

Memorandum on Compliance

File FTC 000017

To: Sandra Balcombe – Manager Land and Oceans Applications

Copy to: Elliott Dennett, Senior Advisor

From: Alex Erceg, Senior Advisor

Date: 11 January 2021

Subject: **LP17 Queenstown Arterials Project:** Assessment whether the application complies with clause 3(1) of Schedule 6 of the COVID-19 Recovery (Fast-track Consenting) Act 2020

Purpose

1. The purpose of this memo is to assist you in making your decision on whether the Queenstown Arterials Project (the Project) application, received by the Environmental Protection Authority (EPA) on 17 December 2020 lodged by Queenstown Lakes District Council (QLDC), complies with the requirements of clause 3(1) of Schedule 6 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the Act).
2. The decision on whether the application complies with the requirements of clause 3(1) of Schedule 6 of the Act is due on **14 January 2021**, being 5 working days¹ after the date of lodgement.

Conflict of interest

3. I confirm that I do not have any conflict of interest in this matter that would prevent me making this assessment.

The application and notice of requirement

4. Projects listed in Schedule 2 (listed projects) are eligible to be considered by an expert consenting panel. Schedule 2 states that “*Queenstown Arterials Project*” is a listed project under the Act, and the authorised person who may apply under the Act is Queenstown Lakes District Council².
5. QLDC applied for consents and lodged the notice of requirement (collectively “the application”) relating to the Project on **17 December 2020**.

¹ The 20 December 2020 to 10 January 2021 are not working days under the Act.

² New Zealand Transport Agency is also an authorised person for this project but did not lodge any applications or notice of requirements.

- The EPA must either provide the application to the expert consenting panel (if complete) or return it to the person who lodged it (if incomplete), as set out in paragraphs 9 -13 below.

Project

- Schedule 2 of the Act states the project is to “to construct, maintain and operate a new Queenstown Town Centre urban arterial road (including associated infrastructure, structures, walkways, shared path, and landscaping)”.
- The project commences at the Frankton Road (SH6A)/Melbourne Street intersection, then circuits the town centre along Melbourne Street, Henry Street, Gorge Road, Memorial Street, Man Street, and Thompson Street and down to a new One Mile roundabout at the Fernhill Road/Lake Esplanade/Glenorchy intersection.

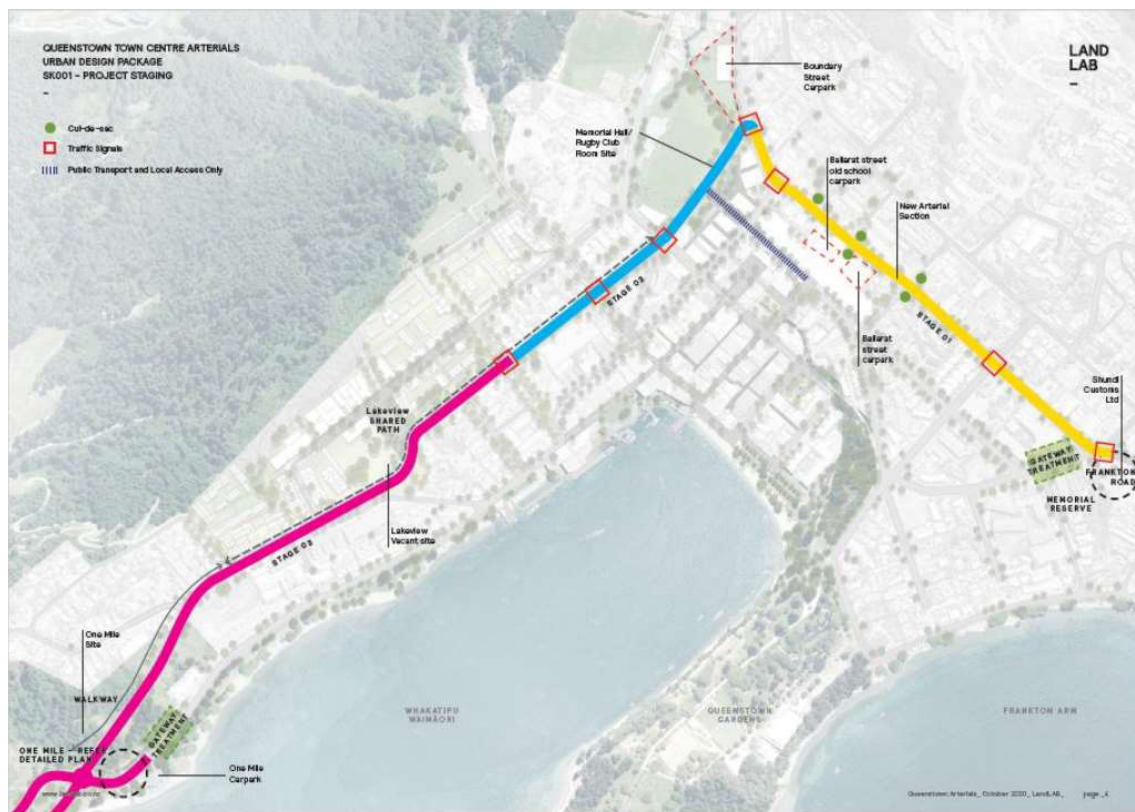


Figure 1: Map of new arterial road (taken from application)

Fast-track consenting application process

Legislative context

- Clause 2(1), Schedule 6 of the Act states that a person authorised in accordance with section 15 may apply for a resource consent that would otherwise be required under section 88 of the Resource Management Act 1991 (RMA).

10. Clause 2(2), Schedule 6 of the Act states that a requiring authority authorised in accordance with section 15 may, in respect of a listed project or referred project, as the case may require, lodge—
 - a. a notice of requirement for a designation:
 - b. a notice of requirement to alter a designation.
11. Clause 3(1), Schedule 6 of the Act states that *“within 5 working days of receiving a consent application or notice of requirement, the EPA must determine whether the application or notice—*
 - (a) relates solely to 1 or more of the listed projects or referred projects; and*
 - (b) does not breach clause 2(3)(c) or (4); and*
 - (c) contains all the information required under clauses 9 to 13.”*
12. Clause 3(2), Schedule 6 of the Act states that *“if the EPA is satisfied that a consent application or notice of requirement complies with the matters listed in subclause (1), the EPA must provide the application or notice to the panel appointed to determine that application or notice.”*
13. Clause 4(1), Schedule 6 of the Act states that *“if the EPA determines that a consent application or notice of requirement does not comply with the requirements of clause 3(1), it must return the application or notice immediately to the person who lodged it, with written reasons for the EPA’s determination”.*

Prerequisites for the application and notice of requirement

14. There are a number of prerequisites for an application to be lodged as set out in this table.

Reference to clause in Schedule 6	Preliminary Matter	Comment	Accept/reject
Clause 2(3)(b)	Application is in approved form and manner	Yes	Accept
Clause 2(3)(c)	Application complies with any restrictions and obligations in either:		
	(i) Schedule 2; or	Yes	Accept
	(ii) Schedule 3 and referral order	N/A	N/A
Clause 2(4)(a)	Applications must not relate to an activity that is classified as a prohibited activity in a:		
	(i) Relevant plan or proposed plan	No prohibited activities relevant See Section 3 of AEE	Accept
	(ii) RMA regulations (including any NES)	No prohibited activities relevant See Section 3 of AEE	Accept

Clause 2(4)(b)	Applications must not relate to an activity that is to occur within a customary marine title area unless agreed by the appropriate customary marine title group	N/A – not in the Coastal Marine Area	Accept
Clause 3(1)(a)	Relates solely to 1 or more of the listed projects or referred projects	Project is listed in Schedule 2 of the Act. The application is for the Queenstown Arterials Project which is Listed Project 17	Accept

Conclusions on preliminary matters

15. The application can proceed to an assessment of whether the application contains **all** the information required under clauses 9 to 13 of Schedule 6 of the Act.

Assessment of compliance table

16. For the consent applications, an assessment table against Clauses 9-11, Schedule 6 of the Act is included in Appendix 1.
17. For the notice of requirement, an assessment table against Clause 13, Schedule 6 of the Act is included in Appendix 1.
18. The information provided must be in sufficient detail to correspond to the scale and significance of the effects that the activity is anticipated to have on the environment, taking into account any proposal by a consent applicant or requiring authority to manage adverse effects through conditions, including requiring the preparation of a management plan (Clauses 13(3) and 14 of Schedule 6).
19. The information in the application has been assessed on the basis that the scale of the activity is moderate, and potentially moderate effects on the environment after taking into account mitigation measures and conditions.
20. I consider that the application **does comply** with clause 3(1) and can be referred to an expert consenting panel.

Appendix 1: Clauses 9-11, and 13

Application for Resource Consents and Notice of Requirement for Queenstown Arterials Project

Table 1: Checklist of completeness requirements in Clauses 9 – 11, and 13 of Schedule 6 of the Act

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
Clause 9			
Clause 9(1)(a)	A description of the proposed activity	Yes Various places throughout the entire application. In particular Section 4	Yes Section 4 describes the proposal section by section.
Clause 9(1)(b)	A description and map of the site at which the activity is to occur	Yes – Section 2 Site description Section 2.2	Yes
Clause 9(1)(c)	Confirmation that the consent application complies with clause 3(1)	Yes – Section 3	Yes
Clause 9(1)(d)	The full name and address of:	Yes	Yes
	i. Each owner of the site and of land adjacent to the site	Section 7 and Appendix 3	
	ii. Each occupier of the site and of land adjacent to the site who, after reasonable enquiry, is able to be identified by the applicant	Yes Section 7 and Appendix 3	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	Were reasonable inquiries made?	<p>Yes – Appendix 1 and 2 (the application forms) specifies what was done to undertake reasonable inquiry.</p> <p>Appendix 9 – Consultation Summary Report</p>	<p>Yes</p> <p>Appendix 1 and 2 (the application forms) also details the inquiries made.</p>
Clause 9(1)(e)	A description of any other activities that are part of the proposal to which the consent application relates	<p>Yes</p> <p>Section 3 discusses an alteration to a Waka Kotahi designation for an abutting designation. This is outside the scope of this project.</p> <p>Section 5 discusses permitted activities that relate.</p> <p>Section 6 discusses “other approvals required” such as those from Heritage New Zealand Pouhere Taonga</p>	<p>Yes</p>
Clause 9(1)(f)	A description of any other resource consents, notices of requirement for designations, or alterations to designations required for the proposal to which the consent application relates	<p>Yes</p> <p>Section 3 discusses an alteration to a Waka Kotahi designation for an abutting</p>	<p>Yes</p>

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	(ii) the purpose of this Act	Yes Section 8 and Section 16	Yes – Section 8 does not really provide an assessment against the purpose of the Act. However, when having regard to Section 16, this assesses against Section 19 of the Act, which assesses how the project achieves the purpose of the Act. As such, I consider that this results in this information being provided in sufficient detail.
	(iii) the following matters (set out in section 19 of the Act - whether project helps to achieve purpose of Act):	Yes Section 16	Yes
	(a) the project's economic benefits and costs for people or industries affected by COVID-19	Yes Section 16	Yes
	(b) the project's effect on the social and cultural well-being of current and future generations	Yes Section 16	Yes
	(c) whether the project would be likely to progress faster by using the processes provided by this Act than would otherwise be the case	Yes Section 16	Yes
	(d) whether the project may result in a public benefit by, for example: generating employment; increasing housing supply; contributing to well-functioning urban environments; providing infrastructure in order to improve	Yes Section 16	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	<p>economic, employment, and environmental outcomes, and increase productivity; improving environmental outcomes for coastal or freshwater quality, air quality, or indigenous biodiversity; minimising waste; contributing to New Zealand's efforts to mitigate climate change; and transition more quickly to a low-emissions economy (in terms of reducing New Zealand's net emissions of greenhouse gases); promoting the protection of historic heritage; strengthening environmental, economic, and social resilience, in terms of managing the risks from natural hazards and the effects of climate change; or any other benefit(s) identified.</p>		
	(e) whether there is potential for the project to have significant adverse environmental effects, including greenhouse gas emissions:	<p>Yes</p> <p>Section 16</p>	<p>Yes</p>
	(f) [for referred projects only] any other matter that the Minister considers relevant.	<p>N/A</p>	<p>N/A</p>
<p>Clause 9(1)(h)</p>	<p>An assessment of the activity against --</p> <p>(a) any relevant provisions in a national environmental standard, including:</p>	<p>Yes</p> <p>Section 5.2 and 14.2.1– National Environmental Standard for Assessing and Managing Contaminants to Protect Human Health</p> <p>Section 14.2</p> <p>Section 14.2.2 – National Environmental Standards for Freshwater</p>	<p>Yes</p>

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
		Section 14.2.3 National Environmental Standards for Air Quality Section 14.2.4 National Environmental Standards for Sources of Human Drinking Water With more information in various Appendices	
	i. Any relevant objectives, policies or rules	Yes – Section 14.2 and various appendices including recommended conditions of consent	Yes
	ii. Any requirement, condition, or permission in any rules	Yes – Section 5.2	Yes – Consents required under the National Environmental Standards for Assessing and Managing Contaminants to Protect Human Health.
	iii. Any other requirements	Yes – Section 14.2	Yes
	(b) Any relevant provisions in any other regulations made under the RMA, including:	N/A	N/A
	i. Any relevant objectives, policies or rules	N/A	N/A

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	ii. Any requirement, condition, or permission in any rules	N/A	N/A
	iii. Any other requirements	N/A	N/A
	(c) Any relevant provisions in any national policy statement, including:	<p>Yes</p> <p>Section 14.1</p> <p>Section 14.1.1 National Policy Statement for Urban Development</p> <p>Section 14.1.2 National Policy Statement for Freshwater Management</p>	Yes
	i. Any relevant objectives, policies or rules	Yes – Section 14.1	Yes
	ii. Any requirement, condition, or permission in any rules	N/A	N/A
	iii. Any other requirements	N/A	N/A
	(d) Any relevant provisions in a New Zealand coastal policy statement, including:	<p>N/A</p> <p>The project site is not within, or adjacent to and will not affect the Coastal Marine Area as such the New Zealand Coastal Policy Statement is not relevant to this proposal.</p>	N/A

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	i. Any relevant objectives, policies or rules	N/A	N/A
	ii. Any requirement, condition, or permission in any rules	N/A	N/A
	iii. Any other requirements	N/A	N/A
	(e) Any relevant provisions in any regional policy statement or proposed regional policy statement, including:	Yes – Section 14.3	Yes
	i. Any relevant objectives, policies or rules	Yes Section 14.3.1 – Partially Operative Regional Plan 2019	Yes
	ii. Any requirement, condition, or permission in any rules	N/A	N/A
	iii. Any other requirements	N/A	N/A
	(f) Any relevant provisions in a plan or proposed plan, including:	Yes – Section 14	Yes
	i. Any relevant objectives, policies or rules	Yes Section 14.3.2 – Operative Regional Plan: Water for Otago Section 14.4.2 – Proposed Queenstown District Plan	Yes – Also includes a discussion on the structure of the Queenstown District Plan and its staged review in Section 14.4.1

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
		Section 14.4.3 – Operative District Plan	
	ii. Any requirement, condition, or permission in any rules	Yes – Section 5.1 - Regional Consents sought under the Regional Plan	Yes
	iii. Any other requirements	N/A	N/A
	(g) Any relevant provision in any planning document recognised by a relevant iwi authority and lodged with a local authority, including:	Yes Section 14.5	Yes
	i. Any relevant objectives, policies or rules	Yes Section 14.5.1 – Kai Tahu ki Otago Resource Management Plans 1995 and 2005 Section 14.5.2 Te Tangi a Tauira; The Cry of the People, The Ngai Tahu ki Murihiku Management Plan for Resources 2008	Yes
	ii. Any requirement, condition, or permission in any rules	N/A	N/A
	iii. Any other requirements	N/A	N/A

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
Clause 9(1)(i)	Information about any Treaty settlements that apply in the project area, including—	Yes Section 19	Yes
	(i) the identification of the relevant provisions in those Treaty settlements		
	(ii) a summary of any redress provided by those settlements that affects natural and physical resources relevant to the project or project area	Yes Section 19	Yes
Clause 9(1)(j)	The conditions that the applicant proposes for the resource consent	Yes – Appendix 24	Yes
Clause 9(4)(a)	An assessment of the activity's effects on the environment that includes the following information (set out in clause 10 Schedule 6 of the Act): ³	Yes – Section 12	Yes
	(a) an assessment of the actual or potential effects on the environment		
	(b) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use	N/A– Section 12.7	N/A There are no hazardous installations associated with this project as specified in Section 12.7
	(c) if the activity includes the discharge of any contaminant, a description of—	Yes – Section 12.3.1 and Section 12.5	Yes
	(i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and		

³ The application does not need to include any additional information specified in a relevant regional policy statement or plan that that would be required in an assessment of environmental effects under Schedule 4 of the RMA.

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	(ii) any possible alternative methods of discharge, including discharge into any other receiving environment	Section 9 – alternatives (specifically section 9.2)	
	(d) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect of the activity	Yes Section 12 and various places including appendices and recommended conditions of consent and designation.	Yes
	(e) identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal	Yes Appendix 1 and 2 Summary of Consultation on application forms Appendix 3 – List of owners and occupiers Appendix 9 – Consultation Summary Section 12.1	Yes
	(f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision	N/A – provided a CIA	N/A
	(g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how	Yes	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	the effects will be monitored and by whom, if the activity is approved	Recommended conditions of consent Section 12	
	(h) an assessment of any effects of the activity on the exercise of a protected customary right	N/A – None present	N/A
Clause 9(4)(b)	An assessment of the activity's effects that also covers the following matters (set out in clause 11 of Schedule 6 of the Act):	Yes Section 12.1	Yes
	(a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects	Appendix 9 – Consultation Summary	
	(b) any physical effect on the locality, including landscape and visual effects	Yes – Section 12.2	Yes
	(c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity	Yes – Section 12.3	Yes
	(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations	Yes – Section 12.4	Yes
	(e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants	Yes – Section 12.5	Yes
	(f) the unreasonable emission of noise	Yes – Section 12.6	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	(g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.	Yes – Section 12.7	Yes
Clause 9(5)	<p>Is there a cultural impact assessment?</p> <p>If a cultural impact assessment is provided, is it prepared by or on behalf of the relevant iwi authority?;</p> <p>OR</p> <p>If a cultural impact assessment is not provided, a statement of reasons given by the relevant iwi authority for not providing that assessment</p>	<p>Yes</p> <p>Section 11</p> <p>Appendix 21 – Cultural Impact Assessment</p>	<p>Yes</p> <p>Te Ao Marama Inc has prepared a Cultural Impact Statement, which states “<i>this statement is not a Cultural Values Statement or Complete Cultural Impact Assessment. This statement will inform QLDC of the impacts of the proposed arterial project</i>”.</p> <p>I consider this is sufficient to meet this information requirement.</p> <p>It has been prepared by Te Ao Marama Inc with input from Aukaha Limited on behalf of the relevant Papatipu Runanga and Te Runanga o Ngai Tahu.</p>
Clause 9(6)(a)	If a permitted activity is part of the proposal to which the consent application relates, a description that demonstrates that the activity complies with the requirements, conditions, and permissions for the permitted activity (so that a resource	<p>Yes</p> <p>Section 5.1.2 (Regional Plans)</p>	<p>Yes</p> <p>Regional Plan – Water for Otago</p>

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
	consent is not required for that activity under section 87A(1) of the RMA)		Regional Plan: Waste for Otago Regional Plan: Air for Otago
Clause 9(6)(b)	If the activity is to occur in an area that is within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, an assessment of the activity against any resource management matters set out in that planning document (for the purposes of clause 30(3))	N/A – not planning documents prepared by customary marine title group.	N/A
Clause 9(6)(c)	In the case of a referred project, all the additional information required by the relevant referral order. [List the additional information here]	N/A	N/A
Clause 13			
Clause 13(1)(a)	A description of the site to which the notice of requirement applies	Yes - Section 2	Yes
Clause 13(1)(b)	Information on the effects of the proposed project or work on the environment, together with a description of how any adverse effects will be mitigated; and a description of how any adverse effects will be mitigated	Yes – Section 12	Yes
Clause 13(1)(c)	Confirmation that the notice of requirement: a. Relates solely to 1 or more of the listed projects or referred projects b. Does not breach 2(3)(c) or (4) c. Contains all information required under clauses 9-13	Yes – Section 3	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
Clause 13(1)(d)	<p>An assessment of the project or work against:</p> <p>i. Part 2 of the RMA and the purpose of this Act</p>	<p>Yes – Section 15</p> <p>Section 15.1 – Assessment against Section 5 of the RMA</p> <p>Section 15.2 – Assessment against Section 6 of the RMA</p> <p>Section 15.3 – Assessment against Section 7 of the RMA</p> <p>Section 15.4 – Assessment against Section 8 of the RMA</p> <p>Section 8 and Section 16 – Purpose of this Act</p>	Yes
	<p>ii. Any relevant provisions in any:</p> <p>- National policy statement</p>	Yes – Section 14.1	Yes
	<p>- New Zealand coastal policy statement</p>	N/A – project not within, adjacent to, or likely to affect the Coastal Marine Area.	N/A
	<p>- Regional policy statement or proposed regional policy statement</p>	<p>Yes</p> <p>Section 14.3 – Regional Plan</p> <p>Section 14.4 District Plan</p>	Yes
	<p>- Plan or proposed plan</p>	Yes	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
		Section 14.3 – Regional Plan Section 14.4 District Plan	
	- Planning document recognised by a relevant iwi authority and lodged with a local authority	Yes Section 14.5	Yes
Clause 13(1)(e)	Information about any Treaty settlements that apply in the project area, including—	Yes	Yes
	(i) the identification of the relevant provisions	Section 19	
	(ii) a summary of any redress provided by those settlements that affects natural and physical resources relevant to the project or project area	Yes Section 19	Yes
Clause 13(1)(f)	The full name and address of:	Yes	Yes
	(i) each owner of the land to which the notice of requirement relates and of the land adjacent to that land	Appendix 3	
	(ii) each person who, after reasonable inquiry, is known by the requiring authority to be an occupier of the land to which the notice relates and of the land adjacent to that land	Yes Appendix 3	Yes
Clause 13(1)(g)	An assessment of whether the project or work and the designation sought are reasonably necessary for achieving the objectives of the requiring authority	Yes Section 17	Yes
Clause 13(1)(h)	Any consideration of alternative sites, routes, or methods of undertaking the project or work	Yes Section 9	Yes

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
Clause 13(1)(i)	A list of the resource consents needed for the project or work and whether these have been applied for	Yes Section 5	Yes
Clause 13(1)(j)	A description of any consultation undertaken with parties likely to be affected by the project or work and the designation	Yes Section 10 Appendix 3 – List of owners and occupiers Appendix 9 – Consultation Summary	Yes
Clause 13(1)(k) and (l)	<p>Is there a cultural impact assessment?</p> <p>If a cultural impact assessment is provided, is it prepared by or on behalf of the relevant iwi authority?;</p> <p>OR</p> <p>If a cultural impact assessment is not provided, a statement of reasons given by the relevant iwi authority for not providing that assessment</p>	Yes Section 11 Appendix 21	<p>Te Ao Marama Inc has prepared a Cultural Impact Statement, which states “<i>this statement is not a Cultural Values Statement or Complete Cultural Impact Assessment. This statement will inform QLDC of the impacts of the proposed arterial project</i>”.</p> <p>I consider this is sufficient to meet this information requirement.</p> <p>It has been prepared by Te Ao Marama Inc with input from Aukaha Limited on behalf of the relevant</p>

Reference to clause in Schedule 6	Requirement	Is the information present? (include section/page reference)	Is the information provided in sufficient detail? Y/N
			Papatipu Runanga and Te Runanga o Ngai Tahu.
Clause 13(1)(m)	Any conditions that the requiring authority proposes for the designation	Yes – Appendix 23	Yes
Clause 13(2))	In the case of a referred project, a notice of requirement must also include all the additional information required by the relevant referral order. [List the additional information here]	N/A	N/A

ENDS