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Via email: Environment Committee website

SUBMISSION TO THE ENVIRONMENT SELECT COMMITTEE ON THE FAST-TRACK APPROVALS BILL

Thank you for the opportunity to present this submission on the Fast-track Approvals Bill (**the Bill**).

The Queenstown Lakes District Council (**QLDC or Council**) and other local authorities have significant institutional knowledge and expertise that can positively contribute to the development of the Bill.

Overall, QLDC is concerned that the Bill does not provide the necessary checks and balances needed to ensure high quality social, economic, cultural and environmental outcomes. QLDC considers that the Bill as it stands requires amendments to ensure a more nuanced assessment process, and a more balanced approach of the consideration of benefits and costs/effects of projects. With this in mind, QLDC's submission builds on the following key messages:

- A more substantive role for local authorities is required, particularly in regard to any housing and infrastructure projects over which local authorities should retain more material influence.
- Additional checks and balances are critical to avoid potentially dangerous, wide ranging and significant unintended consequences of any prohibited activity accepted into the process.
- The Bill provides applicants and decision-makers with a powerful, wide-ranging, yet complex, fast-track pathway which requires a commensurately robust and transparent decision-making process.
- The Bill's purpose should more accurately reflect the range of considerations for decision-makers, including the careful balance required when considering the benefits and the costs/effects of projects.
- The eligibility criteria for projects, including their capacity (or not) to generate 'significant regional or national benefits' is a key gateway test that must reflect the significance of effects (positive and negative) that could be experienced.
- Explicit and robust information requirements are necessary to ensure only the highest quality applications are received. The Bill should focus on providing a 'fast track' not an 'easy track'.
- The Bill should have a sunset clause which aligns with central government's Resource Management Act 1991 (**RMA**) reform program.

QLDC would like to be heard at any hearings that result from this consultation process.

It should be noted that due to the timeline of the process, this submission will be ratified by full council retrospectively at the next council meeting.

Thank you again for the opportunity to comment.

Yours sincerely,

Glyn Lewers
Mayor

Mike Theelen
Chief Executive

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1.0 The Queenstown Lakes District context

1.1 The Queenstown Lakes District (**QLD/the district**) has an average daily population of 71,920 (visitors and residents) and a peak daily population of 114,790[1]. The district is experiencing unprecedented growth with its population projected to nearly double over the next 30 years.

1.2 The district is one of Aotearoa New Zealand's premier visitor destinations, drawing people from all over the world to enjoy spectacular wilderness experiences, world renowned environments and alpine adventure opportunities.

1.3 QLDC faces significant pressure in its efforts to accommodate population and visitor growth, particularly given its unique alpine landscape. The majority of land within the district is classified as an Outstanding Natural Feature (**ONF**) or Outstanding Natural Landscape (**ONL**), or has a range of other development constraints such as geographic barriers or natural hazard risks. This creates a challenging context within which to balance the tension between fast paced urban growth and maintaining the environmental qualities which contribute substantially to the district's wellbeing.

1.4 Cumulatively, these unique conditions generate significant housing affordability and availability challenges. This situation has the potential to adversely affect the social and economic wellbeing of the QLD community. These effects are felt directly (i.e. cost of living challenges for households) and indirectly (i.e. businesses unable to secure long term staff to support their activities).

1.5 Data on income, house and rental values for the district[2] illustrate that housing costs are not proportionate to the current income or income growth for the community. This situation, together with Aotearoa New Zealand's approach to the use of housing as the preferred investment option[3], has led to an increasing disparity in wealth and housing.

1.6 To assist in addressing this tension, QLDC has been working collaboratively with the community, Kāi Tahu (as mana whenua of this Rohe), Otago Regional Council and central government partners. This relationship has resulted in the Whaiora Grow Well Partnership and a first-generation Spatial Plan for the district. The Spatial Plan[4] directs growth in a way that will make positive changes to the environment, enable housing development, improve access to jobs, and promote the wellbeing of the community.

1.7 QLDC has been reviewing its operative district plan in stages since 2015. The Proposed District Plan (**PDP**) represents a considerable step forward in managing the district's complex land use management challenges and aligns well to the RMA's existing suite of national direction instruments. QLDC, along with businesses, Iwi and the community, have invested heavily in the development of the PDP. Council's Housing Development Capacity Assessment[5] identifies that the district has sufficient plan-enabled capacity to

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[1] https://www.qldc.govt.nz/media/ygilrton/demand-projections-summary-march-2022-2023-to-2053.pdf

[2] Infometrics 2024

[3] Reserve Bank of New Zealand, Housing (Still) Matters – The Big Picture, June 2022
https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/publications/speeches/2022/speech2022-06-29.pdf

[4] https://www.qldc.govt.nz/media/2t3ihe0b/qldc_the-spatial-plan_a4-booklet_jul21-final-web-for-desktop.pdf

[5] https://www.qldc.govt.nz/media/5qpcibrp/3a-attachment-a-housing-development-capacity-assessment-2021-main-report.pdf

accommodate housing growth that is more than sufficient to meet the projected demand across the short, medium and long term, as required by the National Policy Statement on Urban Development 2020 (**NPS UD**). Further, a range of notified variations to the PDP have sought to increase greenfield capacity and up-zone residential and commercial areas in the last year.

2.0 The Bill's decision-making processes requires modification to ensure they reflect the complexity and significance of projects it is intended to facilitate.

2.1 QLDC understands that the 'joint Ministers' will have the capability to unilaterally accept or decline an application (in full or in part), making decisions that differ from some or all of the recommendations made by the expert panel engaged to advise on an applications. QLDC has concerns with this aspect of the process, given that applications are likely to be of national and/or regional significance, come with a considerable level of complexity, and result in the packaging of approvals under multiple different pieces of legislation.

2.2 The COVID-19 Recovery (Fast-track Consenting) Act 2020 had a focus on land use consents only. The Bill provides a considerably more powerful and wide-ranging fast-track pathway which requires a commensurately robust and transparent decision-making process. QLDC considers that any decision-making processes under the Bill should be strongly guided by recommendations of the expert panel, and that joint Ministers capability to make decisions that differ from some or all of these recommendations should be constrained. QLDC recommends that this limitation occur in the form of requests or questions from joint Ministers back to the expert panel only, rather than any unilateral capability to accept or decline applications. Ministers should be required to fully justify and report on their decisions, and if they depart from expert panel recommendations, relevant local authorities must have the capacity to provide further input ahead of any final decision, particularly in the case of any housing and infrastructure projects, or for any prohibited activity.

2.3 Applicants are required to engage with relevant local authorities ahead of lodging an application. QLDC strongly supports the principle of this requirement. Local authorities have significant expertise across a range of disciplines, and a practical understanding of the unique challenges and needs facing their environment and communities. It is vital that this expertise and understanding be genuinely considered by applicants early in the preparation of their applications. The Bill should be amended to require further pre-application engagement between applicants and local authorities. This is particularly important where applications may result in housing development, infrastructure developments, or involve activities identified as prohibited in a local authority RMA planning document. Local authorities already provide pre-application services which are very useful for large, complex or potentially contentious applications.

2.4 QLDC considers the Bill should be more explicit as to the nature and scale of information that applicants are required to provide local authorities at the time of any pre-application engagement. This is of significant importance for local authorities given the likely complexities of applications and the limited amount of time available to provide comment. This would ensure local authorities have a genuine opportunity to scrutinise proposals.

2.5 QLDC understands there is no timeframe applied to joint ministers to make a decision on whether to refer an application or not (if not already listed in the Bill) or for final decisions of joint Ministers. A specific time limit should be placed on joint Ministers to make their decision following receipt of the expert panel's recommendations. The absence of this timeframe cuts across the intention of the Bill and is understood to have resulted in delays under the COVID-19 Recovery (Fast-track Consenting) Act 2020. QLDC considers that a 20 working day timeframe is appropriate for joint Minister decision-making.

2.6 It is noted that '*the joint Ministers must seek and consider comments from other Ministers, local government, and relevant Māori groups when making this decision*' and the expert panel '*will be required to seek and consider comments from other Ministers, local government, Māori groups, landowners, and other groups listed in the Bill*'. QLDC strongly supports the principle of this requirement, in particular, the need for joint Ministers and the expert panel to seek comments from local authorities. However, the use of the word 'consider' with regard to these comments is strongly opposed. The word 'consider' has the potential to weaken the value and weight of local authority comments. The term 'consider' should be replaced with 'recognise and provide for' which would be more consistent with established terminology under the RMA. There is established case law concerning the meaning of this phrase. The joint Ministers and expert panel must be required to respond directly to local authority comments in their decision-making/reporting to improve the robustness and transparency of decision-making.

2.7 The Bill provides ten working days for parties, including local authorities, to provide comment on applications. QLDC strongly opposes this timeframe and considers it insufficient to provide meaningful comments that reflect local authority's expertise on what will be projects of national and/or regional significance. QLDC considers that the Bill should provide no less than 20 working days for local authorities to provide their comments. This would not materially impact the overall efficiency of decision-making.

2.8 QLDC understands that the expert panel is unable to seek public submissions and is not required to conduct a hearing. This aspect of the process is not supported. QLDC considers that those parties who the expert panel are required to seek comment from (other Ministers, local government, Māori groups, landowners, and other groups listed in the Bill) should be invited to participate more robustly throughout all stages of the decision-making process. In the absence of hearings, additional weight should be given to the recommendations of the expert panel, and to the comments received from local authorities (and other parties whose comments must be sought).

2.9 The Bill must be amended to ensure local authorities have the capacity to recover costs associated with their involvement in any fast-track approvals process. Local authorities already face considerable financial pressure to recover the costs of their consenting services, and the Bill should not inadvertently add additional financial pressure of this nature.

2.10 Recommendations**:**

2.10.1 The Bill should provide more weight to the recommendations of the expert panel and further checks and balances are required to the joint Ministers capability to discard some or all of these recommendations.

2.10.2 Joint Ministers should be required to fully justify and report on their decisions where they depart from expert panel recommendations and the comments of local authorities. This reporting should respond directly to the comments, concerns or evidence of local authorities.

2.10.3 Key stakeholders, including local authorities, should have the capacity to provide further input ahead of any final decision on an application where joint Ministers depart from recommendations made by the expert panel, particularly where applications may result in housing development, infrastructure developments, or involve applications for prohibited activities.

2.10.4 The Bill should direct applicants to undertake pre-application engagement with local authorities ahead of any project being accepted for processing under the Bill, particularly where applications may result in housing development, infrastructure developments, or involve applications for prohibited activities.

2.10.5 The Bill should include explicit detail on information requirements for applicants, and this information should be required to be provided to local authorities at the time of any pre-application engagement.

2.10.6 A 20 working day timeframe for joint Ministers to make their decision following receipt of the expert panel's recommendations should be specified in the Bill.

2.10.7 It is QLDC's position that the Bill require joint Ministers and the expert panel to 'recognise and provide for' local authority comments (rather than simply 'consider' comments).

2.10.8 The Bill should provide no less than 20 working days for local authorities to provide their comments on any application.

2.10.9 Local authorities require the ability to recover costs associated with their involvement in any fast-track approvals process.

3.0 The purpose of the Bill should better reflect the careful balancing act imparted on decision-makers.

3.1 QLDC considers the purpose of the Bill is too narrowly focused. It fails to mention any type of desired outcomes that projects should seek to achieve or effects that need to be managed beyond significant regional or national benefits.

3.2 The requirement to balance the costs and/or effects of projects against their benefits should be represented in the purpose of the Bill. This is important as it is a core component of the Bill's decision-making process. There is a risk that the drafted purpose statement lends itself more towards an 'easy-track' process that misses key effects and unintended consequences as opposed to a 'fast-track' process with robust analysis. The expert panel and joint Ministers are required to consider the costs and/or effects of such projects and it is important that this responsibility is reflected in the Bill's purpose.

3.3 QLDC considers that the purpose of the Bill should also identify the social, economic, cultural and environmental well-being of current and future generations, as this would be more consistent with the wide range of other aspects of the various acts that the Bill packages together.

3.4 Recommendations**:**

3.4.1 QLDC recommends that the purpose of the Bill be amended so that it references the requirement for decision-makers to consider and manage the costs and effects of projects.

3.4.2 It is requested that the purpose of the Bill be amended so that it includes reference to the social, economic, cultural and environmental well-being of current and future generations.

4.0 The Bill's eligibility criteria require amendments to ensure applications are of a high quality.

4.1 QLDC has considered the Bill's eligibility criteria for projects that may be referred to the expert panel (Section 17) and makes the following specific comments:

a) The term 'priority project' should be defined within the Bill.

b) Use of the word 'consider' throughout the specified criteria is ambiguous. This should be replaced with 'recognise and provide for' and would be consistent with established terminology under the RMA.

c) It is not clear if all of the subject criteria need to be met or just one, for an application to be accepted into the fast-track approval process. Additional wording should be included to specify if all or just one of the criteria need to be met.

d) Section 2(b) is unhelpful in regard to considering the appropriateness of a project to be fast-tracked. QLDC considers that this matter should not be a key part of the criteria when considering the eligibility of a project, which should instead focus on the benefits and costs/effects of a proposal.

e) Section 2(c) should be removed from the eligibility criteria. This section appears to be focused on operational matters associated with the processing of applications. This should be internal to the agency responsible. It is not clear how this is a material matter relevant to determining the benefits and costs/effects of a proposal.

f) A schedule should be included within the Bill which sets out information requirements for applications that addresses each of the matters listed in Section 17. This will improve the quality of applications, the value of pre-engagement activities, and the overall efficiency and effectiveness of the process.

4.2 Recommendation**:**

4.2.1 QLDC recommends that each of those matters listed at a – f above with regard to the eligibility criteria be amended within the Bill.

5.0 The Bill's criteria for the consideration of significant regional or national benefits requires amendment in order to avoid potentially dangerous, wide ranging and significant unintended adverse effects.

5.1 Section 17(3) of the Bill sets out matters that the joint Ministers may consider when determining whether a project would have significant regional or national benefits. QLDC has considered these matters and has the following specific comments:

a) Section 17(3)(a) recognises projects that have been identified as a 'priority project' in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial plan/strategy). Subject to (b) below, QLDC considers this provision of vital importance as it would give weight to the important direction set within QLDCs first generation Spatial Plan[6]. If a project is contrary to a Spatial Plan or Future Development Strategy, this should count heavily against its chances of being accepted into the process from the outset.

b) Section 17(3)(a) uses the terms 'priority projects' and 'sector plans'. This terminology is not consistent with the terminology used in local government spatial plans. It is not clear if this provision also envisages private sector or industry group plans. QLDC considers that these terms should be defined to improve the effectiveness and efficiency of any fast-track process. Consistency with local government spatial plans (and other relevant local government plans) should be prioritised.

c) Section 17(3)(c) references 'housing' and 'housing needs'. QLDC acknowledges the urgency of the housing affordability and availability challenge across Aotearoa New Zealand. This challenge is felt strongly in the QLD, and Council has a range of plans, policies and strategies in place or in development to address this challenge. These tools have been developed robustly and in partnership with key stakeholders (including central government agencies). QLDC is concerned that the Bill may unintentionally promote the occurrence of large-scale housing developments that are inconsistent

[6] https://www.qldc.govt.nz/media/2t3ihe0b/qldc_the-spatial-plan_a4-booklet_jul21-final-web-for-desktop.pdf

with the direction of the QLD Spatial Plan or are out of sequence with the provision of supporting infrastructure. Such developments may result in potentially dangerous, wide ranging and significant social, economic, cultural and environmental effects. As such, QLDC considers that the Bill should require any urban development project (including large scale housing and infrastructure developments) to give effect to local government spatial plans.

d) The Bill should enable areas with acute affordable housing problems and active Community Housing Providers to seek affordable housing contributions, either via land or financial contributions[7].

e) Section 17(3)(c) includes the following sentence '*will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment'*. QLDC considers that the word 'or' should be deleted as all new urban development should contribute to a well-functioning urban environment as defined under the NPS UD.

f) Section 17(3)(d) includes reference to '*significant economic benefits'*. QLDC requests that additional context is provided to understand what is meant by this term, to whom and over what area these benefits should apply, over what time period, and how they are to be quantified. Additional detail on this matter would improve the quality of applications, and feedback from key parties, including local government.

g) QLDC requests that Section 17(3)(e) also refer to industrial and service activities. It is noted that industrial and service activities are important types of urban form required to support a well-functioning urban environment. Land for industrial and service activities is very difficult to zone through the RMA planning process and faces many consenting hurdles.

h) Section 17(3)(e) and 17(3)(f) refers to projects that would '*support' 'primary industries, including aquaculture*' and the '*development of natural resources, including minerals and petroleum'*. QLDC is very concerned with the ambiguity of these provisions, noting that some activities which meet these criteria (among others) could have potentially dangerous, wide ranging and significant adverse effects on the values of the QLD's ONL and ONF landscapes, and the nationally significant economic values generated by the tourism activities they support. QLDC considers that any such activity proposed within a ONL or ONF landscape should be ineligible for consideration by way of a fast-track process.

5.2 Recommendation**:**

5.2.1 QLDC recommends that each of the matters listed at b – h above with regard to the consideration of significant regional or national benefits be amended within the Bill to avoid potentially dangerous, wide ranging and significant unintended adverse effects.

6.0 The ability for activities identified as prohibited under the RMA to be considered for approval under the Bill represents a step change from local community plan making, and additional safeguards are needed to manage potentially dangerous, wide ranging and significant unintended adverse effects.

[7] This form of contribution is considered to be a successful value capture mechanism that enables the provision and supply of perpetual affordable housing. In the QLD land values increase dramatically when an area is upzoned or capacity has increased through an approved resource consent. The Housing Accords and Affordability Housing Act (HASHAA) enabled QLDC to utilise this form of value capture mechanism and seek between 5% and 12.5% land or financial contribution via every Special Housing Area that was approved. For example, the Longview special housing area in Hawea will provide approximately $23M land contributions to the Queenstown Lakes Community Housing Trust, which equates to the provision of 58 homes.

6.1 The Bill would enable activities identified as prohibited under the RMA (by way of local authority planning documents) to be eligible for fast-tracking. This provision is inconsistent with the direction at section 17(3)(j) i.e. an application is directly at odds with local or regional planning documents if it is identified as prohibited.

6.2 QLDC is very concerned that this pathway presents a significant departure from local community plan making processes. In particular, allowing prohibited activities to be eligible creates a fundamentally different proposition to the balance of activities. The right to apply for prohibited activities introduces an entirely new process for which local authorities, submitters and appellants would not have addressed in drafting land use planning objectives, policies and methods. If it is intended that any and all types of prohibited activities be eligible for consideration, it is critical that additional scrutiny of such projects is provided for.

6.3 As drafted, this provision has the potential to create a range of potentially dangerous, wide ranging and significant unintended adverse effects. In the QLD context, it is noted that the PDP sets out a very carefully crafted set of land use planning provisions intended to enable urban development which meets the needs of the community, provide for infrastructure to support well-functioning urban environments, and facilitate appropriately scaled development within other areas (i.e. rural environments). These provisions exist within a landscape protection framework designed to protect the unique values (including those associated with the district's ONL and ONF environments) which contribute significantly to the nation's GDP. As drafted, this provision may facilitate activities that significantly detract from the district's ONL and ONF environments, and harm the environmental attributes that support Aotearoa New Zealand's international reputation.

6.4 Given the wide-ranging applicability of the subject provision, and the potentially dangerous, wide ranging and significant unintended adverse effects of associated activities, QLDC considers it appropriate that the Bill be amended to provide additional scrutiny and safeguards. Once such amendment could be that this provision apply in 'exceptional circumstances' only. This term is reasonably well applied in RMA decision-making. Such exceptional circumstances may apply in emergency situations (where not already provided under legislation), where only a small component of a whole activity is prohibited, to address other well understood community needs unforeseen in the preparation of the planning document, or in response to a rapidly changing situation where such change could not have otherwise been anticipated. However, given the robustness of RMA plan making it is not clear if or when such exceptional circumstances are likely to be present.

6.5 In addition, QLDC considers that any project comprising a prohibited activity, should require additional engagement with local authorities (and other relevant parties) and further specific information requirements for applications to ensure the full range of benefits and effects of a proposal are accurately understood. The recommendations of the expert panel should also hold more weight when joint Ministers are making decisions relating to prohibited activities.

6.6 Recommendations**:**

6.6.1 It is QLDC's position that the Bill should be amended with respect to Section 17(5) to:

i. apply in 'exceptional circumstances' only,

ii. set out additional assessment criteria and robust information requirements for applications that require an evidenced based assessment of all costs and effects of a project,

iii. ensure the recommendations of the expert panel (including conditions of consent) hold greater weight for joint Minister decision-making,

iv. require early engagement with relevant local authorities (and other agencies), and

v. ensure feedback from relevant local authorities (and other agencies) hold greater weight in expert panel deliberations, and for joint Minister decision-making.

7.0 Local authority interests in fast-tracked infrastructure activities are greater than other parties.

7.1 Fast-tracked projects may involve the construction of infrastructure assets that, in many cases, are likely to become local authority owned and managed. For such applications, local authorities have an interest that is greater than other parties. The Bill should identify this scenario and require robust engagement with local authorities (where they are not the applicants). This should extend to detailed pre-engagement discussions on the purpose, location, scale and nature of the project. If these assets are to ultimately be vested to local government, then local government must have an opportunity to consider their design and construction. Such projects should require local authority agreement ahead of being submitted for consideration by the joint Ministers.

7.2 It is also noted that large scale projects (not limited to infrastructure projects) often require multiple variations as the development progresses. It is not clear what entity would be responsible for considering such variations i.e. the joint Ministers, the expert panel and/or local authorities. This matter requires further clarification and a clear process set out within the Bill.

7.3 Recommendations**:**

7.3.1 The Bill needs to provide greater engagement and oversight for local authorities in the case of any application for infrastructure intended to become a local authority asset.

7.3.2 A process for managing variations of land use consents is required, in particular, what entity would be responsible for considering such applications and over what timeframe.

8.0 Monitoring of land use consents will continue to be the responsibility of relevant local authorities.

8.1 Local authorities will be responsible for monitoring consent conditions developed through the Bill's decision-making process (at least those relating to land use matters). It should be recognised that significant resources are required to effectively monitor such activities. It is important that local authorities continue to be able to recover the costs of such monitoring for RMA consents that might be approved under the Bill.

8.2 Recommendation**:**

8.2.1 QLDC recommends that the Bill recognise and provide for local authorities to monitor RMA consents approved under the Bill, and enable cost recovery of such activities.

9.0 The Bill should have a limited life that takes into account the changing legislative context.

9.1 It is understood that the coalition government will be undertaking a three phase approach to reforming the RMA over the coming years, and that this will result in legislation to replace the RMA. This situation should be recognised in the Bill through the application of a sunset clause aligned to the coalition government's timing for RMA replacement legislation. It is not anticipated that any such fast-track legislation will be necessary under a new land use management framework.

9.2 Recommendation**:**

9.2.1 The Bill should be amended to include a sunset clause that limits its life, and which is aligned with the assent of any relevant RMA replacement legislation.