



BRIEFING

Approach to legislation for liquefied natural gas

Date:	19 February 2026	Priority:	Medium
Security classification:	In Confidence	Tracking number:	BRIEFING-REQ-0027955

Action sought		
	Action sought	Deadline
Hon Simon Watts Minister for Energy	Forward to the LNG Ministerial Reference Group Discuss with the Leader of the House and indicate your preferred approach to legislation to enable LNG	25 February 2026

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Justine Cannon	Group Manager			
John Scott	Policy Director	Privacy of natural persons		✓

The following departments/agencies have been consulted
PCO, MfE

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments



BRIEFING

Approach to legislation for liquefied natural gas

Date:	19 February 2026	Priority:	Medium
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Purpose

This briefing sets out different approaches for progressing the legislative package to enable a liquefied natural gas (LNG) facility to be put in place and provides a summary of the initial analysis of the feasibility assessments received from Respondents in the LNG procurement process.

Executive summary

The legislative package (primary legislation and subsequent processes) for LNG must grant and set conditions for the necessary consents and permissions for the LNG facility, modify existing legislation as necessary and establish powers to enable the levy to fund the facility.

The approach to legislation will reflect your preference in terms of timeframe for passing the legislation through the Parliament, risks associated with judicial review of post primary-legislative processes, and risks of not including amendments to existing legislation that ideally would be included.

Officials' recommendation is to take a longer period relative to a shorter one, as this (1) reduces the risk of significant error in the legislation, and (2) reduces post-legislative risk. This implies legislation that both includes a post-legislative process, and as much detail as possible on consents, permissions and relevant conditions on the face of the Bill / Act. This paper sets out two broad options for legislative design. Both of these options entail risk as either way it is a relatively short period for the development of complex legislation, albeit taking longer to prepare the Bill somewhat contains the risks.

Commercial Information

Advice on the procurement process going forward will be provided next week. This will include recommendations on how many, and which, proposals to take to the next phase of the process. Officials are likely to recommend as much time as practicable for the final stages of the technical analysis in order to allow Respondents a better chance to optimise their proposal. This will fit within the aim of signing a contract with the successful Respondent by mid-2026. Commercial

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

a **Forward** this briefing to LNG Ministerial Reference Group

Forwarded

b **Discuss** the contents of this briefing with the Leader of the House

Discussed

c **Indicate** your preference for:

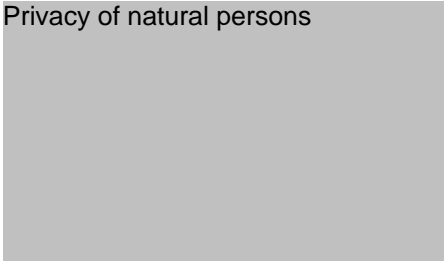
- **Option A:** Legislating early with a process-based approach

OR

- **Option B (recommended):** Legislating later with the primary legislation granting as many consents and permissions, with conditions attached, as possible.

Option A / Option B

Privacy of natural persons



Justine Cannon
General Manager
BRM, MBIE

.19 / .02. / .2026.

Hon Simon Watts
Minister for Energy

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Hon Shane Jones
Minister for Resources

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Background

1. The next month is critical in the LNG project for the procurement exercise, and in terms of commencing work on the detail of the legislation. This briefing identifies options for the enabling legislative package and recommends that you discuss these either with the Ministerial Group or, at the minimum, the Leader of the House.

Approach to a legislative package to facilitate an LNG Terminal facility

2. Cabinet agreed to develop the Enabling Liquefied Natural Gas Bill and authorised you to make policy decisions to give effect to that decision and issue drafting instructions.
3. The legislative package will need to cover three broad areas:
 - a. granting and setting conditions for **consents and permissions** across a range of regulatory regimes
 - b. **modifications to various legislation**, for example to: clarify statutory responsibilities; set or modify statutory timeframes for decisions; and/or accommodate LNG as a new material in New Zealand
 - c. Confidential information
4. Primary legislation will also need to establish processes for making secondary legislative instruments such as Orders in Council and regulations (to establish and distribute levy money for example).
5. Of the three broad areas the legislation will need to cover, agreeing an approach to granting 'consents and permissions' is the most pressing in terms of enabling the project to move rapidly to construction. This briefing includes recommendations for an approach to this aspect of the legislation.
6. Modifications to various legislation can be complex and may have funding and operational implications for regulatory agencies. The legislative modifications that will be needed depend on the final project design. There are some intricacies associated with establishing the levy making powers, but these are more tractable.

The overall approach to empowering legislation

7. There is a key tradeoff between how quickly the legislation is passed and how much detail we will have on what is needed to enable the project, as well as how much legal certainty the empowering legislation provides. Detailed project design is still to be developed¹, and the implications of various design choices need to be evaluated². This process will continue at least until a contract is signed in June / July (and will likely continue to some extent thereafter).
8. We see two broad options:
 - a. **Option A:** Legislating early Confidential advice Establish a statutory process for decision-making on consents/permissions and conditions. All decisions delegated.

¹ Confidential advice to Government

² For example, environmental impacts, cultural impacts, hazard management implications, jurisdictional implications

³ Confidential advice to Government

- b. **Option B:** Legislating later **Confidential advice to** Primary legislation grants as many consents/permissions as possible (and sets the associated conditions). The legislation would include some processes delegated by Parliament.

9. Pros and cons (noting that both options come with risk) of the two options in terms of the certainty the legislation provides, the completeness of the legislation, and the likelihood that the legislation will allow the project to proceed to construction, are set out below.

Table one: High-level options for package of enabling legislation

	Certainty of consents and permissions	Certainty of modifications to other legislation	Enabling project to proceed to construction
Option A: Legislate early – establish statutory process for granting consents / permissions	+ Legislation could seek to reduce discretion to not grant consents / permissions but this is hard to operationalise. Delegated decisions subject to potential legal challenge	- Risk that final project design will not be fully reflected in the legislation	- Contractual obligations ⁴ to allow construction to start may not be met for a period depending on process for grant of consents and the impact of possible court proceedings (e.g. interim relief could be sought preventing construction proceeding)
Option B: Legislate later – grant consents / permissions and conditions via primary legislation	++ As many consents / permissions and conditions as possible granted / set out in primary legislation	++ More time to work through modifications needed. Greater chance that final project design is fully reflected in the legislation	+ All / most consents / permissions granted when legislation passed. Better chances of allowing project to move quickly to construction by meeting contractual obligations and avoiding delay as a result of challenge.

10. MBIE's recommendation is Option B. Progressing with Option A runs the risk of missing needed modifications to existing legislation, and comes with increased risk of judicial review of secondary legislation and other delegated decision-making. Option A is also more likely to attract criticism on a constitutional basis due to the high levels of delegated authority that will be required. **Confidential advice to Government**
11. If Ministers agree with Option B, it is very possible that not all details of the project will be known in time **Confidential advice to Government** That means that Option B will still need to include some process elements to accommodate changes to the project as it evolves.
12. In preparing this advice, MBIE has considered various approaches to legislation. The following is drawn from the Fast-Track legislation (for Option A), and the National War Memorial Park (Pukeahu) Empowering Act 2012 or NWMPEA⁵, (for Option B).


⁴ We expect contractual terms will make the delivery of the project within the agreed timeframes contingent on the necessary permissions and consents being secured

⁵ The NWMPEA is used as a template for the enabling legislation since it:

13. If you choose **Option A**: establish a bespoke process. This would be similar to Fast-Track legislation - in which an independent panel is convened to make decisions on granting consents/permissions and setting conditions. Alternatively, legislation could empower Ministers to make the necessary decisions – similar to various emergency response legislation such as CERA and Kaikoura response legislation.
14. If you choose **Option B**: grant consents/permissions and set associated conditions by legislation, while also establishing mechanisms to:
 - give local effect to conditions set in legislation
 - add and/or make adjustments to consents/permissions and conditions.

Confidential advice to Government



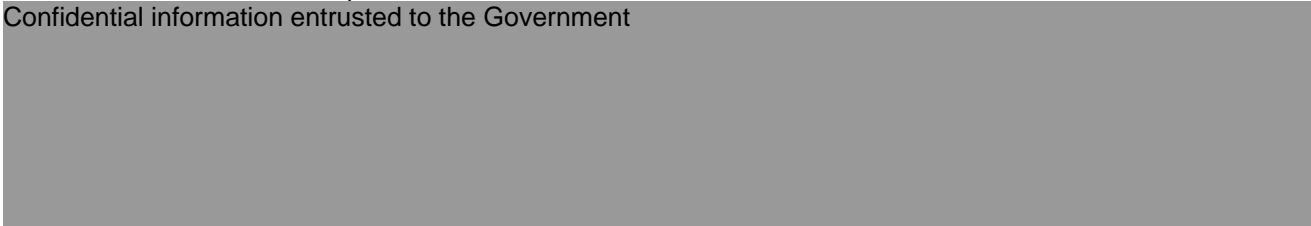
16. Key excerpts of the NWMPEA are set out in Annex One. Confidential advice to Government
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Evaluation of proposals from an environmental and hazard perspective

17. We are engaging international and local experts to evaluate proposals from an environmental and hazards perspective. Some assessment of cultural implications will also be undertaken.
18. This is for three reasons. First, we wish to inform Ministers if there are likely to be any unacceptable environmental or hazard impacts as early as possible. At this stage we are not anticipating any; these facilities are common around the world, including in many jurisdictions similar to New Zealand. Second, there is significant public interest in the LNG facility, and it is important to understand what the implications of a facility might be.
19. Thirdly, this work will help identify the types of consents/permissions and conditions that the project will need and that could be provided for in legislation.

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- is well suited to enabling a specific project, being used successfully to deliver the National War Memorial in a compressed timeframe

Confidential information entrusted to the Government



Next steps on legislation

20. Further advice will be provided once you have provided a preference between progressing Option A or Option B. Confidential advice to Government [redacted]
21. Decisions will need to be taken on the scope of consents/permissions covered by the Enabling Legislation. This will be covered in subsequent briefings but our advice is that no consent / permission granted under either Option should change the balance of decision-making for matters related to maritime safety, health and safety, hazard management or emergency response.⁷

Procurement update

22. The assessment of the feasibility assessments provided by the six Respondents is well underway. Confidential advice to Government [redacted]

23. Confidential advice to Government [redacted]

⁷ Confidential advice to Government [redacted]

Annex 1: Extracts from the National War Memorial Park (Pukeahu) Empowering Act 2012

Purpose

(1) The purpose of this Act is to—

- (a) empower the creation of the National War Memorial Park (Pukeahu) on the Park land that includes the National War Memorial, in the area of the City of Wellington known to Māori as Puke-ahu; and
- (b) ensure its completion by April 2015, the centenary of the commencement of the Gallipoli Campaign of the First World War; and
- (c) ensure the integration of the Park and roading networks with the wider City of Wellington.

(2) In order to achieve the purpose of this Act, the Act—

- (a) grants the statutory authorisations to the New Zealand Transport Agency and the chief executive of the Ministry for Culture and Heritage that are reasonably necessary or desirable for—
 - (i) the completion of the design and construction of the Park, and to enable its maintenance and operation, and the reconstruction or alteration of the roading network; and
 - (ii) avoiding, remedying, or mitigating any actual or potential adverse effects of the exercise of statutory authorisations on the environment; and
- (b) sets the conditions that will apply to the statutory authorisations; and
- (c) facilitates the amendment of statutory authorisations granted by or under this Act, or their conditions, and the provision of any new statutory authorisations and conditions that may be reasonably necessary or desirable for—
 - (i) the completion of the design and construction of the Park, and to enable its maintenance and operation and the reconstruction or alteration of the roading network; and
 - (ii) avoiding, remedying, or mitigating any actual or potential adverse effects of the exercise of statutory authorisations on the environment; and
- (d) establishes a community forum and review panel; and
- (e) provides a process for the independent certification of plans and documents required by conditions of statutory authorisations granted by or under this Act.