

# Fast-track Approvals Act 2024

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## MINUTE #11 OF THE EXPERT PANEL

Sensitive information order request for information associated with long term concession fee calculations  
Waitaha Hydro [FTAA-2505-1069]

2 March 2026

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[1] The purpose of this Minute is to address the Applicant's request regarding non-publication of certain information associated with the long-term concession fee calculations.

### Background

[2] On 23 February 2026, the Applicant filed a memorandum which:

- a) noted that negotiations with DOC regarding the long-term concession fee had been unsuccessful;
- b) requested that the Panel determine the appropriate long term concession fee percentage as part of our substantive decision;
- c) provided a copy of the valuation report, its valuer's summary of the valuation process, and a statement from Mr Griffiths regarding the level the company considered appropriate;
- d) requested that the Panel make an order pursuant to s 58(4) of the FTAA that certain information within the filed documents (long term concession fee percentage, proposed compensation amounts, valuer's signature, proposed generation and revenue estimates, and royalty percentages for other schemes), not be publicly disclosed on the grounds of commercial sensitivity and confidentiality.

[3] On 27 February 2026, the Applicant filed a further memorandum clarifying that the power in s.58(4) related to information obtained during the course of a hearing, but that the EPA had powers to withhold information generally, in draft conditions, and in the final decision (under ss 93(3), 70(2)(c) and 88(4) of the FTAA respectively).

[4] On 27 February 2026, we also requested a copy of the DOC valuation report and confirmation of whether it considered any parts of that report needed to be withheld.

**Discussion and determination**

[5] Section 58 of the FTAA relates to the conduct of a hearing. Subsection (4) of that section provides the Panel with a power to make an order that prohibits or restricts the publication or other means of communication of information supplied to the panel or obtained by it in the course of a hearing. As the Applicant acknowledged, it does not appear to apply to information received outside of a hearing process, which is the situation here.

[6] While the Panel notes that Schedule 3, cl 11 of the FTAA provides the Panel with a broader power to protect sensitive information received during “proceedings”, that power only applies to RMA approvals. Here the issue arises with the concession approvals.

[7] While we note that in considering concessions we are required to take into account any relevant information which may be withheld from any person in accordance with the Official Information Act 1982 (**OIA**), this does not appear to provide the Panel with the power to make determinations on whether such information should be withheld.

[8] However, as the Applicant has noted, the EPA has the power to withhold information under (ss 93(3), 70(2)(c) and 88(4)) of the FTAA where there would be good reason to withhold the information if it were requested under the OIA. We therefore consider that assessing whether good reason exists to withhold the information is a matter for the EPA to address, and accordingly, we have referred this matter to the EPA.



Vicki Morrison-Shaw

**Waitaha Hydro Expert Panel Chair**