by the Advisory Group to recommend and prioritise projects was the expected contribution of each project to new electricity supply. Given the information available in the applications, this basis was considered to be the best yardstick for assessing how projects could advance the objectives in clause 17 of the Bill. As with other sectors, some applications for listing in 2A were instead recommended by the Advisory Group for listing in 2B.

Officials' assessment – general comments

3. Increasing New Zealand's energy generation capacity and energy storage (and associated infrastructure such as transmission) is a key economic and environmental priority. Energy supply is currently very tight, due to a combination of low hydro storage and gas supply. s 9(2)(g)(i) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
4. In general, the Advisory Group's prioritisation of projects by generation capacity is a logical first sift of projects. Larger projects can provide more 'benefit per application', given constraints on how quickly expert panels can process a large pipeline of projects. For example, the 7 projects recommended by the Advisory Group as priority 1 and 2 have a combined generation capacity of approximately 1,900MW. For comparison, Turitea Wind Farm (New Zealand's largest) has 221 MW capacity, and Manapouri power station has a 800MW capacity.

5. s 9(2)(g)(i) [REDACTED]

6. While generation capacity is a logical first step for prioritisation, another approach would be to assess projects on firm energy terms (i.e. giving more credit for projects with energy output that is less weather-dependent). Some smaller projects will offer disproportionate benefits due to their dispatchability (e.g. hydro with storage, and solar farms with battery storage). Some small hydro generation project applications have a proposed low priority. Most are run-of-river and will have limited ability to provide firming/peaking, so their low priority may be justified because they are small. However, we note that some small hydro applications are in the West Coast region, which is dependent on long transmission lines and vulnerable to power outages. This is a region where local controllable generation, even if small, could potentially provide some regional resilience benefit. If Ministers wished to give greater weighting to secure electricity supply at a regional level, then higher priority could be considered for smaller scale firm generation in more remote regions such as, the West Coast, plus proposals to consent existing hydro storage/generation schemes.

Security of supply through variations to existing hydro-generation resource consents

7. In light of current energy shortages, a number of hydro-generation firms have suggested changes (outside of the fast-track process) to their hydro resource consents that could enable greater security of supply – e.g. through changing rules around lake and flow levels. We note that these changes could have potentially significant impacts on other water users, environmental values and Treaty settlements in the affected catchments, so would need careful consideration and engagement with affected parties. Contact Energy has submitted a proposed fast track application for changes to its existing hydro consent for the Clutha hydro scheme. However, the fast-track legislation as currently drafted does not specially provide for variations to resource consents, meaning the Advisory Group did not propose Contact’s proposal for listing in the Bill.

- 8. s 9(2)(g)(i) [REDACTED]

Agency	Sector / Topic	Projects
Ministry of Business, Innovation and Employment	Resources / Minerals and Petroleum	Total projects analysed: Mining and Quarrying projects (41)

Officials’ assessment on mining and quarrying development projects

1. The Advisory Group assessed 41 project applications for mining and quarrying developments.
2. To support the assessment of mining and quarrying projects, MBIE received copies of these applications and a copy of the draft Advisory Group report. However, officials had limited time to review these applications in detail and did not receive any information from the advisory group on how national or regional benefits was considered for each project or how trade-offs were made between benefits. Based on our knowledge of projects that are regulated under the Crown Minerals Act 1991 (CMA), understanding of the minerals sector and Government objectives in this area, we have outlined the projects that may warrant a higher/lower priority rating. We have also provided some further commentary on priority ratings for projects that are regulated under the CMA.

There may be value in increasing the priority rating for “shovel ready¹” projects for high value minerals to support the Governments objective for the minerals sector

3. In the context of the information available to MBIE on each project, we support the priority rating of most of the mining projects for high value minerals (e.g. gold and silver) and coal extraction. These projects align with the Governments objectives for the minerals sector which includes increasing the scale and pace of minerals development to support economic growth and enhance prosperity for New Zealanders. Additionally, with New Zealand’s existing exports in the minerals space being mostly gold and coal, projects proposing new development, or to expand development would support the Government’s goal in doubling minerals sector export value to \$2 billion by 2035 and the associated benefits for New Zealand that come with increasing exports.
4. s 9(2)(g)(i) [Redacted]

s [Redacted]
9 [Redacted]

s 9(2)(g)(i)
[Redacted]

There may also be value in increasing the priority rating of mineral and iron sand development projects

5. s 9(2)(g)(i)
[Redacted]

Aggregate development projects are likely to provide significant regional benefits and support the Government’s goal in closing the infrastructure deficit

6. Seventeen projects related to new development or expanding development for aggregate/sand extraction across various regions. A significant amount of aggregate in the right locations will be needed to achieve the Government’s goal in closing the infrastructure deficit and the successful delivery of infrastructure and housing projects seeking approval through the fast-track legislation. As a bulk commodity, transport costs make up a substantial proportion of the total cost. The cost of aggregate roughly doubles in price after 30 km, and the further it is transported, the greater the road costs. To reduce transport and therefore infrastructure and building costs, ideally aggregates should be sourced close to use.

7. No quarry projects were ranked as priority 1. Two quarry projects were given a priority 2 under schedule 2a (Flat Top Quarry Development, Hunua Quarry Development), all other projects were given a priority ranking between 3-5 under schedule 2a (Conservators Road Quarry Kings Quarry Expansions , Miners Road Northern Expansion, Peach Island Quarry Maraekakaho Quarry, Newcombe Road Sand Quarry, Road Metals Twizel Quarry³, Drury Quarry Expansion, Mangawhai/ Pakiri Embayment Sand Extraction), a high priority under schedule 2b (Belmont Quarry Development) or a low priority under schedule 2b (Bream Bay Sand Extraction, Far North Sand Supplies, Katikati Quarry Expansion, Southern Screenworks Quarry, Taylor Pass Quarry). However, these projects are likely to provide significant regional benefit due to

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[Redacted]

aggregate being a critical input into the construction of regional infrastructure and housing. For these reasons, there may be value in considering a higher priority rating for projects listed in Schedule 2a and moving some projects from Schedule 2b to Schedule 2a, especially in regions with significant projected housing and infrastructure growth.

Other considerations to note about the projects

8. s 9(2)(g)(i) [Redacted]

9. s 9(2)(g)(i) [Redacted]

10. We note there is likely to be significant interest by community groups in listing projects in the fast-track legislation that have had marine/resource consents declined, successfully challenged or are currently being challenged through the Courts (Taranaki VTM, Mangawhai/ Pakiri Embayment Sand Extraction, Te Kuha and Barrytown Mineral Sands).

Agency	Sector / Topic	Projects
Ministry of Business, Innovation and Employment	Communications Policy	Total projects analysed: Comms projects (1)

1. FTA298 - Given this project is for the purposes of delivering a cell and radio tower within the new public safety network, Ministers may like to consider lifting the priority of this project due to the public good of improved communications between emergency services.

Agency	Sector / Topic	Projects
Ministry of Business, Innovation and Employment	Tourism	Total projects analysed: Tourism projects (12)

1. It is likely that these project will contribute, to some extent, the Government’s goal of growing the value of tourism although the scale of these projects is unlikely to be significant at a national level. The government also aims to increase the regional dispersal of tourism, into more regions and during non-peak periods. Increased accommodation and event venue developments are also helpful when NZ is bidding to host major and mega events, and as such, we are therefore generally supportive of such private sector investments being fast-tracked.
2. We note that many of the tourism projects are concentrated in the Queenstown/Wānaka region so won’t significantly increase regional diversity. Given this concentration there may be potential workforce and social license risks, if they were all proceed at the same time which could have a negative impact on tourism overall.

Agency	Sector / Topic	Projects
Ministry for Primary Industries	Aquaculture and farming	Total projects analysed: Aquaculture and farming projects (29)

1. The Government has prioritised aquaculture growth with a target of \$3 billion in revenue by 2035. This growth requires the development of open ocean salmon aquaculture and ensuring security of mussel spat supply. Open ocean salmon farming is expected to become New Zealand’s most valuable aquaculture sector and will support the Government’s goal to double export value by 2034. Developing open ocean salmon and mussel farming will also require key infrastructure including hatcheries, nurseries, and processing facilities to be developed.

Schedule 2A Project recommendations

2. MPI recommends that FTA181 (Sanford Limited – Project East) is lifted to Schedule 2A ‘Priority 1’ alongside FTA224 (Hananui) from its current ‘Priority 3’ status, because of its alignment with the Government’s aquaculture priorities:
 - To achieve the Government’s aquaculture priority of \$3 billion in revenue by 2035, \$1.5 billion is needed from open ocean salmon aquaculture. This would require an additional 50,000 tonnes of salmon production per annum.
 - In terms of scale, FTA181 could provide substantial contributions, over 40% of the increase (estimated at 24,000 tonnes).
 - Both FTA181 and FTA224 (Hananui) need to be consented in a timely and efficient manner to achieve this target (Table One). The Hananui and Blue Endeavour resource management decisions in 2022 and 2023 demonstrated that resource consenting for open ocean salmon aquaculture is challenging under the Resource Management Act 1991.
 - Sanford Limited is an established member of the seafood industry across both fisheries and aquaculture and is the second largest producer of salmon in New Zealand.
 - The following tables shows how the three open ocean salmon projects that we understand are ready to proceed jointly deliver the government’s growth targets. These projects will require salmon processing and hatcheries to also be developed.

Table One – indicative examples of open ocean salmon production needed by 2035

Open Ocean Salmon Projects out to 2035	Estimated production capacity (at full development), tonnes
Blue Endeavour (consented)	10,000
Hananui	16,000
Project East	24,000
Total production target by 2035	50,000

3. Based on alignment with the Government’s aquaculture priorities, MPI recommends that FTA209 (Sanford Limited – Makarewa Hatchery) is listed in Schedule 2A as ‘Priority 2’:

- FTA209 is essential infrastructure investment to support the development of the applicant’s open ocean salmon projects – including FTA181.
- MPI understands that FTA224 (Ngāi Tahu Seafood Resources Limited – Hananui Aquaculture Project) will also require a supply of salmon smolt (juvenile fish) to stock their farms.
- FTA209 should also be prioritised and developed, as there is currently no surplus of salmon smolt available in New Zealand that would be sufficient to stock FTA224 and FTA181. MPI supports the development of open ocean salmon farming, and it is crucial to the Government’s goal of growing aquaculture and doubling export value. Building new salmon hatcheries is essential to support open ocean farms.

4. MPI supports the inclusion of every open ocean salmon, mussel, and oyster project recommended to be in Schedule 2A and note their importance for the aquaculture industry.

Schedule 2B Project recommendations

5. MPI makes an overarching comment on the applications for aquaculture activities in the coastal marine area:

- Some of the applications in 2B have applied for a large quantum of space (noting some applications do not provide sufficient detail to calculate spatial extent), which if consented would create significant Māori Commercial Aquaculture Claims Settlement Act 2004 obligations for the Crown⁴.
- The total area currently consented for marine aquaculture activities in New Zealand is approximately 21,000 hectares. Collectively, potential listed aquaculture projects are applying for more than 70,000 hectares of new marine farming space.

⁴As many of the applications for fast-track listing are still in development – MPI expects that the final area applied for in terms of farming space may be subject to change.

- Some applications extend into the Exclusive Economic Zone. The Māori Commercial Aquaculture Claims Settlement Act does not link with the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, so will not generate a settlement obligation under that legislation. s 9(2)(g)(i)

[REDACTED]

6. FTA078 and FTA192 are inconsistent with section 165E of the RMA which says no one can apply for a consent within an aquaculture settlement area unless they hold an authorisation to apply. s 9(2)(g)(i)

[REDACTED]

7. s 9(2)(g)(i)

[REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

8. For FTA026, MPI notes that fisheries in the region of the applied project have been subject to fishing closures due to Māui dolphin habitats.

Water storage projects

9. We would also like to make this comment in relation to the water storage projects:

- Enabling water accessibility and security will be a critical enabler of Government's Double Export Value aspirations, particularly in regions like Hawke's Bay, Wairarapa, Southern Marlborough, and Canterbury, which are likely to get hotter and dryer with climate change. Investment in water storage and irrigation will support pasture growth and animal health and wellbeing in these areas. However, a key barrier to the development of water storage systems and distribution networks is securing resource consents for surety of supply, storage, and discharge, and building consents for larger community or regional water storage investments.

Agency	Sector / Topic	Projects
Ministry of Transport	Transport and Marine infrastructure	Total projects analysed: Transport and Marine infrastructure projects (45)

1. MOT is not aware of any factual changes between the level of detail available to officials on the projects recommended for listing and that available for the Expert Advisory Group assessment.
2. MOT considers all transport projects that have been assessed by the Expert Advisory Group to meet the eligibility criteria should be listed on Schedule 2A to ensure these projects can proceed directly to the EPA.
3. We are concerned some of the prioritisation is inconsistent. In general, transport projects being put forward by central government received a higher prioritisation than those by local government and the private sector, even if they are in the same area or relate to the same project. This approach loses some of the connection between different transport elements – for example, if a state highway is prioritised, but none of the connecting local roads that facilitate access, some of the overall value is lost.
4. An example of this inconsistent prioritisation is the Auckland Transport and KiwiRail rail work in Auckland. Each agency has been given different prioritisation, despite being the same project. We consider FTA293 and FTA277 should have the same prioritisation.
5. We consider all central government projects, such as those identified in the GPS-Land Transport, or put forward by NZTA or KiwiRail, should be included in Schedule 2A. Where councils are the applicant for a transport project, particularly if it supports a central government one, consideration should also be given to including these on Schedule 2A.
6. We also consider if a project is not listed now, this shouldn't mean it is ineligible to use fast-track process. It should come back for referral later.
7. The fast-track process will make it quicker and more straightforward for Crown transport projects to get the regulatory approvals they need. However, listing in a Schedule will not guarantee a project will be progressed. These projects will still need to secure the required funding and financing via the usual investment processes.

Agency	Sector / Topic	Projects
Ministry of Housing and Urban Development	Housing and land development	Total projects analysed: Housing and land development projects (151)

1. We have provided comments based on information we already have about developments. The comments are largely, therefore, about projects in the places we have existing partnerships. Our partnerships are in major urban areas (Auckland, Hamilton/Waikato, Tauranga, Wellington Region, Christchurch/Canterbury and Queenstown), where there is some level of housing stress. We also have partnerships in Te Tai Tokerau, Tairāwhiti, Hawkes Bay and Rotorua – places where indicators (see link below) show poor housing outcomes.
2. Where we have it, we have provided factual information that may be useful. As previously noted, on the basis of the limited information provided and limited capacity, we cannot comment on the prioritisation the Expert Panel assigned individual projects. We note also that 40% of applications proposed for listing have been provided for HUD's comment.
3. HUD supports additional housing capacity that improve housing affordability by supporting competitive land and development markets, including through fast-track consenting regimes. This capacity should contribute to well-functioning urban environments, as outlined in the NPS-Urban Development. We support adding development capacity over and above those provided for in plans which contributes to well-functioning urban environments, in line with the responsive planning section of the NPS-UD.

Agency	Sector / Topic	Projects
The Treasury	Projects that will require Crown funding	Total projects analysed: All projects (384) Crown as applicant (33) :

1. Of the 384 projects assessed by the Fast-Track Projects Advisory Group (the Advisory Group), only 11 projects are listed in the Treasury Quarterly Investment Report database. Of this number, five of the projects proposed to be listed in Schedule 2 Part A (2A) are in the QIR database, and five of the projects proposed to be listed in Schedule 2 Part B (2B) are included. One project proposed to be not listed by the Advisory Group is in the QIR. The project proposed to not be listed is City Rail Link in Auckland.
2. Of the five projects proposed to be listed in Schedule 2A, four are in the transport sector and one is in the justice sector (the Advisory group list this as Public Service). Of the four transport projects, three have NZTA as the applicant. The one rail project has KiwiRail as the applicant. As noted above, there is an additional project that the Advisory Group is not proposing be listed, and this is City Rail Link where City Rail Link Limited is the applicant.
3. Our assessment of the four NZTA projects is:
 - **Northwest Rapid Transit** – Do not support listing in Schedule 2A, continue through Fast Track Approvals process
 - **Cambridge to Piarere** – Do not support listing in Schedule 2A, support instead listing in Schedule 2B
 - **SH29 Tauriko** – Support listing in Schedule 2A
 - **Marsden Point Rail Link** – Do not support listing in Schedule 2A, continue through Fast Track Approvals process.
4. This assessment is based on the following detailed information on the four transport projects:
 - **Northwest Rapid Transit** – included in GPS 24 as a major public transport project. QIR indicates that \$8bn project (unsure of P confidence rating) will be funded from NLTF but NLTF is financially unsustainable continuing to require Crown top ups. Very real risk FTC would increase the fiscal risk to the Crown. DBC not expected to be approved until March 25 although conflicting info in QIR which states DBC to be completed in 2024. Implementation business case March 2027. We have not seen the business case (and I can't find it online), hard to know how much scope is confirmed and therefore the degree of confidence in FTC. Would not support at this stage based on QIR info.

- **Cambridge to Piarere** – identified in GPS 24 as a RONS. QIR indicates cost of \$1.8bn (unsure of P confidence rating) will be funded from NLTF but NLTF is financially unsustainable continuing to require Crown top-ups. Very real risk FTC would increase the fiscal risk to the Crown. DBC approved by NZTA in 2021 and available online but have not reviewed in detail. Preferred option is an offline route noting all options having indicative BCRS<1 (preferred option having a BCR of 0.63 (when costs were estimated at \$728m so suspect substantively deteriorated with costs now \$1.8bn) and supporting an *“Approximately a 2.2-minute travel time saving for SH1 users”* resulting in 74% of the benefits due to an assumed average speed of 105km/h ...). Doesn't appear to have any analysis of WEBS. Project seems comparatively well progressed given level of scoping detail in DBC from 2021. Not strong investment rationale so do not agree that this is an 'economic enabler' etc. but maybe an argument for FTC if it's being progressed regardless, subject to validation of implementation BC and scope confirmation.
 - **SH29 Tauriko** – identified in GPS 24 as a RONS. QIR indicates cost of \$2.25bn but Economic Case indicates P95 cost of \$2.76bn – possible due to scoping differences haven't reviewed in detail to assess. Will be funded from NLTF but NLTF is financially unsustainable continuing to require Crown top-ups. Very real risk FTC would increase the fiscal risk to the Crown. BCR is 1.2/1.3 or 1.5 including WEBS. Maybe comparatively stronger argument for FTC subject to validation of implementation BC and scope confirmation.
 - **Marsden Point Rail Link** – this is ex. NZUP. It is currently funded \$400m with last estimated cost being >\$1bn. No identified funding source for unfunded portion so costs will almost certainly fall to Crown. Identified in coalition agreement. Detailed design not expected until 2025 at which point Government can make a decision to proceed or not. Detailed design would provide information required re. scope and funding decisions so do not support being in FTC based on QIR at this stage.
5. In regard to a Treasury view regarding if City Rail Link is listed in Schedule 2A or Schedule 2B, this is difficult for the Treasury to form a view on without having the detail on what CRL would be looking for fast track consents for. The project is well advanced, most consents were done at the start of the process, but there may be outstanding consents required to support opening and operation, and that may be what they're applying for. Our initial view is that City Rail Link could go through the fast-track approvals process; however, we would be open to assessing this further if further information is available.
6. In regard to **Papakura District Courthouse (New) Project** – our vote manager is away currently, and we would like the opportunity to comment on this project being listed as a Schedule 2A on Monday, if possible.

Delivering Government Priorities Through the Fast-Track Approvals Pathway

7. This section provides recommendations on factors Treasury think should be considered when reviewing the panels' advice on projects, specifically for projects with Crown-funded components.

Prioritisation and sequencing of these projects will be required to account for funding constraints, and FTC system and market capacity.

8. As it is currently drafted, the Fast-Track Approvals pathway will be open to projects at all stages of development, and while projects must offer "significant regional or national benefits," this term has not been defined, making eligibility criteria permissive.
9. Of the 392 applications MFE received for listing in Schedule 2A or 2B of the Fast-Track Approvals Bill, we are aware of 33 projects (some comprising multiple components) from government agencies and state-owned enterprises. Treasury expect that the costs of these will be in the billions. We also expect funding for further projects to be sought.
10. To manage market and FTA system capacity, and in the context of the fiscal strategy, project prioritisation and sequencing will be required. To complement the criteria developed by the panel, we also recommended assessing projects against their funding requirements, maturity, and construction dates. This annex provides advice on how this can be achieved in the Crown context.

We recommend prioritising projects that have secured full funding, and consider additional funding requirements in the context of your fiscal and economic priorities

11. To support delivery of your infrastructure priorities in the context of the fiscal strategy, we recommend giving FTA priority to projects which have already received full Crown funding, and added weighting to projects which have received partial funding. These projects are often more likely to be in mature stages of development, as discussed below. We recommend considering all projects that require additional Crown funding in the context of future budgets, as well as agency's infrastructure investment plans, and can advise you on individual projects to complement the secretariate's assessment.

We recommend giving added weight to Crown-funded projects at advanced stages of development

12. We recommend giving added weighting to Crown-funded projects that are at advanced stages of development, as reflected by their status in the Treasury's Quarterly Investment Report (QIR). These projects are more likely to have more detailed planning, including cost estimates, design and scope, to support their FTA application. In addition to support project prioritisation, this will also help support

FTA system efficiency, by managing the volume of applications before the expert panel for processing at any one time.

13. While the expectation was that category 2A listed projects would be deliverable in the near-term, and 2B projects would be deliverable over the medium to long term, for two reasons we do not recommend relying on these classifications alone. Firstly, only listed projects will be categorised in this way; there is no equivalent for referred projects.
14. Secondly, there is significant variability in how these categories have been interpreted, and many do not map to QIR data. For instance, one project has been submitted for 2A which is already 'in development,' while a number of others are not yet in, or have been withdrawn, from the QIR. Similarly, some 2A projects have secured funding, while others have yet to signal funding needs.
15. However, we note that some agencies may have mature capital planning underway that is not reflected in the QIR data, given the process is still bedding in. QIR is a useful proxy for maturity when considered alongside other factors such as the total percentage of funding secured, use of existing balance sheet funding and construction timeframe.

We recommend giving added weight to projects with near-term construction start-dates

16. The FTA pathway does not have requirements around actual or projected construction start-dates. Similar to the above, we recommend giving added weight to projects with near-term start-dates. This will support system efficiency and integrity by focusing the expert panel's time on projects which more clearly demonstrate an imperative for expedited processing. Projects with longer-term start dates can either apply for the FTA closer to the time of 'breaking ground,' or they can go through ordinary consenting processes.

Next steps

17. We have added to the 20 August 2024 Infrastructure and Investment Ministers Grouping (IIMG) the item "Using the Fast-Track Consenting model to deliver on Crown infrastructure priorities" and will provide material for this by the 6 August 2024 deadline.
18. In responding to this briefing, you may wish to consider the recommendations above. You may also wish to ask what information could be attained about the maturity and construction start times of projects from the private market.

Agency	Sector / Topic	Projects
Land Information New Zealand	Projects on Crown land	Total projects analysed: All projects (384)

1. The project approvals that can be granted under the Fast-track Approvals Bill (FTAB) (once enacted) do not necessarily include access to land or land acquisition. For projects that are on Crown land, the Crown as the landowner will have to consider access arrangements and comply with its obligations under other legislation (for example under the Land Act 1948 or the Crown Pastoral Land Act 1998) on the use of the land separately from the project approval process under the FTAB. LINZ would need information on the Crown land that has been identified as part of an application before it would be able to identify whether it was land it administered and/or it had granted an access or use consent, and whether the land was subject to a Treaty settlement.
2. Where LINZ is the landowner, the applicant would need to consult with them.
3. Projects that involve applications for private land that can be acquired under the Public Works Act 1981 (PWA), will be considered using the usual PWA process (ie, applicant must try and negotiate an agreement with the owner before a section 23 (PWA) notice is issued to compulsorily acquire the land). Schedule 11 of the FTAB will apply if a landowner objects to the compulsory acquisition of their land.

Agency	Sector / Topic	Projects
NZ Infrastructure Commission Te Waihanga	Infrastructure projects <ul style="list-style-type: none"> • Transport • Marine Infrastructure • Water Infrastructure • Public Service • Public Infrastructure • Energy Infrastructure 	Total projects analysed: All Infrastructure projects (92) Includes: Transport, Marine Infrastructure, Water Infrastructure, Public Service, Public Infrastructure and Energy Infrastructure

1. We are pleased to see 92 general infrastructure projects and 71 renewable electricity projects submitted, and the opportunity to accelerate public infrastructure.
2. We have not tried to second-guess the Advisory Group's process without having their level of information on national/regional significance and project readiness, so have kept our comments at a more general level, and on the small number of points below.

If processing capacity leads to bottlenecks, prioritise nationally significant infrastructure applications with public benefits that are ready to go.

3. Our main interest is to ensure that public infrastructure projects that provide the highest public benefits can be assessed and progressed without delay. We support work on cost recovery and innovative ways to process as many applications as efficiently as possible. However, we think there is still a good chance of capacity constraints and managing an influx of private sector led projects.
4. We agree with the proposal that urgent/important/ready-to-go projects, particularly nationally significant infrastructure, have the ability to be prioritised and go up the queue, and support drafting to make this happen.
5. As an example, the Cook Strait Cable is proposed for list as 2B, which may be appropriate as construction may not be until around 2028/9. However, as a project critical for lifting national resilience, we would want to see it processed as soon it is submitted (which may only be a year away) so consenting time isn't a barrier.
6. We understand the Bill as currently drafted doesn't allow any prioritisation, though Ministers have discretion to refuse referral. Options to address this include:
 - Panels by sector so that infrastructure/energy projects can be managed separately (and prioritised)

- A drafting amendment to allow Ministers to triage or prioritise (referred and/or list 2A projects) to further reduce judicial review risk. Treasury advice already provided also highlights giving *added weight to processing projects with near-term construction start dates, and that have secured funding* as indicators of readiness to be processed
- And/or a shorter 2A list that allows the referral stage to help prioritise processing. A large number and higher percentage of housing (82 applications or 54%) and mining (73%) projects are listed on 2A compared to renewable electricity (39%). A shorter 2A list could help manage the stream of applications by releasing projects in a managed and potentially prioritised way through the referral process⁵.

We agree with MBIE that energy security, storage and other factors deserve high priority and urgency

7. We understand the key basis for prioritising amongst renewable energy projects is on the scale of generation capacity. Storage solutions are expected to be very important over the next few years to manage reliability risks, so some smaller projects could be given high priority e.g. hydro with storage, or solar/battery storage solutions. Similarly, some small regional projects may merit higher priority for their disproportionate regional resilience benefits e.g. smaller scale generation in Northland, the West Coast, the Hawkes' Bay and the East Cape, and proposals to consent existing hydro storage/generation schemes (if fast track will provide material time savings over the Waitaki and Tekapo consents already lodged locally).

Our Infrastructure Pipeline and Infrastructure Needs Analysis can help in later stages

8. Once at the application processing stage, our Infrastructure Pipeline can help triangulate information on start dates, and any issues of market capacity. At a high level currently, this could be a factor in the Hawke's Bay and Tairāwhiti regions. In future, we also see our Infrastructure Needs Assessment helping frame advice on affordability and prioritisation alongside Treasury budget advice.

⁵ This includes the criteria Ministers must consider including 17 (2)(c) regarding the impact referring the project will have on the efficient operation of the Fast-track process, as well as the regional/national benefits.

Agency	Sector / Topic	Projects
Ministry of Māori Crown Relations: Te Arawhiti.	Iwi projects	Total projects analysed: Iwi as applicant (33)

1. We were asked to identify significant information, from a Māori Crown relations perspective, for the listed projects workstream of the Fast Track Approvals Bill, that may not have been considered by other agencies or by the Independent Expert Panel (IEP).
2. This advice excludes analysis of whether or not projects should be listed.
3. We have not had access to the IEP's report or to copies of specific applications. This makes it difficult to determine what has been considered. Precise location information was not provided for many of the projects. This combined with the number of projects recommended for inclusion and the limited time for review means we could not determine with confidence whether there are implications for Treaty settlements, takutai moana rights or whenua Māori owners.
4. The lack of specific location information made it particularly difficult to identify issues for linear infrastructure given these projects can potentially affect large numbers of properties.
5. Therefore, our analysis is based on best available information that includes high-level information in spreadsheets provided by MfE and MBIE. In the time available we were only able to review projects proposed for inclusion in Schedule 2A.
6. We used Treaty settlement records¹ and records of applications under the COVID-19 Fast-Track Consenting Act to undertake our review.
7. Te Haeta, deeds of settlement, settlement legislation, iCAT (our Crown asset audit tool) and our Takutai Moana GIS database ²
8. We also advised MfE that Te Puni Kokiri are best placed to use their expertise to review potential projects impacting whenua Māori (Māori land).
9. On the information available to us it appears the details provided below in relation to specific projects have not been considered by agencies or the IEP to date.

Comments on specific projects

FTA 047 Metlifecare Whenuapai

10. This project is adjacent to marine and coastal area over which there are multiple applications for Customary Marine Title or Protected Customary Rights. This project was declined by the Minister for the Environment under the Covid-19 Recovery

(Fast-track Consenting) Act 2020 (**COVID fast-track**). The Minister for the Environment and the Minister of Conservation considered it more appropriate for the project to go through standard consenting processes under the Resource Management Act 1991 (**RMA**).

FTA051 Wheao Hydro-Electric Power Scheme Re-Consenting

11. The Wheao River is within the catchment of the Rangitaiki River and subject to redress provided in the Ngāti Whare Claims Settlement Act 2012 and the Ngāti Manawa Claims Settlement Act 2012. The redress includes Crown acknowledgements, statutory acknowledgements, deeds of recognition and the Rangitaiki River Management Framework.

FTA69 Hobsonville Village Development

12. This appears to be the same or similar to the Hobsonville Road Retirement Village that was referred to an expert consenting panel under the COVID fast-track and could not proceed under that legislation. MfE in consultation with Te Arawhiti provided advice to the Minister for the Environment in June 2023 under section 17 of the COVID fast-track on relevant Treaty settlements, iwi authorities and treaty settlement entities: Stage-2-Section-17-Report-2023-156-Hobsonville-Retirement-Village-Development.pdf (environment.govt.nz).

FTA72 Stella Passage Development

13. This appears to be similar to a previous application under the COVID fast-track which the Ministers for the Environment and Conservation declined to refer. It is not clear whether this decision or the associated section 17 report have been considered.
14. This project is also before the courts and tangata whenua groups are party to the proceedings. It is not clear whether this has been considered either.

FTA092 Whenuapai Green

15. The Minister for the Environment and the Minister of Conservation declined to refer this project to an expert consenting panel for fast-track consenting under the COVID fast-track. Advice provided by MfE in consultation with Te Arawhiti for the previous application remains relevant on Treaty settlements, iwi authorities and Treaty settlement entities: Stage-2-Section-17-Report-2022-115-Totara-Landing_Redacted.pdf (environment.govt.nz).
16. The decision on this previous application noted concerns about limited engagement with Māori and the potential for wastewater to adversely affect Māori cultural values. 081423 - final draft decision (epa.govt.nz).

FTA119 Northport Container Terminal Expansion

17. This appears to be the same or similar to the recent proposal declined by an independent hearings panel (**IHP**). The IHP considered granting the approval would not be consistent with provisions in Part 2 of the RMA relating to Māori interests. This application is subject to appeal in the Environment Court.

FTA207 Tukituki Water Security Project

18. Statutory acknowledgements over the Tukituki and Waipawa Rivers in the Heretaunga Tamatea Claims Settlement Act 2018 appear to be relevant to this project.

FTA230 Kings Quarry Expansion – Stage 2 and 3

18. This appears to be similar to a previous application under the COVID fast-track which was referred to an Expert Consenting Panel. It is not clear whether the associated s17 report has been considered.

FTA242 Peach Island Quarry

19. This appears to be the same or similar to a previous application under the RMA which was declined. In the initial hearing, Te Ātiawa and Ngāti Rārua opposed the grant of consent. The independent Commissioner, appointed by the Tasman District Council, found the cultural effects of the proposal had not been adequately avoided, remedied or mitigated. An appeal to the Environment Court was lodged on 21 July 2023.

FTA270 Papakura District Courthouse (New) Project

20. This project appears to relate to Papakura Courthouse on Great South Road, which is a Treaty settlement property under the 1995 Waikato Tainui (Raupatu) Deed.

21. A section 17 report prepared for a different project in Papakura provides iwi authorities, Treaty settlement and Treaty settlement entities relevant for projects in this area.

FTA 274 Balmoral Water Storage Facility and Fish Screen (BWSF)

22. A statutory acknowledgement over the Hurunui River in the Ngāi Tahu Claims Settlement Act 1998 appears relevant to this application.

FTA277 Papakura to Pukekohe Route Protection - Four-tracking and Active Mode Corridor (the Project)

23. A previous application under the COVID fast-track for Papakura to Pukekōhe rail electrification contained extensive information on the cultural landscape and Treaty settlements. The application noted the following are located within or within the immediate vicinity of the North Island Main Trunkline: numerous awa, including the Ngākoroa, Hingaia and Whangapouri; Statutory Acknowledgement areas for Ngāti

Tamaoho; Proposed Statutory Acknowledgement Areas for Te Ākitai Waiohua at Pāeratā Scenic Reserve and Camerontown Historic Reserve; a proposed Treaty of

24. Waitangi settlement property to Te Ākitai Waiohua, being Te Ngahere o Pukekohe (Roose's Bush) Scenic Reserve. Fast-track consenting application for Papakura to Pukekōhe rail electrification (epa.govt.nz).

FTA286 Whakamaru Battery Energy Storage System

25. From the information provided we could not identify whether the current assessment of the Treaty impact of the project as 'medium' takes into account the close proximity of the project site to Lake Whakamaru (which is subject to a deed of recognition under the Raukawa settlement).

FTA355 Pit1 Mining Project, FTA370 Central and Southern Block Mining Project and FTA372 Northern Block Mining Project

26. It is unclear from information we have seen whether the current categorisation of the Treaty impact of the project as 'medium' takes into account that the coastal marine area adjoining the Taharoa C Block is subject to a statutory acknowledgement under the Maniapoto Treaty Settlement or that the land is within the area of interest of the Waikato-Tainui remaining claims negotiation.

HUD – additional project analysis

Ref	Project name	Agency comments - HUD
FTA098	Bisset Road	This development is being enabled by investment through the Infrastructure Acceleration Fund. HUD is in the process of considering a funding application for infrastructure costs and vertical build through Whai Kāinga Whai Oranga.
FTA043	Oruku Landing	Northland Development Corporation first proposed a \$136m conference centre to be funded with at least \$57m from the Whangārei District Council, \$60m from the Government and \$6m from the Northland Regional Council. How this will be funded is unclear. After public feedback drew 4000 submissions (over 90% of which opposed it), Whangārei District Council denied the funding in November 2021 – there is no funding provided for this in the current LTP and no evidence that the current Council wishes to revisit this decision. The Government subsequently withdrew its offer of funding of \$59m due to concerns over financial viability. The developers are hoping to secure funding through the Regional Infrastructure Fund.
FTA121	NgaiTakoto Fast Track Projects	HUD has been asked to support this development in the past. The issues raised by HUD that needed to be resolved included Ngai Takoto not having title to the land, flood risk issues (though there is flood remediation works underway in this area) and current zoning of the land. The Far North District Council is currently reviewing its District Plan and the Proposed DP does not include rezoning this land.
FTA067	Carrington Residential Development	Internal infrastructure substantially advanced. Part of the development is underway, so deliverability is high. It is well located (relatively close to city centre). Uses Crown land that would otherwise be underutilised. Council received \$113M Crown funding for Carrington Road upgrade to bring works forward.
FTA160	Sunfield	It is a large-scale development, close to an existing urban area (Papakura). There will be an infrastructure funding and timing gap to be resolved which is likely to be significant for a development of this scale. No funding will have been included in LTP. A portion of the site is planned by Auckland Council as future urban over the long term. The rest of the site is not planned for future urban, rather is highly productive land. The area is very close to Ardmore airport. Unclear why this has been given a high priority.
FTA268	Drury Metropolitan Centre - Consolidated Stage 1 and 2	This is in a Crown partnership Priority Development Area and the future Drury Town centre is a key part of accelerating growth in Drury, which anticipates a future population of 60,000. We recommend this should be priority 1. There has already been significant Crown infrastructure investment in Drury (including schools, road and rail upgrades) to unlock private sector investment and development of this area), and

		Council planning for the infrastructure needed. Private plan change approved in 2022. Consistent with Structure plan.
FTA111	Milldale Stages 4C and 10-13	Site is identified as future urban over the long term in Future Development Strategy. There will be an infrastructure funding and timing gap to be resolved.
FTA260	Warkworth South (Waimanawa)	A private plan has been lodged and is consistent with Warkworth structure plan. Future urban area in council Future Development Strategy.
FTA313	Beachlands South	Not identified as future urban area in council Future Development Strategy. Private plan change was approved earlier in 2024, but has since been appealed. Transport issues need resolving (are assuming increased ferry services which has recently been declined funding by NZTA).
FTA069	Hobsonville Village Development	Note it is in a future urban area in the council Future Development Strategy, with medium term timing for live zoning.
FTA047	Metlifecare Whenuapai	Is in a future urban area in the council Future Development Strategy but council infrastructure is not planned to be in place in the short-medium term.
FTA092	Whenuapai Green	It is in a future urban area in the council Future Development Strategy, but council infrastructure is not planned to be in place in the short-medium term.
FTA363	The Downtown Carpark Redevelopment - Te Pūmanawa o Tāmaki (Pūmanawa)	Unclear why this does not have a higher priority – we understand that it will include residential development. Redevelopment of currently council owned property.
FTA183	CDL - Ruakura 2 (R2) Growth Cell	Priority Development Area for Future Proof, urban enablement area in FDS and part of 'emerging areas' process for business land.
FTA352	Southern Links 1 ('SL1')	Priority Development Area for Future Proof (currently being considered to move from the long list to the short list of focus areas), not listed as an urban enablement area in FDS but likely to be brought forward in light of Roads of National Significance and 30 year housing growth targets. Part of emerging areas process for business land.
FTA338	Te Awa Lakes	Priority Development Area for Future Proof, and urban enablement area in FDS.
FTA173	Maea Fields	Matamata township is an urban enablement area in Future Proof. Matamata is constrained by high quality soils under NPS-HPL, and development opportunities are limited.
FTA090	Wairakei South	Included in FDS as future urban growth area.
FTA195	Tara Road Development	Uses Crown land that would otherwise be underutilised
FTA185	Tauriko West by Tauriko Property Group	Active Priority Development Area which includes Kāinga Ora land programme development (Ferncliffe farms).

FTA134	Mt Welcome, Pukerua Bay, Porirua	Part of the Northern Growth Area (NGA), which is currently being considered by Ministers as a Specified Development Project under the Urban Development Act. A decision on whether to proceed with an SDP is expected in the coming weeks. The project is a priority development area; however, integration with the neighbouring blocks is an important consideration as integrated infrastructure solutions will be needed. Alternative infrastructure funding and financing tools will need to be explored to support the anticipated yield of the NGA.
FTA130	Plimmerton Farm	Planning is well advanced on this site – it's zoned for urban use and meets the density requirements of the NPS-UD and the MDRS. An approved structure plan is in place to guide development. This first stage of the project (587 sections and 19 super lots) has been referred to an expert consenting panel for fast-track consenting under the Covid-19 Recovery (Fast-track Consenting Act 2020). A decision by the Environment Protection Authority is expected soon in August 2024. This project forms part of the Northern Growth Area (NGA), including Mt Welcome above.
FTA089	Silverstream Forest Development	Future Development Strategy prioritises growth in the Hutt Valley in existing urban areas along rail corridor, with capacity enabled through MDRS. Project area is signalled for urban development over the medium to long term.
FTA106	Waikanae North Developments	Peka Peka is not identified as a priority in either the Future Development Strategy for the Wellington region or Te Tupu Pai, Kapiti's own strategy for enabling sustainable growth over the next 30 years. This is because of infrastructure constraints and focusing growth on intensification in existing urban areas.
FTA070	New Central Park	Will increase housing supply and provide a range of housing and accommodation types, including market housing, aged care housing, and mixed tenure housing. Aligned with FDS and growth plan.
FTA163	Otaki Māori Racing Club (OMRC) Development	This development is currently being considered under the Covid RM Fast Track process. Otāki is facing severe housing pressure (relative to the rest of Kāpiti) – in particular rental stress and lack of affordable supply. Otāki is a Priority Development Area under the Wellington Urban Growth Partnership. \$29.3M was provided under the Infrastructure Acceleration Fund to unlock housing development in this area.
FTA066	Waikanae North	The development looks to have already been approved through the Covid-19 Fast Track consenting process on 25 July 2024. https://www.epa.govt.nz/assets/Uploads/Documents/Fast-track-consenting/Waikanae-North/Decision/Waikanae-North-Decision.pdf
FTA356	Maitahi Village	Currently subject to a district plan change.
FTA364	Wakefield Village	Generally, in line with planning policies for the area.

FTA122	Rolleston West Residential Development	It is not clear whether this development has links to Rolleston centre and what infrastructure would be needed here to enable a well-functioning residential environment with access to services. Also, not clear whether the impact of this development on schools and health facilities has been considered given the current capacity issues already existing in the area.
FTA336	Cardrona Village and Lodge Reconsenting	The Joint Spatial plans identifies that smaller towns and settlements will accommodate a limited amount of the Queenstown Lake's future growth through infill development and expansion within those areas already zoned in the District Plan for urban development. The growth enabled by the District Plan means some smaller settlements will change significantly over the next 30 years. Cardrona has the potential to develop as an alpine resort, becoming an important focus for visitor activities.
FTA063	Homestead Bay	Located in Southern Growth Corridor, which is aligned with Joint Spatial Plan, so urban development envisaged. But area is subject to Southern Growth Corridor structure planning process, which is currently underway and involves multiple agencies. There is a need to ensure infrastructure solutions (including social) are integrated and aligned, and that development outcomes for the area are maximised (e.g. density). There are significant infrastructure constraints for the areas, including three waters so funding and financing options need to be worked through. Transport constraints – Kawerau bridge nearing capacity. Timing is important.
FTA345	Gibbston Village	Not aligned with Joint Spatial Plan.
FTA384	Flint's Park Urban Intensification	This project forms part of the Te Pūtahi Ladies Mile development area, which is a Priority Development Area under the Queenstown Lakes Spatial Plan. The Te Pūtahi Masterplan has been developed for the Ladies Mile area (involving multiple agencies) and a zoning change to enable development expected through the SPP. Projects involving Flints Park have been considered by the Covid 19 Fast Track process. Infrastructure constraints need to be worked through (waters and social) - so sequencing needs to be considered.
FTA279	Woolbrae (Paterson Block)	Jacks Point (Southern Growth Corridor) aligned with Joint Spatial Plan, so urban development envisaged. But area is subject to Southern Growth Corridor structure planning process, which is currently underway and involves multiple agencies. There is a need to ensure infrastructure solutions (including social) are integrated and aligned, and that development outcomes for the area are maximised (e.g. density). There are significant infrastructure constraints for the areas, including three waters so funding and financing options need to be worked through. Transport constraints – Kawerau bridge nearing capacity. .

FTA075	Ngā Piringa	On top of the need for affordable houses, the village of Te Hāpua has also had some environmental damage, particularly the last cyclone, so the Muriwhenua Inc is looking to incorporate a managed retreat from the highest risk areas of the village into the new development, which is on an elevated area. To date HUD funding has been provided to carry out site investigations and feasibility studies, with a further HUD funding application under review.
FTA378	Raumanga Heights	Raumanga is a large suburb in Whāngarei with mostly older stock currently. Unknown whether there is existing infrastructure capacity to support this development.
FTA129	Awanui Papakāinga	Awanui has some flood risks though there is remediation work underway. Unlikely to be social housing as none of the three iwi are CHPs; may be intended to be 'affordable'/subsidised rentals'. Land ownership unknown. Awanui is a small community, population estimated to be around 500 people, and 9km from Kaitaia so not close to amenities/jobs.
FTA018	Edgewater Estate	This is a large development proportionate to the size/population of the area.
FTA253	MIT North	Current site zoning is barrier to deliverability, fast track approval provides a pathway to unlock delivery.
FTA254	MIT South	Current site zoning is barrier to deliverability, fast track approval provides a pathway to unlock delivery.
FTA118	Ruakura Tuumata Residential and Commercial	Ruakura is a priority development area for the FutureProof partnership, and an urban enablement area through the FDS.
FTA248	Rotokauri North	Rorokauri is a priority development area for the FutureProof partnership, and an urban enablement area through the FDS.
FTA337	Te Tumu Urban Growth Area	Included as a SmartGrowth PDA and in the FDS as a future urban growth area.
FTA206	Milbrow Estate	Was not part of the FDS process as it is classed as rural residential – not part of the urban area.
FTA178	Heretaunga Connection Project	Hastings District Council received IAF funding to upgrade wastewater connections between Hastings and Flaxmere to enable housing, including on a large Flaxmere site adjacent to the Expressway owned by Tamatea Pokai Whenua (Heretaunga Tamatea Settlement Trust). No information provided on the location of this proposal so unclear how it relates to existing and planned infrastructure investment or to Future Development Strategy.
FTA115	Riverbend Road Residential Development – “Te Orokohanga Hōu”	The Riverbend Road area is prone to flooding. However, parts of the site where flooding can be mitigated are proposed growth in the draft Napier-Hastings Future Development Strategy. The location of this proposal in relation to the areas that have been identified as appropriate for growth has not been assessed.
FTA152	125-131 Remuera Road Development	Unclear why this is not recommended for inclusion in schedule 2. It is a development close to an existing urban centre (Newmarket).

MBIE – Resources - additional project analysis

Annex Three: Ministry for the Environment - Treaty Impact Analysis

Agency	Sector / Topic	Projects
Ministry for the Environment	Impact on Treaty settlements and other relevant statutory arrangements	<p>Total projects analysed: 199 (2A projects)</p> <p>Risks:</p> <p>High risk to relationships with groups if listing in Schedule 2A is seen to reduce or remove PSGE/iwi influence, or undermine redress arrangements, compared to standard processes</p> <p>Timeframes have meant that projects have not been fully assessed for impacts on Treaty settlements and other relevant arrangements</p> <p>Consultation with groups has not been sufficient to ensure their positions on projects and the impacts on their interests have been accurately reflected</p>

Analysis

1. The following advice provides high-level Treaty of Waitangi analysis of each project application. MfE officials have undertaken a limited assessment that identifies the potential impacts of listing a project on Treaty settlement and other relevant statutory arrangements. In particular, how the impact of listing may create inconsistencies with processes agreed through settlements. This is supported by limited engagement with Post-Settlement Governance Entities (PSGE) on some projects.
2. A decision to list certain projects in the Bill may be seen as undermining some settlement mechanisms as it will change the process (in some cases significantly) under which that project is considered, from what would previously have applied under what was agreed in the settlement. This risks undermining PSGE confidence in the commitment to uphold settlements and holds broader relationship risk.
3. Ministers agreed to receive from officials on Treaty of Waitangi analysis of projects recommended for inclusion on the list, to satisfy the Crown's obligations [BRF-4939 refers]. Ministers also agreed that officials' Treaty settlement and customary rights analysis may require specific consultation with Post Settlement Governance Entities and/or customary rights holders. This advice is consistent with what was provided to the Advisory Panel,

Assessment methodology (including the types of Treaty settlement redress and other arrangements potentially impacted by listing a project)

4. Below is an overarching summary of key factors identified in this analysis.

Waikato River arrangements

5. These projects are considered automatically high impact. If a project within the catchment area of the Waikato River is listed, it may affect the operation of the Waikato River arrangements. The Waikato River arrangements are detailed and have a significant influence over statutory processes including powerful and complex interactions with the RMA, conservation and heritage legislation. Any change to the statutory processes for these authorisations as a result of listing a project in the Bill could have a significant impact on the operation and integrity of the arrangements.

Statutory acknowledgments

6. Statutory acknowledgements are the most common resource management-related redress. Generally, they are a statutory acknowledgement by the Crown of a 'statement of association' between the iwi and an identified area (including rivers, lakes, mountains, wetlands and coastal areas). They give iwi a range of rights relating to standard consenting processes under the RMA. Listing a project in the Bill will not provide equivalent weight to the statutory acknowledgement, which may limit the influence of the iwi compared to the usual consenting regime.

Other Treaty settlement redress arrangements (or other non-settlement arrangements)

Joint Treaty settlement entities

7. Joint Treaty settlement entities (such as the Rangitaiki River Forum) are usually established by settlement legislation as joint committees of councils consisting of equal numbers of iwi and council appointed members. Joint Treaty settlement entities generally have jurisdiction over a particular area or natural resource (e.g., a river or lake catchment). The fast-track process generally (not necessarily just the listing of a project) will not provide equivalent impact for this type of redress. One key purpose of the redress was to provide opportunities for the joint entity to influence whether and how resource consents may be granted. That was primarily through the impact of the statutory plan (prepared and approved by the joint Treaty settlement entity) on the RMA planning documents (e.g., the regional policy statement, regional plan or district plan) which set the framework for whether resource consents can be granted (and what conditions may need to be imposed). If the fast-track legislation means that those RMA planning documents have lesser weight, that could impact on the integrity of the redress.

Hawkes Bay Regional Planning Committee

8. If a project within the area under the committee's remit is progressed through the fast-track process, there is a risk that regional policy statements and plans will have a lesser effect than they would under the RMA, and hence the impact of this arrangement will be diminished.

Mana whakahono ā rohe

9. Listing a project may impact the application of Mana Whakahono ā Rohe, which provide for substantive input from iwi/hapū into processes related to the project that would occur through the standard consenting regime.

Other settlement natural resource redress

10. Listing a project may affect other redress arrangements contained within settlement Deeds and Acts.

Marine and Coastal Area (Takutai Moana) Act 2011

11. Projects in, or directly affecting, the Marine and Coastal Area, may have implications for applications by iwi, hapū and whānau groups (takutai moana applicant groups) who have applied to have their customary interests recognised under the Act. Under the Act, takutai moana applicant groups have certain rights in relation to consenting processes under the Resource Management Act 1991, including the right to be consulted on resource consent applications in their takutai moana application area.

12. Although the Fast-track Approvals Bill currently provides for consultation with takutai moana applicant groups on Schedule 2B projects at the Ministerial referral stage and the clause 13 report must include information about the relevant takutai moana applicant groups in the project area, for schedule 2A projects these steps would not apply. Additionally, does not provide for consultation with takutai moana applicant groups at the expert panel stage. This means that an impact of listing a project under Schedule 2A is that takutai moana applicants would not have the ability to input into the process at all, and for Schedule 2B listing the only opportunity for any input is at the Ministerial referral stage.

Other factors considered in officials' assessments

- *Project is proposed for schedule 2A:* An impact of listing a project under Schedule 2 Part A is that the Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of the clause 13 report.
- *Project is in Auckland region:* due to the complexity, and the inability to engage with Māori groups to better understand how a project may or may not interact with them, if a project would otherwise be assessed as low impact, but it is in this region, projects are automatically assessed as medium or higher impact.
- Impact on groups yet-to-settle their historical Treaty of Waitangi claims.
- *High level of interest / opposition:* if the project is high profile or there has been opposition or concerns in relation to the project from Māori groups.
- *Lack of consultation:* where the applicant or officials have identified that little or no consultation has occurred.

Feedback from PSGEs on MfE sharing information about 'high impact' projects

13. Feedback from Post-Settlement Governance entities on the sharing of 'high impact' projects recommended for listing on schedule 2A has been overwhelmingly critical, both of the projects slated for inclusion themselves, and the manner in which the project details were shared with them. In summary:

- a. groups objected to the short timeframes to provide advice on projects
- b. groups objected to the lack of detail on projects provided to them, which led to them being unable to give a detailed response on specific projects' inclusion on the list
- c. groups objected to not being given the full list of projects (both 2A and 2B) within their area of interest
- d. groups expressed that the approach taken with regards to this engagement was not consistent with the Crown's Treaty obligations or in keeping with the relationship.
- e. principles the Crown has committed to with groups who have settled their historical Treaty of Waitangi claims.

14. s 9(2)(g)(i)

[REDACTED]

s [REDACTED]
 9([REDACTED]
 2)
 (g [REDACTED]
) [REDACTED]
 (i)
 [REDACTED]
 [REDACTED]

15. Relevant feedback from PSGEs in response to the consultation exercise are detailed in a table at the end of this report.

Limitations of this assessment

16. In the time available, it has not been possible for officials to undertake a detailed review of all Treaty settlement and related matters, or to engage fully with all relevant PSGEs, iwi or Māori groups in relation to the potential impacts of the projects recommended by the Advisory Group for inclusion in the Bill.

s 9(2)(g)(i) [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]

19. Officials note that the consultation process outlined in the final Bill after projects are listed will be a key avenue for groups with interests to provide comment on individual projects.

20. Due to time restrictions, officials have prioritised schedule 2A projects for the additional analysis outlined in paragraph 12, as by default 2A projects have a potentially higher impact on Treaty settlements and other arrangements (because for these projects Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of a clause 13 report for each project).

21. The advice provided below focusses on projects recommended to be listed in schedule 2A of the Bill that officials have assessed as high and extremely high impact. Projects assessed as medium impact generally have at least one of the factors outlined in paragraphs 19–24 of this report present (e.g. impact on a statutory acknowledgment or settlement/other statutory redress arrangement) and may include several of these factors. Officials note that there still may be significant risks to listing these projects (both in terms of impacting relationships and affecting the integrity of settlements and other arrangements), and full analysis of projects assessed as medium impact is available to Ministers if requested.

22. In general, projects that are rated as low and low-medium impact have been assessed as such due the nature of the Treaty settlement redress; evidence of consultation with affected groups; support of the project from Māori groups; or where a project is iwi-led or being progressed in partnership with a Māori group. However, officials cannot rule out

there being Treaty impacts or impacts on the interests of affected groups for some of these projects without consultation with the relevant group/s.


119 High-level Treaty of Waitangi analysis of risks and issues in relation to projects proposed for schedule 2A

- Note that this is an overview and based on the limitations of this assessment (refer to paragraphs 10–22 of this report for limitations and methodology) there may be impacts officials have not identified.
- There were **32** projects assessed as low, **3** assessed as low-medium, **122** assessed as medium, **8** assessed as medium-high.
- Below is a table of officials' impact assessments for those assessed as high (**31**) and extremely high risk (**3**).
- Projects assessed as medium impact generally have at least one of the factors outlined in paragraphs 19–25 of this report present (e.g. impact on a statutory acknowledgment or settlement/other statutory redress arrangement) and may include several of these factors. Officials note that there still may be significant risks to listing these projects (both in terms of impacting relationships and affecting the integrity of settlements and other arrangements), and full analysis of projects assessed as medium impact is available to you if requested.
- In the impact assessments for extremely high-risk projects, quotes have been added from recent correspondence with PSGEs regarding those projects. Officials note many of the groups stated their responses cannot and should not be taken to satisfy Ministry for the Environment consultation or engagement on this process. More information on the engagement exercise is detailed at paragraph 11 of this report.

Table 1: Extremely high-risk projects

There are three projects recommended by the Advisory Group for inclusion in schedule 2A for which we have assessed the risks of listing as very high. These projects are strongly opposed by iwi and have had significant impacts identified by both officials and the affected groups. Listing these projects despite these impacts and opposition will likely damage the Crown's relationships with the affected Māori groups. The projects are listed below.

s 9(2)(g)(i)



PSGE correspondence on 'extremely high' and 'high impact' schedule 2A projects

- Note that the below are excerpts from Post Settlement Governance Entity (PSGE) responses only. We can provide you with the full correspondence at your request.
- Note that emphasis, underlining and footnotes in original correspondence have been removed.
- Refer to paragraph 11 of this report for detail on the engagement exercise.
- Note many of the groups stated their responses cannot and should not be taken to satisfy Ministry for the Environment consultation or engagement on this process.

s 9(2)(g)(i)

