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Committee Secretariat
Environment Committee
Parliament Buildings
Wellington
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Tēnā koutou

DUNEDIN CITY COUNCIL SUBMISSION ON THE FAST-TRACK APPROVALS BILL 2024

Introduction

1. The Dunedin City Council (DCC) welcomes the opportunity to submit on the Fast-track Approvals Bill 2024 (the Bill).
2. The DCC acknowledges the intention of the Bill to speed up consenting processes for nationally and regionally significant projects. The DCC has a number of concerns that it wishes to raise with respect to implications of the Bill for local decision-making and potential impacts for councils in terms of implementation.

Discussion

3. In its current form, the Bill raises a number of questions about how the decision-making process will work for local government. The DCC is particularly concerned about an increased loss of decision-making at a local level, as the proposed Bill expands on the potential number of significant projects that will be eligible for the fast-track approach compared to the previous legislation. In addition, decisions on significant projects will ultimately be made by the joint Ministers rather than by an expert panel.
4. While both options represent a loss of decision-making at the local level, the DCC's strong preference is that the decisions be made by expert panels consisting of members that have experience relevant to environmental management. If, however the Bill retains the approach of the joint Ministers making the final decision, we seek that the Minister for the Environment be included as one of the joint Ministers.
5. As the 'Wildlife Capital' of New Zealand, Dunedin is highly dependent on its biodiversity as a key economic driver. The DCC supports the joint submission from Local Government New Zealand (LGNZ) and Taituarā that notes that "a sole focus on the economic imperative forgets environmental sustainability as the foundation on which economic outcomes depend".
6. The Bill provides the ability for projects to be approved that do not align with either existing national level policy or the DCC's own District Plan and strategies, which have been through full public consultation processes and subjected to a high level of expert input and scrutiny. It is noted that in making its recommendations to the joint Ministers, the expert panel will have to consider firstly the purpose of the Bill - *to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or*

national benefits - and secondly other relevant legislation such as National Policy Statements under the Resource Management Act (RMA) 1991. This establishes a clear direction for the fast-track legislation to be prioritised over other legislation and could lead to clear conflicts in policy direction and implementation at the local level.

7. The tension between the direction of the fast-track process and its implementation at regional and local levels is also embedded in the referral part of the proposed process. When the joint Ministers are assessing the eligibility of a proposed project and whether it is consistent with the purpose of the Act, they need to consider whether the project has significant regional or national benefits and may consider whether the project:
 - has been identified as a priority by central government, local government or sector plan or strategy (for example, spatial strategy) or as a central government infrastructure priority
 - will deliver regionally or nationally significant infrastructure
 - will increase supply of housing, address housing needs, or contribute to well-functioning urban environment
 - will deliver significant economic benefits
 - will support primary industries, including aquaculture
 - will support development of natural resources (including minerals/ petroleum)
 - will support climate change mitigation, including reduction or removal of greenhouse gases (GHGs)
 - will support adaptation, resilience and recovery from natural hazards
 - will address significant environmental issues
 - is consistent with local or regional planning documents, including spatial strategies.
8. Whether the project is consistent with local or regional planning documents is included in the Bill only as a matter that Ministers *may* consider in deciding whether to refer a project. Similarly, while Ministers may consider whether a project will address significant environmental issues, there is no requirement to consider the principle of sustainable management of natural and physical resources when deciding whether to fast-track a project. The joint Ministers would therefore have the discretion to disregard these aspects in deciding to refer a project, leading to potential conflict between a fast-tracked project and locally developed plans and strategies.
9. It is particularly concerning that there is a specific provision in the Bill that a project including an activity that would be prohibited under a district plan is not necessarily ineligible. This actively undermines the DCC's ability and authority to manage our region and plan for its future as well as potentially rendering any decisions made locally, irrelevant.
10. Another aspect of concern for the DCC is the potential impact of the Bill on mana whenua values, as the analysis accompanying the Bill states that while the Bill requires consistency with Treaty settlements "...the net impacts are likely to be negative for broader Māori rights and interests..."¹. The DCC does not support the ability to override local decision-making on matters that are important to the health and wellbeing of local communities and the environment.
11. Using the example of climate change, given local government's role in working with their communities to build resilience and adapt to climate change, the DCC wishes to stress the

importance of giving climate change mitigation and adaptation appropriate consideration; not only when Ministers are deciding whether to fast-track a project that addresses any of these issues, but also in assessing all potential projects in terms of emissions and climate change risk. The DCC is concerned that in its current form, the Bill could lead to the benefits of any projects that have an emissions reduction/adaptation focus being essentially 'cancelled out' by other projects, which may increase emissions or increase climate risks to communities in the coming decades. Given that a key purpose of the Bill is to fast-track key infrastructure projects, which often have a lifespan of 50+ years, the DCC considers it critical that elements such as climate change mitigation and adaptation are a key consideration to ensure that future climate risks and emissions are minimised.

12. With respect to the ability of local authorities to have input into the fast-track process, while it is understood that they will be asked for comment where a project is proposed in their area, the DCC is concerned that the ability for councils to respond adequately will be severely hampered by the proposed timeframes for providing input. The DCC submits that 10 working days is not enough time for a proper assessment and the provision of comments, especially on a large, complicated consent where there is more than one type of approval involved and co-ordination is required between a number of different council departments.
13. If the DCC only has 10 working days in which to provide comment, this may impact on the timeframes for applications councils are processing under its ordinary processes and this could put significant pressure on staff time and resourcing. The DCC submits that it will be important to allow adequate time for councils to fully understand the implications of projects in terms of their functions and responsibilities, so that they can provide the best possible advice to the Ministers. The DCC requests an increase to at least 20 days, but preferably 30 days in which to provide comment.
14. The DCC seeks more clarity over how pre-referral comments from local authorities will feed into the decision-making for the fast-track process, including: referral to the expert panel; the recommendation of conditions; and final decision-making. Particularly if timeframes are going to be tight, it will be even more crucial that appropriate consultation is undertaken, and approvals where necessary are sought from the relevant local authority prior to referral. This would mean staff would only need to check that the application is not different to the information previously provided, and this would thereby reduce the amount of new assessment needed and contribute to a more efficient and effective process.
15. It is noted that applicants for fast-track projects must engage with and provide a summary of any consultation undertaken on the project when the application is lodged (14(i) and 16(2)). The DCC submits that it would also be useful if the applicant was required to specify whether any impacts on public infrastructure are expected, such as discharge or connection to three waters networks. The Bill does not appear to require the applicant to indicate whether there is capacity in the three waters networks to service the development or proposal or to require the applicant to upgrade or extend infrastructure to facilitate servicing. The DCC requests that these requirements are included in the Bill.
16. The DCC submits that there should be an assessment of infrastructure capacity provided as part of an application, and that the Bill should also outline requirements for applicants to pay for, or install, infrastructure needed to extend or upsize the infrastructure networks to be able to service the development compliant with DCC requirements. The DCC's view is that local authorities must have the ability to not approve consent, or to place conditions on any discharge to ensure protection of its networks, protection of the environment, and that the ability to meet

its own resource consents is not compromised by having to accept a discharge that did not meet these conditions.

17. In addition to an outline of types of resource consent and designations that may be needed, the DCC submits that the Bill needs to clarify that local authority bylaws should also be included in fast-track applications, either in the description of legal authorisations needed under 14(3)(t) or in a separate clause, and applicants should be required to show how they will comply with these requirements. This may assist in avoiding problems when approved projects proceed. Local authority advice on these must be cost-recoverable.
18. The DCC has concerns about the impact on affordability to councils of providing infrastructure or services to a new development that is approved through the fast-track process and submits that greater clarity is needed to as to how the process will work. There must be the ability for local authorities to charge for staff time and any consultants needed to:
 - provide or assess any pre-application material where approval from the local authority is needed, such as for a trade waste consent, water connection, stormwater management plan
 - provide information or assessment of application requested by a panel or minister
 - approve, assess or monitor any conditions of consent
 - provide expert advice requested by a panel.
19. Related to the question of affordability as well as inadequate timeframes for local government to consider and provide comment, the Bill does not seem to address where liability sits in the situation that a consent is fast- tracked by the joint Ministers and there are unintended consequences for infrastructure or the environment. The DCC requests that there is a clear chain of liability.

Conclusion

20. Table 1 below sets out a number of proposed amendments to the Bill, reflecting the commentary above, aimed at improving its workability.
21. In general, the DCC support the joint submission made by LGNZ and Taituarā on this Bill.
22. The DCC welcomes the opportunity to speak to this submission at any hearings.

Ngā mihi



Jules Radich
MAYOR
DUNEDIN CITY COUNCIL

Table 1 Decisions sought by the Dunedin City Council

Section	Subsection	Request
Referral application 14(3) The information to be included in the application is as follows:	Proposal and effects	Add a new requirement for a greenhouse gas (GHG) emissions assessment of project to be included in every application, both for construction emissions and whole of life emissions associated with creation of or use of asset/infrastructure.
	Persons affected	Add additional clause to require a list of any impacts on public infrastructure that have been identified by the relevant local authority.
	What is needed to complete the project	If applications required under bylaws are included in the requirements of 14(t) then this provision should be amended to clearly indicate this by specifying it in the list of examples. If it is not included, then an additional clause should be added specifying the requirement to list approvals that are required from the local authority to connect to, or discharge to, its infrastructure networks.
		Add requirement for the Climate Change Minister to approve a referral application considering whether it is not inconsistent with the Climate Change Response Act 2002 (Zero Carbon Act) and carbon budgets, and that the project either supports or is neutral to meeting 2030 and 2050 targets.
16 Consultation requirements for applicants for approvals	(1) engagement with relevant local authorities before lodging a referral application.	Amend to specify that where an approval to connect to local authority public infrastructure (three waters, roads etc.) under its bylaws the applicant is required to specifically record and present these discussions and whether approval of the local authority would be likely and what conditions may be required. The application must be required to show how the bylaw and local authority connection requirements will be complied with.
17 Eligibility criteria for projects that may be referred to panel	(2) The joint Ministers must consider the following criteria:	Add a requirement to the eligibility criteria in section 17 that joint Ministers must consider: - whether the activity supports GHG emissions mitigation and in particular whether it supports or is neutral to helping achievement of Zero Carbon Act GHG budgets, 2030 and 2050 targets, and - climate change risks, and whether the activity supports resilient communities/climate change adaptation or has neutral climate change adaptation effects.
	(5) A project is not ineligible just because the project includes an activity that is a prohibited	Remove clause or amend to clarify that prohibited activities are ineligible.

	activity under the RMA 1991	
18 Ineligible projects	A project must not include any of the following activities:	Add: an 'activity that: (i) is likely to increase GHG emissions and not support meeting Zero Carbon Act targets (ii) is likely to increase climate change risks
19 Process after joint Ministers receive application	1. The Ministers must copy the application to, and invite written comments from (a) the relevant local authorities	Amend section 19 to provide additional clarity about what would be expected from local authorities at this stage of the process.
	(5) anyone who is invited to provide written comments has 10 working days from the receipt of the copy of the application to do so.	Extend the amount of time provided for written feedback to at least 20 working days, and preferably 30, to ensure reasonable timeframes are provided for councils to provide information.
20 Ministers may request information	(1) The joint Ministers may request further information...	Clarify the intent of this provision/what kind of information is likely to be sought by the Ministers at this point in the process and ensure reasonable timeframes are provided for councils to provide information.
21 Decision to decline application for referral	(1) The joint Ministers must decline an application for referral if the Ministers are satisfied that -	Add: (d) the project is likely to increase GHG emissions and/or is inconsistent with the Zero Carbon Act, meeting carbon budgets, and/or 2030/2050 targets; or (e) the project is likely to increase climate change risks.
	(2) The Ministers may decline an application...	Add: - contribution to climate change/likely to increase GHG emissions or -project being inappropriate due to climate change risks
22 Decision to accept application for referral	(1) before deciding to accept an application for referral, the joint Ministers must consider -	Add that Ministers must consider climate change risks and a GHG Emissions assessment as part of the application process.
	(2) in considering the referral application the joint Ministers must:	Suggest including link to Zero Carbon Act/emissions assessment/contribution to meeting 2030 emissions reduction targets and 2050 net zero target.

25 Panel to report and joint Ministers to decide whether to approve project	Amend so that the panel makes the decision on whether to approve a project or not, and make consequential changes elsewhere in the proposed Bill e.g., Cl. 40, Schedule 4. If, however the decision is to have the joint Ministers make the decision to approve a project, add the Minister for the Environment as a joint Minister.
Schedule 3	
7 Skills and experience of members of panel	Add a requirement for the panel members to have relevant environmental management experience.
Schedule 4	
12 Information required in consent applications	Add a requirement that the applicant needs to show that the local authority has agreed to servicing, there is capacity available in the networks, and that other consents required are likely to be approved by the local authority.
13 Information required to assess environmental effects	Amend this or other clauses to ensure local authorities retain control of discharges and connections to their reticulated networks and that the decision of the joint Ministers does not override the ability of local authorities to decline or restrict or condition access to networks.
15 Information required in applications for subdivision or reclamation	Amend to include a requirement to show details of infrastructure servicing the subdivision and also amend to require that if infrastructure is proposed to be vested in the local authority, the applicant must provide confirmation that the local authority agrees to, and will accept, the vested infrastructure. Where reserves, roads or three waters infrastructure is proposed to be vested in the local authority, the applicant should be required to provide confirmation that the local authority agrees to, and will accept, the vested infrastructure. These discussions must be held with local authorities prior to lodging consent applications.
22	Amend to extend time limit for comments.