

17 February 2023

Via email: [environment@parliament.govt.nz](mailto:environment@parliament.govt.nz)

To whom it may concern

### **SUBMISSION ON THE NATURAL AND BUILT ENVIRONMENT BILL AND SPATIAL PLANNING BILL**

Thank you for the opportunity to submit on the Natural and Built Environment Bill and Spatial Planning Bill.

Queenstown Lakes District Council (QLDC) supports the move towards an outcomes-based system, a reduction in costs and more consistent and complete national direction. However, as with any reform, a key success factor is effective implementation throughout the system, with sufficient funding and investment to facilitate the change.

Significant concerns about the nature and programme of reform remain, and points of emphasis regarding the implications of the Bills to the Queenstown Lakes District include that:

- The Bills do not provide sufficient scope to address crucial issues for the district, nor do they ensure that councils will be involved in the development of the key instruments that will sit under the legislation.
- In the absence of critical detail such as the National Planning Framework (NPF), Council is not able to properly comment or provide meaningful input on the implications of the Bills. It is integral that there is close involvement by local authorities in the development of the instruments that will sit under the Bills.
- Local democratic input and accountability has been reduced through the introduction of Regional Planning Committees. The relative lack of accountability of RPCs to councils and communities is untenable.

QLDC would like to present its submission orally to the Environment Select Committee.

This submission has not been endorsed by full Council. It is intended that this will occur at Council's next meeting.

Thank you again for the opportunity to comment.

Yours sincerely, Nāku noa nā



Glyn Lewers  
Mayor



Mike Theelen  
Chief Executive

## SUBMISSION TO THE ENVIRONMENT SELECT COMMITTEE ON THE NATURAL AND BUILT ENVIRONMENT BILL AND SPATIAL PLANNING BILL

### 1.0 Introduction

- 1.0 QLDC broadly supports the intent of the reform programme to simplify and improve resource management within New Zealand Aotearoa. Local government input in these significant matters is important, and the amount of resource that goes into forming a whole of council position on these issues is substantial. There appears to be little coordination from central government of the multitude of workstreams being consulted on, nor an understanding of the decision-making context that local government is working within. This places unreasonable pressure on local authorities to resource and provide meaningful feedback, given the multitude of complex issues at stake.
- 1.1 Due to the sheer volume of the Natural and Built Environment Bill and Spatial Planning Bill (the Bills), and the timing of the consultation period, QLDC's submission addresses high level matters that will have the most impact on the unique traits of Queenstown Lakes District (the district).
- 1.2 Council generally supports the policy positions of the NZPI (New Zealand Planning Institute), Taituarā, LGNZ (Local Government New Zealand) and the WasteMinz Territorial Authority Forum in relation to the Bills.

### 2.0 Background

- 2.1 The characteristics of QLDC have a direct impact on resource management and land use planning in the district. The Bills as drafted do not provide adequate tools for Council to address acute issues such as affordable housing and the extremely high percentage of land in the district that is classified as outstanding natural landscape or feature (ONL/F), or national park.
- 2.2 Queenstown Lakes has a small ratepayer base, but operates in a metropolitan scale planning context. The large volume of resource management caselaw is testament to the high level of engagement in planning issues in the district by the community, as well as their complex nature.
- 2.3 The district is one of the fastest growing areas in New Zealand Aotearoa. The average daily population is 66,532 (visitors and residents) and the peak daily population is 102,648<sup>1</sup>. The district's population has grown 72% over the past ten years. By comparison, Central Otago has grown by 40% while all other areas of Otago/Southland have increased by less than 10%. Statistics NZ projections predict that the district's population will grow an additional 31% by 2043, compared to Central Otago at 21% and the rest of Otago/Southland 5% or less<sup>2</sup>.
- 2.4 The district is also one of New Zealand Aotearoa's most unaffordable regions to rent or buy housing. Average house sale prices were \$1.25M for the year ending

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<sup>1</sup> <https://www.qldc.govt.nz/community/population-and-demand> (estimated population on 30/6/2022 from March 2022 Demand Projections).

<sup>2</sup> Statistics NZ [NZ.Stat \(stats.govt.nz\)](https://www.stats.govt.nz) using Statistics NZ medium forecast figures (date accessed: 19 January 2023).

September 2022. This is almost double the next most expensive area in Otago/Southland, which is Central Otago at \$634k<sup>3</sup>. The average property value in the district is 14 times the average household income, whilst the New Zealand Aotearoa average is nine<sup>4</sup>.

2.5 Council's Housing Development Capacity Report 2021 concluded there is sufficient planned enabled capacity across the district to meet the projected demand for 17,000 additional homes required by 2051<sup>5</sup>. However, there is still a major shortfall in the 'affordable' housing brackets<sup>6</sup>. This highlights that for the Queenstown Lakes, an ample supply of zoned land alone will not avoid inflated urban land prices.

2.6 97% of the district is categorised as either an ONL/F, or national park. Not only do such landscapes need to be protected but improved environmental health must be ensured. This feature of the district is significant, as it creates more pressure and necessity to develop the remaining 3% as efficiently as possible, but also leads to pressure to develop land within the 97% due to its inherent value. The values of these areas need to be protected, and improved environmental health must be ensured. It is critical that the new regime provides clear guidance on these issues, and the competing need to provide for growth, so that the district is not continually embroiled in development-related litigation.

2.7 The Grow Well Whaiora Urban Growth Partnership that developed the district's spatial plan is an illustration of its commitment to collaboration between all parties that have accountability for the growth and use of resources. This partnership is between multiple central government agencies (Waka Kotahi, Ministry of Housing and Urban Development, Kāinga Ora, Department of Internal Affairs), local council, regional council and Kāi Tahu.

2.8 Other key issues for the district include continuing to develop resilience of its communities in relation to natural hazards and the importance of climate action and emissions reduction to the district as shown through Council's Climate and Biodiversity Plan and Destination Management Plan. Reform of the resource management system must be enabling to allow Council to continue to be a leader in these areas.

### 3.0 Short and long term funding of reforms

3.1 There will be significant costs to transition to a new system of resource management. There will also be significant Regional Spatial Strategy (RSS) and NBEA plan development costs. For councils such as the Queenstown Lakes that have

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<sup>3</sup> Ministry Housing and Urban Development - Urban Development Dashboard [Urban Development \(shinyapps.io\)](https://shinyapps.io/urban-development/) (date accessed: 19 January 2023).

<sup>4</sup> Infometrics : [https://ecoprofile.infometrics.co.nz/queenstown-lakes%2bdistrict/StandardOfLiving/Housing\\_Affordability](https://ecoprofile.infometrics.co.nz/queenstown-lakes%2bdistrict/StandardOfLiving/Housing_Affordability) (date accessed: 19 January 2023).

<sup>5</sup> QLDC's Housing Development Capacity Assessment 2021 (HDCA 2021). The assessment found that Queenstown Lakes has enabled capacity for approximately 48,000 additional houses in the medium term, increasing to 65,000 additional homes over the long term. 67% of this capacity is commercially feasible (i.e., infrastructure ready and meets developer risk/profit requirements) to develop over the medium term, increasing to 80% over the long term.

<sup>6</sup> i.e., nothing available under \$500k in the short/medium term, increasing to nothing available under \$800k by 2050.

recently spent large sums preparing first generation spatial plans as well as other plans and policy statements, there is unlikely to be any appetite or ability for to prioritise rate funding on plan reviews that may have little perceived gain from more recent plans.

- 3.2 Whilst Council understands that there is some funding for transition, it is concerned that there has not been appropriate consideration given as to the effects on local government of funding the proposed new system on an ongoing basis. Supporting documentation<sup>7</sup> to the Bills acknowledges that ongoing costs to local government will increase. This includes developing and monitoring new economic instruments, an increase in monitoring and enforcement activity, and reviewing additional national direction under the National Policy Framework (NPF). These additional costs outweigh any savings, and the report states that, “ ..the largest absolute increase in cost falling on local government. Taxpayers and ratepayers would bear these costs.”<sup>8</sup>
- 3.3 Council views that the success of reforms necessitates that both short and long term funding commitments between local and central government are entered and agreed to as a matter of urgency. In the absence of this, the process is lacking certainty for planning purposes and transparency to communities and ratepayers. Council notes that the Future for Local Government review recognises that a paramount reason for reform is because increasing rates based funding is no longer a feasible option.

## Recommendations

R.1 – Council requests that short and long term funding agreements are entered between central and local government, to provide certainty and transparency to the reforms, and to ensure that these costs are not borne solely by ratepayers.

## 4.0 Purpose and system outcomes approach

- 4.1 In principle, Council supports the proposed shift to an outcomes-based approach to resource management. However, in the absence of critical detail, it is difficult to know for certain whether the proposed reforms will improve on the current regime.
- 4.2 Council appreciates that the intent of the systems outcomes is to steer the National Planning Framework (NPF) and other lower order strategies and plans, which will provide the detail for how the system outcomes are achieved. In order to ensure that these processes are robust, and involve key stakeholders, a key theme of Council’s submission is that the Bills should be amended to ensure and mandate that local authorities will be closely involved in the development of the key instruments that will give meaning to the new system outcomes.
- 4.3 A key reason for this is that the proposed new purpose and system outcomes in clauses 3 and 5 of the NBE Bill do not establish any hierarchy. If this non-hierarchical drafting flows into the NPF and other instruments, this will only

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<sup>7</sup> Supplementary Analysis Report: The new resource management system, at page 108 [Supplementary-Analysis-Report.pdf \(environment.govt.nz\)](#) (date accessed: 14 February 2023).

<sup>8</sup> Ibid at page 109.

exacerbate tension that already exists between enabling urban development, including infrastructure, and protecting the environment.

- 4.4 QLDC supports the concept of Te Oranga o te Taiao and the importance of the legislation giving effect to the principles of te Tiriti o Waitangi. However, Council is concerned about the implications of the tension between Te Oranga o te Taiao and the rest of clause 3 in the NBE Bill.
- 4.5 The system outcomes in clause 5 provide a strong summary of important matters, but without any internal hierarchy it will be challenging to apply and weigh these effectively.

#### *Natural Hazards*

- 4.6 Council recommends that the Bills be amended to set out a comprehensive regime for managing and planning for all natural hazards. It is paramount that the Bills align and connect with both current and future legislation. Acknowledgement of the need for a clear, connected framework is absent in the Bills.
- 4.7 There are high levels of risk from rockfall and debris flow present at alluvial fan sites near central Queenstown. The combination of high risk from natural hazards combined with urban re-development pressure, presents a challenging planning context. Many areas within the district are exposed to a complex range of flooding, slope-related and earthquake-triggered hazard events, that are not necessarily caused by climate change. The extreme risk of large scale damage due to wildfires is also a key issue. Managing these natural hazard risks presents a difficult challenge, for which a connected regime is required that is not currently in place.

#### *National Planning Framework (NPF) and NBE Act Plans*

- 4.8 In many respects, the NPF is the key to how the NBE Bill will be implemented. Council views that direction on these matters will be absolutely key to the workability of the new framework. As they will not be developed until after both Bills are enacted, it is not feasible to comment on whether the stated outcomes of the reforms, including improved efficiency, can be achieved.
- 4.9 To ameliorate these concerns, Council recommends that the Bills mandate that local authorities be closely involved in the development of the NPF and NBEA Plans. This will ensure that these instruments incorporate valuable local authority knowledge and experience developed through years of plan making. There are a range of ways this could be implemented, such as pre engagement, stakeholder workshops and submissions and hearings processes.

### **Recommendations**

R.2 - Mandate that local authorities be closely involved in the development of the NPF and NBEA Plans. This will assist to implement a stronger hierarchy and prioritisation of system outcomes in clauses 3 and 5 of the NBE Bill, in order to resolve the conflicts and incompatibilities and avoid resolution through the judicial process.

R.3 – Amended the Bills to set out a comprehensive regime for managing and planning for natural hazards.

## 5.0 QLDC focus point: Outstanding Natural Landscapes and Features (ONL/Fs)

- 5.1 The system outcomes in clause 5 of the NBE Bill require that all plans provide for “the protection or, if degraded, restoration, of ... outstanding natural features and outstanding natural landscapes”.
- 5.2 Because the Queenstown Lakes District is comprised of 97% ONL/F categorised land, a national approach would disproportionately affect the region, as compared to other districts. The tension between providing capacity for growth and the protection of ONL/Fs is acute as compared to other regions because the districts urban environments are directly adjacent to ONL/Fs. Council urges the committee to improve processes in the Bills to will ensure that the districts’ unique features are properly understood and incorporated, and consider a specific approach for Queenstown Lakes in this regard.
- 5.3 Developed over decades, the Queenstown Lakes District has specific restrictions relating to ONL/Fs in its Operative and Proposed District Plan that were subject to extended Environment Court processes. Whilst Council supports resource management reform in principle, the current regime provides for a secure outcome that ensures community input through the district plan and Environment Court processes that is not evident in the Bills.
- 5.4 In the absence of a National Policy Statement for outstanding natural features and landscapes, QLDC has no indication of future NPF content. At present, the Bills do not demonstrate how the needs of the different communities will be reflected in the development of the NPF or in the body of the NPF itself, or what discretion local communities will have in their administration of the framework. Council has serious concerns that the NPF will be developed in isolation, without consideration of the expertise and uniqueness of QLDC in this regard.
- 5.5 The system outcomes of the NBE Bill refer to the ‘restoration’ of ONL/Fs. Council seeks clarification in the Bill of what this means in practice, as it has the potential to have a significant impact on the district.

### Recommendations

- R.4 – Mandate that local authorities be closely involved in the development of the approach for ONL/F land in the NPF, and that a specific approach for QLDC be considered in this regard.
- R.5 - Clarification of the application of caselaw and current plans in the new system.
- R.6 – Clarification of what ‘restoration’ of ONL/Fs in clause 5 of the NBE Bill will mean in practice.

## 6.0 QLDC focus point: housing affordability

- 6.1 Despite having capacity to meet the projected demand for 17,000 additional homes required by 2051<sup>9</sup>, there is still a major shortfall in the ‘affordable’ housing

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<sup>9</sup> QLDC’s Housing Development Capacity Assessment 2021 (HDCA 2021). The assessment found that Queenstown Lakes has enabled capacity for approximately 48,000 additional houses in the medium term, increasing to 65,000 additional homes over the long term. 67% of this capacity is commercially feasible (i.e.,

brackets<sup>10</sup>. For the Queenstown Lakes, a sufficient supply of zoned land alone will not avoid inflated urban land prices. Rising house prices and declining affordability in the district is being driven by a range of local and national factors that are not impacted or influenced by the district plan or Council's infrastructure funding and planning. This situation is expected to worsen without the use of such tools as inclusionary zoning.

- 6.2 The system outcomes in the NBE Bill require councils to develop plans that promote the "ample supply of land for development, to avoid inflated urban land prices" (clause 5(c)(ii)). This system outcome assumes that increasing land supply alone decreases the pressure on house price inflation. Council requests that the wording be broadened to consider other variables that are playing a larger role with respect to inflated land prices.

### *Inclusionary housing*

- 6.3 Council has recently notified a plan change to insert provisions in its district plan that require a financial contribution towards retained affordable housing that is channeled to eligible residents on low to moderate incomes. The contribution would be collected by the Council then provided to the Queenstown Lakes Community Housing Trust (or another registered community housing provider) to help more people access affordable housing in the district. The housing created would become a community asset as the land would remain in the ownership of Council or the Housing Trust, with a 100 year lease agreement for subsequent development. Inclusionary housing enables eligibility criteria to be applied which ensures that the housing created is directed appropriately.
- 6.4 These inclusionary housing provisions have been developed in concert with a plan change to increase the intensity of housing in our urban environment, to give effect to Policy of the National Policy Statement on Urban Development (NPS-UD).
- 6.5 Council is pursuing the inclusionary housing plan change because the district's housing market is failing a large sector of the population. Through housing capacity assessment work, it is known that despite significant plan-enabled capacity for additional housing and growth, the housing market is not delivering housing that is affordable. Unaffordable housing destabilises communities, and has significant economic and social impacts.
- 6.6 The formal acknowledgement of inclusionary housing as a method to address housing affordability in the NBE Bill is urged. Whilst clause 112 of the NBE Bill provides for environmental contributions, Council seeks clarification that this provision is broad enough to allow for funding or land to be exchanged to provide for affordable housing. In the alternative, if this is not included as part of the NBE Bill, inclusionary housing should be enabled through the NPF, potentially specifying inclusionary housing as a specific tool for the Queenstown Lakes District or for districts that exceed a specified affordability threshold.

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infrastructure ready and meets developer risk/profit requirements) to develop over the medium term, increasing to 80% over the long term.

<sup>10</sup> i.e., nothing available under \$500k in the short/medium term, increasing to nothing available under \$800k by 2050.

6.7 Social issues also affect housing affordability. The focus on economic rather than social implications in the Resource Management Act 1991 (RMA) makes it prohibitive to address housing affordability. Council supports that the NBE Bill and the NPF focus on wider social impacts and includes limits for the built as well as the natural environment.

6.8 Council supports the proposed changes for requiring authorities/designations. This will enable designations for 'public good' infrastructure (including housing developed by a Community Housing Trust).

#### *Short term letting*

6.1 One of the main drivers behind the districts' housing affordability issues is the popularity of the district as a holiday destination. High visitor numbers have a huge impact on housing, contributing to the lack of affordable housing as well as a critical shortage of longer term letting<sup>11</sup>.

6.2 The district has a very high percentage of housing that are holiday homes or are letted short-term (i.e. Airbnb style visitor accommodation). The implication of this is that there is an acute shortage of housing available for long term rentals.

6.3 There is no provision in the Bills that would assist with controlling the proportion of housing used for short-term letting, which is a key factor behind the lack of affordable housing in the Queenstown Lakes District. Without tools to address this issue, housing affordability will not be ameliorated.

6.4 Council has undertaken two separate RMA plan change processes to try and regulate short term letting activities. Unfortunately the RMA has limited scope to address the impacts of short term letting, due to greater emphasis being placed on managing immediate adverse effects, rather than the broader effects on availability of rental accommodation and increased competitiveness in the local housing and rental market. The RMA does not enable councils to require that residential dwellings are used for residential accommodation and not for visitor accommodation. Council supports the explicit requirement in the NPF that registration for short term letting be mandatory for monitoring purposes.

#### **Recommendations**

R.7 – Amend clause 5(c)(ii) from “ample supply of land for development, to avoid to inflated urban land process” to read, “ample supply of land for development, to avoid contributing to inflated urban land process”.

R.8 - Include direct support for projects and initiatives such as inclusionary zoning. Formally acknowledge inclusionary housing as a method to address housing affordability.

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<sup>11</sup> Statistics NZ Accommodation survey (pre-COVID-19) [Accommodation survey: September 2019 | Stats NZ](#) and MBIE Accommodation Data Programme (post-COVID-19) [Economic resilience - Sustainable Tourism Explorer \(mbie.govt.nz\)](#) (date accessed: 19 January 2023). In the 12 months to September 2019, accommodation providers in the district recorded just under 2 million guest arrivals, which was approximately 44 arrivals per resident. The next largest in the country was Dunedin and Southland District with approximately 500,000 guest arrivals each (4 and 15 arrivals per resident respectively). Whilst post COVID-19, this has reduced from the highpoint in Sept 2019, by Nov 2022, visitor numbers recovered to just over 1 million guest nights for the preceding 12 months, with Dunedin the next largest with 338,000.



R.9 – Seek clarification that clause 112 of the NBE Bill is broad enough to allow for funding or land to be exchanged to provide for affordable housing.

R.10 – Amend the Bills to enable territorial authorities to control short-term letting.

R.11 - Provide national direction and certainty regarding short term letting through both the NBE Bill and the NPF.

R.12 – Require registration of short term letting for monitoring purposes in the NPF.

## **7.0 Local decision making and voice**

7.1 QLDC is fundamentally opposed to the implications for local democracy, that are heightened when combined with the ongoing Three Waters and Future for Local Government reform programmes. Success of a regional approach will be dependent on QLDC and the community being actively involved in plan development processes, given the unique challenges and aspirations the district faces, as distinct from the rest of the region.

7.2 The intent of a level of national consistency through the NPF is supported, but at present, the Bills fail to address how the needs of different communities will be reflected, or provide sufficient discretion for communities in relation to issues specific to a locality, when compared to the concept of regional plans. Council seeks amendments to the Bills to ensure that strong local voice is maintained in the new system. Without the meaningful involvement of local government and communities, there will be real challenges to the reform's implementation and ultimate success. Communities must feel they own and can influence the critical planning decisions that shape their unique places.

7.3 Council fundamentally opposes the proposed RPC model as a whole for several reasons.

7.4 Under the proposed structure, RPCs may become highly influential in making strategic decisions regarding the provision of infrastructure or areas that may require protection, restoration or enhancement. Given the link between RSSs and long-term plans, this could have implications for the allocation of council funds without those decisions going through a meaningful Local Government Act 2002 process. Related to this, there is also insufficient transparency requirements for RPCs, such as holding meetings in public.

7.5 There is no requirement for RPCs to have the necessary skills and experience for the role. As proposed, the community voice on the RPCs may be many steps removed from the decision-making body. Across the Otago region, the different districts have very diverse challenges, needs and aspirations. Decisions will be made by a committee that is primarily made up of people with no specific stake in, knowledge of, or connection to any of the individual districts that the plan affects.

## **Recommendations**

R.13 – Remove the RPC model and amend the Bills to ensure that strong local voice is maintained in the new system.

## 8.0 The collaborative design approach: the QLDC experience

- 8.1 Council endorses an approach to regional planning that demonstrates genuine collaboration, services as close to the community as possible, and co-design of approaches that work for each region.

### *Incorporation of existing plans*

- 8.2 Current plans have been developed iteratively over time, with Iwi and the community, to address the districts' specific needs. This includes elements of the District Plan, Climate Action Plan, Biodiversity Plan and Joint Housing Action Plan. There is a significant risk that this work, and Queenstown Lakes issues that the work reflects, will be lost if they are not incorporated in the reform process.
- 8.3 The discussion regarding ONL/Fs above provides an illustration of Council's concerns regarding whether and to what degree caselaw and existing plans will play a role in the new framework, and how district specific needs can be met in this regard.
- 8.4 Council recognises that it is likely that the existing proposed district plan maps and schedules for the ONF/L will be adopted by the RPC through the RSS process, but there is no requirement to consider existing RMA plans for the NBE Plan development. Clarification is sought on the legal status of existing RMA plans for NBE Plan development, how they will play a role in the new framework, and how the issues that are unique to the district will be met in this regard.

### *Collaborative partnership*

- 8.5 QLDC supports the intent of collaboratively developing a plan for the growth and use of resources with all parties that have accountability for providing, maintaining, protecting, growing and using those resources. Queenstown Lakes has significant experience in this space through the Grow Well Urban Whaiora Growth Partnership that developed the district's spatial plan. This partnership is between multiple central government agencies (Waka Kotahi, Ministry of Housing and Urban Development, Kāinga Ora, Department of Internal Affairs), local council, regional council and Kāi Tahu.
- 8.6 By contrast, the proposed RPCs are primarily made up of representatives from each of the local authorities, with two iwi representatives and only one central government representative. Central government representation is not mandatory and is held by the Ministry for the Environment, that has no role in delivering any activities under a NBE plan. The absence of a collaborative partnership is an additional reason why Council is opposed to the RPC model.

### *Opportunity for collaboration across territorial authorities*

- 8.7 The NBEA Bill sets out an approach to regional planning that is open to interpretation, that either:

The RPC is hosted by the Regional Council, who appoints a director, who appoints a new team to develop and maintain the RSS and associated plans. The focus would be solely on consistency across the region, without

knowledge of the individual needs within the region. Community views would be taken into account third hand by way of SCOs and SREOs, but this is not a requirement.

OR

The RPC hosted by any one of the local authorities, who appoints a director. The director would work with planning teams at each authority (local and regional). This group would collaboratively develop an RSS (and associated plans) that both introduces regional consistency where appropriate and allows for district specific aspirations, needs and constraints to be considered.

8.8 Council opposes the first approach, and believe that if a regional plan is to be developed it can only be effectively done by a collaborative team working across territorial authorities, rather than establishing a new team. Success is dependent on QLDC staff and communities being actively involved in the plan development, given the district's unique challenges and aspirations compared with the rest of the region.

8.9 The second model is also closer to the recommendations in the Future for Local Government reform programme and demonstrates genuine collaboration, services as close to the community as possible, and co-design of approaches that work for each region.

#### **Recommendations**

R.14 – Provide certainty around the legal status of existing plans, and how they will play a role in the new framework, and how district specific needs will be met in this regard.

R.15 – Recommend that a model is ensured whereby RPCs are supported by a collaborative team working across territorial authorities, rather than establishing a new team.

#### **9.0 Enforcement and contaminated land**

9.1 The NBE Bill proposes explicit obligations on local authorities to take appropriate action where shown to be necessary, or where there is a significant risk to ecological integrity or human health.

9.2 Overall, the proposed amendments to the enforcement provisions provide greater flexibility for Council in its enforcement role. Particularly, the addition of alternative tools including increased penalties, extension of limitation periods for prosecutions, remediation costs, new enforcement options, monetary benefit orders, pecuniary penalty orders, adverse publicity orders, specific offences for breach of resource consent conditions, and the power for the Court to revoke or suspend a resource consent where there is ongoing non-compliance.

9.3 These measures provide strong support for the work that Council currently undertakes in the enforcement space. The measures also incentivise Council, and appropriately reimburses it for costs associated with enforcement. In particular, Council is in favour of higher penalties for environmental offences which demonstrate how Parliament views the seriousness of offending, providing greater deterrence, enhanced public confidence in the regime, and putting the cost of enforcement where it belongs.

- 9.4 In respect of new contaminated land provisions, Council supports the 'polluter pays' principle. It is the commonly accepted practice that those who produce pollution should bear the costs of managing it to prevent damage to human health or the environment.
- 9.5 Council is in favour of enhanced measures to support this principle, including Environmental Protection Authority (EPA) powers to enforce. However, the measures proposed for the recovery of costs would leave ratepayers liable for the “actual and reasonable” costs of remediation should the EPA fail to recover the costs from the polluter.
- 9.6 Queenstown Lakes has a small rating base, and a large district to manage. It also has a large number of Hazardous Activities and Industries List (HAIL) sites to monitor. The consequences of recovery against Council as a last resort are serious, and this places a further burden on ratepayers making Council responsible for the actions of polluters where it is not the landowner, or the polluter.
- 9.7 There is no mechanism in the NBE Bill for establishing what “actual and reasonable” costs are, or how the principle will work in practice. As a result, Council is concerned about the issues that will arise when it comes to identifying the polluter, and the timing of payment for the pollution. It anticipates costly litigation will be required to develop a framework in respect of costs, and in respect of liability.
- 9.8 The NBE Bill anticipates that Council’s only recourse is to seek a Declaration of the Environment Court to establish whether costs are reasonable, putting further costs on Ratepayers to challenge the EPA. If the polluter pays principle is to be enforced, then Council should not be the “last man standing”. Nor should ratepayers be required to shoulder the burden to the degree set out in the NBE Bill.

### **Recommendations**

- R.16 – That the responsibility for recovery of costs from the polluter be borne by the party undertaking the remediation.
- R.17 – Alternatively, set out a clear mechanism for establishing what actual and reasonable costs are, and provide a clearer path for agreement between the EPA and local authorities in respect of cost recovery and responsibilities.
- R.18 – Council urges the Select Committee to consider the financial ramifications of the polluter pays principle to ratepayers, and amend the Bill accordingly.