

Under the	Fast-track Approvals Act 2024
In the matter	of the application by RCL Homestead Bay Limited in relation to Homestead Bay

**MEMORANDUM OF COUNSEL FOR QUEENSTOWN LAKES DISTRICT COUNCIL
RESPONDING TO THE PANEL CONVENER'S REQUEST FOR CLARIFICATION**

13 August 2025



Sarah Scott

T: +64 3 968 4018

sarah.scott@simpsongrierson.com

ben.russell@simpsongrierson.com

PO Box 874 Christchurch

May it please the Panel Convener:

1. INTRODUCTION

1.1 This memorandum is provided on behalf of Queenstown Lakes District Council (**QLDC**) in response to a Minute of the Panel Convener dated 12 August 2025 (**Minute**) regarding the Homestead Bay application (**Application**) made under the Fast-track Approvals Act 2024 (**FTAA**).

1.2 The Minute responds to a Memorandum of Counsel for QLDC dated 11 August 2025 (**Memorandum**). The Memorandum outlined some of QLDC's concerns as to the Application.

1.3 The Panel Convener has asked at paragraph [6] of the Minute if QLDC's concern is around "giving a recommendation on the project" or about "whether QLDC can recover, through the EPA, its actual and reasonable costs of engaging external (or internal) experts to comment on the reports filed in support of the application".

1.4 This memorandum addresses the above question. While this memorandum is filed in the context of the Homestead Bay application, its concerns apply to other projects being pursued through the FTAA.

2. EXPLANATION OF QLDC'S CONCERNS

Giving a recommendation

2.1 QLDC's primary concern is around "giving a recommendation on the project", which would essentially require a full assessment of the benefits, effects, and various matters that the Panel is required to turn its mind to, including the purpose and context of the FTAA, and as set out in Schedule 5, clause 17 of the FTAA.

2.2 The FTAA provides a decision-making framework that allocates evaluation and decision making to an independent panel appointed under the FTAA. There is nothing in the FTAA that states or suggests that it is a local authority's function,

duty, or power to provide a recommendation to the Panel through the opportunity to provide written comments, or at any stage of the Fast-Track process.

2.3 Therefore, QLDC intends (as foreshadowed in its 11 August memorandum), to outline in its written comments, areas or matters it considers it would examine further if it were the decision maker for a standard application under the RMA, as well as what information QLDC would normally ask an applicant for to enable QLDC to make a decision. In doing so, QLDC will provide comment on the consistency or otherwise of a particular proposal with its community-endorsed spatial strategies and plans, including by relying on existing evidence or information the council holds. With the potential exception of infrastructure, it would not be looking to undertake its own peer reviews unless instructed by the panel, as part of a request for advice or report under s 67 of the FTAA.

2.4 For completeness it is noted that s 42A of the RMA is referred to in the Minute as the nearest equivalent section to s 53 of the FTAA. While it is likely to be the nearest equivalent, QLDC's preliminary view is that s 42A of the RMA is not a useful comparison to what a local authority's roles are under the FTAA. Council has also carefully considered the commentary in the draft Panel Decision¹ on the Port of Auckland proposal, where the Panel has indicated that it is not a council's role to provide a s 42A report.

Recovery of costs

2.5 Recovery of costs is also a concern for QLDC. In terms of the question in the Minute about recovering costs via the EPA, QLDC acknowledges it should be reasonable to recover the costs of engaging external (or internal) experts to comment on the reports contained within an application. However, that is in the context of its limited function in the FTAA to give written comment, when invited to do so under s 53, or to respond to a further information request made by the Panel, via the EPA, under s 67 of the FTAA. QLDC would wish to assist the Panel if it is requested to. However, its concern is that the cost should not fall on the ratepayer.

1 DRAFT Record of Decisions of the Expert Panel under Section 87 of the Fast-Track Approvals Act 2024, at 94-97.

- 2.6** At this point in time, no panel has been established, and QLDC has not been asked under s 53 of the FTAA for written comment. There is, arguably, no specific function, duty, or power in the FTAA that QLDC would be acting under were it to obtain peer reviews, at this stage of the processing of the Application. When the s 53 request for written notice is given, it would then be, practically, very difficult to have such an assessment completed during the 20-working day period allowed for by the FTAA, as there is obvious timing and resourcing constraints.
- 2.7** If QLDC can be given assurance from the EPA (and the Applicant) that peer reviews obtained by QLDC, after the substantive application is lodged with the EPA and in advance of being given written notice under s 53 of the FTAA, are costs that are recoverable from the EPA as an actual and reasonable cost under s 104 of the FTAA, then QLDC may be more likely to be able to procure and obtain peer reviews in the time frames available.
- 2.8** Such peer reviews could then assist the Panel in their decision making. QLDC has however advised that, even if it takes this approach, it would be seeking a 'peer review' so the reports would be technical in nature, and not intended to offer a 'Council position' or 'recommendation' on the Application.

Date: 13 August 2025



S J Scott
Counsel for Queenstown Lakes
District Council