

Full Council

13 February 2025

Report for Agenda Item | Rīpoata moto e Rāraki take [3]

Department: Strategy & Policy

Title | Taitara: Retrospective approval of Queenstown Lakes District Council submissions on the Treaty Principles Bill and Testing our Thinking

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**) approval of the following submissions:

- Retrospective approval of a submission to the Justice Committee on the Principles of the Treaty of Waitangi Bill (**Treaty Principles Bill**), and
- Retrospective approval of a submission to the Infrastructure Commission on Testing our Thinking: developing an enduring national infrastructure plan (**Testing our Thinking**).

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the information provided in this report on the Treaty Principles Bill and Testing our Thinking consultation processes; and
2. **Approve** retrospectively QLDC's submission to the Justice Committee on the Treaty Principles Bill.
3. **Approve** retrospectively QLDC's submission to the Infrastructure Commission on Testing our Thinking: developing an enduring national infrastructure plan.

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22 January 2025

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Context | Horopaki

1. QLDC makes submissions on proposals that could have a significant impact on the district. This paper seeks retrospective approval of submissions where consultation timeframes did not align with a Council meeting.

Treaty Principles Bill

2. The Treaty Principles Bill was introduced to Parliament on 7 November 2024 as an action arising from the government's coalition agreement. The Bill was then referred to the Justice Committee which commenced public consultation.
3. The Treaty Principles Bill places a new interpretation on the principles of the Treaty of Waitangi (the Treaty) when used in legislation. Council has a responsibility to give effect to the principles of the Treaty through legislation that includes the Local Government Act 2002, Resource Management Act 1991 and Land Transport Management Act 2003.
4. The consultation period for the submission did not align with a full Council meeting. Between 11 and 17 December, the Mayor canvassed elected member views on whether QLDC should make a submission, and provided a draft submission for review and feedback.
5. Eight elected members provided responses at this stage, with the majority view supporting submission of the circulated draft.
6. QLDC's submission is included as **Attachment A**.

Testing our Thinking: developing an enduring national infrastructure plan

7. The Infrastructure Commission | Te Waihanga consulted on its early thinking for developing a national infrastructure plan. This phase of consultation sought input on the issues and challenges the Commission had identified. A draft national infrastructure plan will be consulted on in mid-2025, and this will provide opportunity for more detailed responses on specific proposals.
8. The Infrastructure Commission had identified many of the issues experienced by QLDC. At a national level, the overarching problem was the inability to fund all the new infrastructure needed and to maintain existing infrastructure.
9. The consultation period for the submission did not align with a full Council meeting. Notification of the consultation was received on 7 November 2024 and an extension to the submission period was granted to 18 December 2024. A draft submission was circulated on 11 December for comment by 16 December 2024. One response was received.
10. QLDC's submission is included as **Attachment B**.

Analysis and Advice | Tatāritaka me kā Tohutohu

Treaty Principles Bill (the Bill)

The proposal

11. If supported through a referendum, the Bill would change the established interpretation of Treaty principles:
- Principle 1 would give the government full power to govern and make laws that are in the best interests of everyone,
 - Principle 2 would 'give' hapū and iwi the rights they had at the time the Treaty was signed - unless that differs from the rights of everyone (and is not subject to a historical Treaty claim),
 - Principle 3 would make everyone equal before the law.
12. The Waitangi Tribunal found the new principles proposed in the Bill were misinterpretations and inaccurate representations of the Treaty and in themselves a breach of the principles of partnership, equity and active protection. They would have significant impacts that include the constitutional nature of the Treaty, its current effect in law, and limiting Māori rights and Crown obligations¹.
13. For Council, the Bill would change how it gives effect to Treaty principles, impact on its relationship with iwi and rūnanga, and potentially incur costs as new caselaw and jurisprudence is established (for example, under the Resource Management Act 1991).

QLDC's response

14. Officers considered it appropriate to submit a high-level response opposing the Bill in its entirety, as the principles should not be re-interpreted unless agreed to in partnership between the Crown and Māori and it was therefore not necessary to debate the drafting.

Resolution options

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 (preferred option) – Agree** to retrospectively approve the contents of the attached submission to the Justice Committee.

¹ [Ngā Mātāpono – The Principles: The Interim Report of the Tomokia Ngā Tatau o Matangireia – The Constitutional Kaupapa Inquiry Panel on The Crown's Treaty Principles Bill and Treaty Clause Review Policies – Pre-publication Version](#)

Advantages:

- The submission will be considered by the Justice Committee in making their recommendations on the Bill, including whether the Bill should be abandoned.
- Submitting in opposition is in alignment with Te Rūnanga o Ngāi Tahu's opposition to the Bill. Te Rūnanga o Ngāi Tahu views the Bill as an attack on their rangatiratanga, the Ngāi Tahu settlement and Te Tiriti o Waitangi; and a restriction on their rights².

Disadvantages:

- There are no obvious disadvantages to this option.

17. **Option 2 – Agree** to development of a supplementary document to be published alongside the submission that outlines any corrections, clarifications or a change in view along with the reason for any change and **delegate** authority to the Chief Executive and Mayor to approve the revised version to the Justice Committee.

Advantages:

- Any inaccurate representation of QLDC's position could be corrected or clarified for the public record.

Disadvantages:

- The supplementary document may not correct any influence the submission has had on the views of Justice Committee members.
- Depending on the natures of the changes, it could damage Council's important relationship with Kāi Tahu.
- Withdrawal of a submission to the Justice Committee is not given as an option because once a consultation period has closed, the submission is taken as having been read and to have influenced the Committee's views. The public has a right to know the submissions that committee members have been provided and what they have considered. Withdrawing a submission therefore has a very high threshold and is not considered an effective tool.

Testing our Thinking: developing an enduring national infrastructure plan

The proposal

18. The consultation was testing the Infrastructure Commission's early thinking for a draft national infrastructure plan. It outlined key infrastructure needs and challenges including:

² [Treaty-Principals-Bill Submission-FAQ Nov2024-Final.pdf](#)

- low investment efficiency, large funding gaps, inadequate planning and delivery, and a significant backlog of infrastructure maintenance
- long-term needs and uncertainties including population growth and climate change
- workforce and leadership capability gaps and low diversity
- regulatory and institutional settings that lead to slow and costly consenting processes and create regulatory burden
- the need to reduce greenhouse gas emissions and meet emission reduction targets.

19. The consultation sought views on the infrastructure issues and challenges and how they could be addressed. This will be used to inform development of a draft national infrastructure plan. Once developed, a national infrastructure plan should support a coordinated, long-term approach to planning, funding, delivery and maintenance of infrastructure across the country.

QLDC's response

20. QLDC's position was developed from subject matter expert views and elected member input on the draft. The main feedback outlined in the submission was:

- The value of a national infrastructure plan and infrastructure pipeline as a coordinating and priority setting mechanism that delivers an agreed and investable pipeline of infrastructure, provides a decision-making framework and incentives for integrated investment, and considers the necessary funding and financing tools.
- The plan and pipeline need to provide certainty to the industry and enable them to develop market capacity and workforce capability, capacity and leadership.
- The importance of reducing costs of delivering and maintaining infrastructure; and of managing demand for infrastructure through its form and function.

Resolution options

21. 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.

22. **Option 1 (preferred option) - approve** the contents of the attached submission to the Infrastructure Commission.

Advantages:

- The submission will be considered by the Infrastructure Commission and contribute to its early thinking on a national infrastructure plan that could assist Council in delivering its long-term strategic priorities for infrastructure.

Disadvantages:

- There are no obvious disadvantages to this option.

23. **Option 2 – amend** the contents of the attached submission to the Infrastructure Commission, **delegate** authority to the Chief Executive to approve amendments, and **delegate** authority to the Chief Executive and Mayor to submit the revised version to the Infrastructure Commission.

Advantages:

- The submission will be corrected, clarified, or withdrawn and any inaccurate representation of QLDC’s position will not be considered.

Disadvantages:

- It is not known what stage submissions analysis is at and if the submission process enables corrections or clarifications, or whether the submission has already been considered by the Infrastructure Commission and influenced their views.
- Withdrawing the submission in its entirety would remove Council from this engagement process. It would miss an important opportunity to engage with the Infrastructure Commission on an issue of importance to the district.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

Treaty Principles Bill

24. The decision to make a submission on this matter is of low significance, as determined by reference to criteria set out in the Council’s Significance and Engagement Policy. However, it is acknowledged and recognised that the implications of the Bill, should it progress to legislation is a matter of high significance for mana whenua and residents of this district.

25. The persons who are affected by or interested in this matter are mana whenua, and residents and ratepayers of the district.

Māori Consultation | Iwi Rūnaka

26. Council discussed high-level development of the submission with Te Ao Marama and Aukaha, but the timeline provided did not allow sufficient time for substantive consultation on the matter.

Testing our Thinking: developing an enduring national infrastructure plan

27. The decision to make a submission on this matter is of low significance, as determined by reference to criteria set out in the Council’s Significance and Engagement Policy 2024. Whilst it is important for Council to provide feedback at this stage in the process, it will also have an opportunity to submit on a draft national infrastructure plan in future.
28. The persons who are affected by or interested in this matter are residents and ratepayers of the district through the impact of infrastructure on wellbeing and costs of infrastructure maintenance and delivery borne by ratepayers.

Māori Consultation | Iwi Rūnaka

29. Council did not engage with Iwi or Rūnaka in preparing the submission.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

30. This matter relates to the Strategic/Political/Reputation risk category. It is associated with:
- a) RISK10044 Failure to work effectively with Mana Whenua within the QLDC Risk Register. This risk has been assessed as having a moderate residual risk rating (submission one).
 - b) RISK10006 Ineffective planning for property and infrastructure within the QLDC Risk Register. This risk has been assessed as having a high residual risk rating (submission two).
31. The approval of the recommended options 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. Future changes in government policy, legislation and regulation will be monitored so issues that directly affect QLDC and the district’s community can be addressed.

Financial Implications | Kā Riteka ā-Pūtea

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

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

33. The following Council policies, strategies and bylaws were considered:
- Vision Beyond 2050
 - 30 Year Infrastructure Strategy
 - Climate and Biodiversity Plan
34. 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

35. 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.

36. Feedback provided by QLDC in the submission/s 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.

37. The recommended option to retrospectively approve the submission/s:

- 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	QLDC submission to the Justice Committee on the Treaty Principles Bill
B	QLDC submission to the Infrastructure Commission on Testing our Thinking: developing an enduring national infrastructure plan