



13 February 2025

Ref: DOIA-REQ-0006620-Jodie Bruning

Jodie Bruning

Email: [fyi-request-29246-de7c5c7b@requests.fyi.org.nz](mailto:fyi-request-29246-de7c5c7b@requests.fyi.org.nz)

Tēnā koe Jodie

Thank you for your email of 19 November 2024 to the Ministry of Business, Innovation and Employment (MBIE) requesting, under the Official Information Act 1982 (the Act), the following information:

*OIA REQUEST*

*[1] Please supply the terms of reference sent to the technical focus group.*

*[2] Please supply all scientific information, including that which is listed in policy papers, including references and appendices, sent to the technical focus group. This necessarily includes advice regarding the FSANZ proposals to change the definition of a GMO and remove process-based risk assessment.*

*[3] This question concerns the extent to which the technical focus group can consider uncertainty and future risks, and the extent to which MBIE have provided them with existing policy documents.*

*a. Please supply all meetings/memos/email discussions with the technical focus group with regards to how scientific uncertainty will be managed and how future risk from the scaling up of releases into the is scientifically, culturally and politically justifiable.  
Please include all meetings/memos/email discussions with the technical focus group referencing precaution and/or the precautionary principle; and the findings of the Royal Commission and work by the Parliamentary Commissioner for the Environment.*

*b. The technical focus group will presumably be interested in there being sufficient regulatory powers to surveil and assess the changing risk environment, so as to protect health, the economy and the environment. Please supply all discussions with the technical focus group concerning proposed powers for the regulator.*

*This may include the potential powers to monitor the published scientific literature and surveil the global environment (for newly identified risks from off-target and unanticipated impacts from GMO development and release, regulatory changes, court decisions), and monitor and assess releases into the environment for the long term.*

*[4] Please supply 'up to date gene regulation' information on how regulations in the top performing OECD nations and the latest decisions by the European Parliament compare against Australia and the proposed hybrid regulations, that have been sent to the technical expert group for assessment. Please find attached the documentation relevant to your request.*



MBIE responded to your first and fourth request in our letter to you on 17 December 2024. Our response to your remaining requests are as follows:

## **[2] Scientific information**

We clarified with you that this was a request for academic literature or expert reports provided by MBIE to TAG members. After searching our records, MBIE has not provided the Technical Advisory Group (TAG) with any such information. TAG members were expected to have prior knowledge of the relevant scientific information as they were chosen due to their significant expertise with gene technologies and related issues.

I note that FSANZ considers food standards independently from the gene technology provisions in the existing HSNO Act, and this will not change as a result of the Gene Technology Bill. MBIE therefore did not seek advice from the TAG regarding FSANZ's work on genetically modified foods.

I am therefore declining this part of your request under section 18(e) of the Act as the information requested does not exist.

## **[3a] Scientific uncertainty and the precautionary principle**

MBIE discussed the precautionary principle with the TAG at its June 2024 meeting. I have attached relevant extracts from that meeting's papers and one email from a TAG member providing additional feedback. Some information has been withheld under the following section of the Act:

- 9(2)(a), to protect the privacy of natural persons;
- 9(2)(ba)(i), to protect information which is subject to an obligation of confidence where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied.

MBIE subsequently sought the TAG's advice on risk management approaches to develop the secondary legislation required by the Bill, including how uncertainty would be considered in decision making. These regulations include how the Regulator would determine the risk level of an activity. I have withheld this information under the following section of the Act as ministers are yet to make decisions on the content of secondary legislation:

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

You may be interested in the scope of the Bill's regulations, which can be found in subpart 5 (beginning at clause 155):

[https://www.legislation.govt.nz/bill/government/2024/0110/latest/LMS1010100.html?search=sw\\_096be8ed81ede29c\\_regulations\\_25\\_se&p=3](https://www.legislation.govt.nz/bill/government/2024/0110/latest/LMS1010100.html?search=sw_096be8ed81ede29c_regulations_25_se&p=3)

I do not consider that the withholding of the above information is outweighed by public interest considerations in making the information available.

## **[3b] Surveillance and powers of the Regulator**

I understand this part of your request covers discussions with the TAG on any powers of the Regulator to surveil and assess risks, including information from third parties and internationally. The policy intention was to enable the Regulator to require any surveillance it considers necessary to manage risks appropriately, and therefore MBIE did not need to seek advice from the TAG on these powers. Some of the relevant clauses in the Bill include:

- Clause 15(j) enables the Regulator to impose supervision and monitoring conditions on authorised activities.
- Clause 110(f) requires the Regulator to monitor international practice regarding the regulation of gene technologies.
- Clause 110(d) requires the Regulator to contribute to and cooperate with relevant international forums.
- Clause 110(e) requires the Regulator to facilitate New Zealand's compliance with its international obligations under the Convention on Biological Diversity and the Cartagena Protocol

I am therefore declining this part of your request under section 18(e) of the Act as the information requested does not exist.

If you wish to discuss any aspect of your request or this response, or if you require any further assistance, please contact [OIA@mbie.govt.nz](mailto:OIA@mbie.govt.nz).

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'de Jong', enclosed within a hand-drawn oval shape.

Tony de Jong  
**Manager, Biotechnology Policy & Regulation**  
Technology & Innovation