

Full Council

6 June 2024

Report for Agenda Item | Rīpoata moto e Rāraki take [4]

Department: Strategy & Policy

Title | Taitara: Retrospective approval of Queenstown Lakes District Council submissions - Fast-Track Approvals Bill and Otago Regional Council draft 2024-34 Long Term Plan

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to seek Queenstown Lakes District Council's (**QLDC or Council**) retrospective approval of recent submissions to:

- The Environment Select Committee on the Fast-Track Approvals Bill (**Fast-Track Bill**), and
- Otago Regional Council (**ORC**) on its draft 2024-34 Long Term Plan (**LTP**).

Recommendation | Kā Tūtohuka

That the Council:

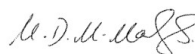
1. **Note** the contents of this report;
2. **Approve** retrospectively QLDC's submission to the Environment Select Committee on the Fast-Track Bill; and
3. **Approve** retrospectively QLDC's submission to ORC on its draft 2024-34 Long Term Plan.

Prepared by:



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14 May 2024

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15 May 2024

Context | Horopaki

Fast-Track Bill

1. The Fast-Track Bill is part of phase two of the government's commitment to reform the resource management system. It follows on from the repeal of the Natural and Built Environment Act 2023 and Spatial Planning Act 2023. Its stated aim is to establish a permanent 'one stop shop' for fast-track approvals for a range of infrastructure, housing and development projects with '*significant regional or national benefits*'¹.
2. The Fast-Track Bill would provide a group of joint Ministers² with wide-ranging decision-making powers under the Resource Management Act (1991) (**RMA**) and a range of other existing pieces of legislation.
3. QLDC's submission is included as **Attachment A**.

ORC draft LTP

4. ORC's 2024-34 LTP sets the direction for Otago Regional Council and identifies key work programmes for the next ten years. It includes information about the cost of proposed work, how it will be funded and the impact on rates.
5. The ORC 2024-34 LTP seeks to address public transport and large-scale environmental project funding, as well as some proposed changes to how rates are calculated.
6. QLDC's submission is included as **Attachment B**.

Analysis and Advice | Tatāritaka me kā Tohutohu

Fast-Track Bill

The proposal

7. The Fast-Track Bill seeks to establish standalone fast-track legislation that provides all the approvals necessary to progress major infrastructure, housing and development projects. This includes approvals obtained through the Wildlife Act 1953, the Conservation Act 1987, the Reserves Act 1977, the Freshwater Fisheries Regulations 1983, the Heritage New Zealand Pouhere Taonga Act 2014, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, the Crown Minerals Act 1991, the Public Works Act 1981, and the Fisheries Act 1996.

¹ Section 3 (Purpose) of the Fast-track Bill

² Ministers of Infrastructure, Transport, Regional Development, Conservation, and Minister Responsible for the Crown Minerals Act

8. To achieve its aim of speeding up and simplifying the consenting and approval process, the Fast-Track Bill removes the need for public notification and hearings and gives full and final decision-making to a small group of 'joint Ministers'. Projects can be accepted into the Fast-Track Bill as 'listed projects' by way of submissions on the Fast-Track Bill (pathway 1) and following consideration by an 'advisory group'³. Listed projects will have automatic access to the fast-track process. Alternatively, projects may access the fast-track process subsequent to the law-making process by 'referral' (pathway 2) after being considered against the Fast-Track Bill's eligibility criteria⁴. Joint Ministers have final deciding powers on which projects are accepted under both pathways.
9. Initially, local authorities will not have the ability to comment on the appropriateness of listed projects (i.e. those considered by way of pathway 1) as they will be included directly in the Fast-Track Bill. Once enacted however, the decision-making process does provide for local authorities to 'comment' on both listed and referred projects. Referred applications will be considered by an 'expert panel', and joint Ministers make the final decision on whether or not to decline or approve projects accepted into the fast-track process. Joint Ministers can accept or reject the recommendations of the expert panel.
10. The process does not provide for hearings, and appeals are limited to point of law. Appeal rights are only available to applicants, submitters, the Attorney General and any person with an interest greater than the public generally. Judicial review rights are preserved.

QLDC's response

11. QLDC's submission sets out that the Fast-Track Bill does not provide the checks and balances necessary to ensure high quality social, economic, cultural and environmental outcomes. It stressed the need for a more nuanced assessment process which balances the consideration of benefits with the costs/effects of projects. Key messages in Council's submission are outlined below:
 - a) A more substantive role for local authorities is needed, particularly in regard to housing and infrastructure projects over which local authorities should retain more material influence.
 - b) Additional checks and balances are critical to avoid potentially dangerous, wide ranging and significant unintended consequences of any prohibited activity accepted into the process.
 - c) The Fast-Track 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.

³ A group selected by the coalition government experienced in working on infrastructure and economic development projects, environment and conservation initiatives, with local government and on Treaty of Waitangi arrangements who will provide independent recommendations to Ministers on projects to be included as listed projects.

⁴ Section 17 of the Fast-Track Bill

- d) The Fast-Track 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.
 - e) 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.
 - f) Explicit and robust information requirements are necessary to ensure only the highest quality applications are received. The Fast-Track Bill should focus on providing a 'fast track' not an 'easy track'.
 - g) The Fast-Track Bill should have a sunset clause which aligns with central government's RMA reform program.
12. Submissions were invited between 14 March 2024 and 19 April 2024. This short consultation period presented logistical challenges for the preparation of Council's submission given the significance and scale of the potential consequences associated with the Fast-Track Bill, and the philosophical step change it represents in terms of the highly devolved form of decision making currently provided for under the RMA. Council was not provided with advance notice or advice of the Fast-Track Bill's provisions. A range of views were expressed by Elected Members on the draft submission, that were considered and incorporated into the final submission.
13. Approximately 27,000 written submissions were received, and 2,900 submitters have asked to appear in person, demonstrating the strong interest in the Fast-Track Bill. The Environment Select Committee has begun hearing submissions, and it is understood every 'organisation' that submitted will be given the opportunity to be heard at 22 meetings over a period of six weeks. Some 'individuals' will not be given the opportunity to be heard. It is therefore assumed QLDC will be given the opportunity to speak to its submission, however at the time of writing, the Environment Select Committee has yet not made contact to confirm the timing for this

Resolution options

14. The closing dates for submissions on the Fast-Track Bill did not align with a Council meeting, and as such it would not have been practicable to seek formal Council approval given the short consultation timeframe. This paper is brought to Council retrospectively to ensure the submission is formally approved and to give transparency to the community.
15. This report identifies and assesses the following reasonably practicable options for assessing retrospective approval as required by section 77 of the Local Government Act 2002.
16. Option 1 - Retrospectively approve the contents of the attached submission to the Environment Select Committee on the Fast-Track Bill.

Advantages:

- The submission will be considered by the Environment Select Committee and QLDC will have participated effectively in this policy development process.

Disadvantages:

- There are no obvious disadvantages to this option.

17. Option 2 – Make a request to the Environment Select Committee for QLDCs submission on the Fast-Track Bill to be withdrawn in whole or in part.

Advantages:

- The submission (or parts of it) will be withdrawn and any inaccurate representation of QLDC's position will not be considered by the Environment Select Committee.

Disadvantages:

- Withdrawing the submission (if done in its entirety) would remove Council from this important engagement process. The Environment Select Committee would not consider the matters raised in the submission, and Council's interests would not be addressed. This may result in the Fast-Track Bill failing to recognise the potential consequences that could arise within the district.

18. This report recommends **Option 1** for addressing this matter to ensure that Council's long-term goals for the district are able to be progressed through the resource management system.

ORC's draft LTP

The proposal

19. ORC's draft 2024-34 LTP addresses public transport, increased funding for large-scale environmental projects, and proposes changes to how rates are calculated.

20. Under the proposed changes, Queenstown would receive additional funding for public transport over the next ten years. For the Wānaka-Upper Clutha area, further investigation or public transport trials are proposed for three years' time, however residents would begin paying a public transport levy straight away. Public transport funding would be rated on capital value.

21. The proposed rating changes would lead to an average 18.6% increase in rates across the whole region in the 2024-25 financial year, with a lesser increase in subsequent years.

QLDC's response

22. QLDC emphasised the importance of working collaboratively with ORC to deliver positive outcomes for the district, given the ORC is part of the Grow Well Whaiora Urban Growth Partnership. Key messages in Council's submission are outlined below:
- a) As Spatial Plan partners, collaboration between ORC and QLDC is essential to the wellbeing of our communities.
 - b) QLDC supports a \$2 million (or more) environmental fund from mixed sources to enhance the values offered by Otago's environments.
 - c) The increase in investment in transport for Queenstown and addition of extra services is supported, but further action is needed to achieve the mode shift that is required.
 - d) QLDC and the Wānaka-Upper Clutha Community Board strongly urge ORC to reconsider its proposal not to commence public transport for the Upper Clutha in the LTP.
 - e) The proposed rates impact for transport funding is inequitable and strongly opposed.
 - f) Rating based on capital value is inequitable and results in QLD property owners contributing a greater proportion of rating revenue than areas in the region with lower property values.
 - g) Discontinuing the wilding tree rate and using the biosecurity rate to fund support for wilding conifer control groups is opposed, as it will compromise gains made and future progress.
 - h) The critical work of flood protection, drainage, river management and other hazard management activities must continue in a collaborative manner.
23. QLDC's submission strongly opposes the proposed district wide targeted rate investment approach for public transport. This is contrary to ORC's approach for targeted rates being applied in the area of benefit, and would be inequitable for Upper Clutha communities (and other communities outside of the Whakatipu Basin). It would see all residents paying for a public transport service that may not be delivered in their areas. Council's submission requests the delivery of public transport for Upper Clutha residents (initially between Hāwea, Wānaka and Luggate) but that the targeted rate be deferred for any area not receiving services until they become available.
24. QLDC's submission also brings attention to the inequitable method for setting rates across the region on account of the use of capital values to calculate rates. Properties in the district tend to have a higher capital value than equivalent properties in other parts of Otago. This means that Queenstown Lakes District residents contribute disproportionately more to ORC's rates revenue without receiving equivalent levels of service in return. As such, the submission requests that a more equitable method be applied to set rates for properties within the district.

Resolution options

25. The closing dates for submissions did not align with a Council meeting, so this paper is brought to Council retrospectively to ensure the submission is formally approved and to give transparency to the community.
26. This report identifies and assesses the following reasonably practicable options for assessing retrospective approval as required by section 77 of the Local Government Act 2002.
27. Option 1 - Retrospectively approve the contents of the attached submission to ORC on its draft 2024-34 LTP.

Advantages:

- The submission will be considered by ORC and QLDC will have participated effectively in this policy development process.

Disadvantages:

- There are no obvious disadvantages to this option.

28. Option 2 - Make a request to the ORC LTP hearings panel for QLDCs submission on the draft ORC LTP 2024-34 to be withdrawn in whole or in part.

Advantages:

- The submission (or parts of it) will be withdrawn and any inaccurate representation of QLDC's position will not be considered by the ORC LTP hearings panel.

Disadvantages:

- Withdrawing the submission (if done in its entirety) would remove Council from this important engagement process. This important opportunity to work with ORC on progressing priorities for the district will be missed.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

Fast-Track Bill

29. This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy 2021, although the implications of the Fast-Track Bill itself would be of higher consequence should it be passed into law in its current form. If enacted the Fast-Track Bill could

create inconsistencies with Council's existing Spatial Plan, Proposed District Plan and other important strategic projects, policies and strategies.

30. The persons who are affected by or interested in this matter are developers, residents and ratepayers of the district.
31. Officers engaged with the Queenstown Lakes Climate Reference Group (**CRG**) in drafting the submission. However, the CRG choose to make its own separate submission to the Environment Select Committee. No external consultation was undertaken in preparing the submission as the process was open to the wider public to make submissions.

2024-34 ORC Long Term Plan

32. This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy 2021 although the implications of the ORC LTP itself would be of higher consequence if adopted as per current draft. The allocation of funding through the 2024-34 ORC LTP has the potential to impact the people of the District, their social, economic, environmental and cultural wellbeing.
33. The persons who are affected by or interested in this matter are residents and ratepayers of the district.
34. Officers engaged with the Wānaka-Upper Clutha Community Board (**WUCCB**) and the CRG in drafting the submission. However, both parties chose to make their own separate submissions.

Māori Consultation | Iwi Rūnaka

35. Council did not engage with Iwi or Rūnaka in preparing the submissions. Both consultation processes were open to the wider public and submissions could be lodged by Iwi or Rūnaka if they wished to do so.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

36. This matter relates to the Strategic/Political/Reputation risk category. It is associated with:
- a) RISK10019 Central Government reforms impact on Council achieving its objectives within the QLDC Risk Register. This risk has been assessed as having a low residual risk rating.
 - b) RISK10056 Ineffective provision for the future planning and development needs of the district within the QLDC Risk Register. This risk has been assessed as having a low residual risk rating.
37. The approval of the recommended option will allow Council to retain the risk at its current level. It will support Council by allowing it to implement additional controls for this risk. This will be achieved by monitoring future changes in legislation and other government regulations and addressing those issues that directly affect QLDC and the district's community.

Financial Implications | Kā Riteka ā-Pūtea

38. There are no financial implications for Council to submit on these consultations.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

39. The following Council policies, strategies and bylaws were considered:

- Vision Beyond 2050 (relevant aspects include biodiversity and decarbonisation).
- Spatial Plan (relevant aspects include transport, infrastructure, biodiversity, landscape protection, and housing).
- Proposed District Plan (relevant aspects include housing and landscape protection).
- Regenerative Tourism Plan (relevant aspects include transport networks and decarbonisation).
- Climate and Biodiversity Plan (relevant aspects include transport, decarbonisation, and biodiversity).
- Long Term Plan.

40. The recommended options are consistent with the principles set out in the named policies, plans and strategies.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

41. Section 10 of the Local Government Act 2002 (**LGA**) states the purpose of local government is:

(a) to enable democratic local decision-making and action by, and on behalf of, communities; and

(b) to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future.

42. Feedback provided by QLDC in the two submissions will guide decision making across both processes to better prioritise the social, economic, environmental, and cultural wellbeing of the district's present and future communities. As such, the recommendations in this report are appropriate and within the ambit of Section 10 of the LGA.

43. The recommended option:

- Can be implemented through current funding under Council's Long Term Plan and Annual Plan.
- Is consistent with the Council's plans and policies.
- Would not significantly alter the intended level of service provision for any significant activity undertaken by or on behalf of the Council or transfer the ownership or control of a strategic asset to or from the Council.

Attachments | Kā Tāpirihaka

A	Submission to the Environment Select Committee on the Fast Track Approvals Bill
B	Submission to the Otago Regional Council on the draft 2024-34 Long Term Plan