



4 August 2021

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

Dear Sir / Madam,

### **SUBMISSION TO THE NATURAL AND BUILT ENVIRONMENTS BILL – EXPOSURE DRAFT**

Thank you for providing the Queenstown Lakes District Council (QLDC) with the opportunity to submit on the abovementioned exposure draft. QLDC welcomes the bold decision by government to reform the 30-year-old Resource Management Act, and to fundamentally shift to an outcome-based focus. However, the lack of detail in the draft inhibits the ability to provide a comprehensive response.

QLDC remains concerned that local communities appear to be increasingly disempowered by the process, and that the adoption of regional plans will not allow local communities to reflect their own expression of development (even within a strongly defined National Planning Framework). In this regard the Bill seems inconsistent in its direction, and at best prioritises broad regional level outcomes ahead of the development of community building aspirations of individual parts of the system

As such, this submission traverses three key topics:

- Significant concerns about the implications for local democracy
- Key concepts require further explanation, alignment, structure and substance
- Environmental outcomes and limits require greater consideration

It should be noted that QLDC also supports the submission made collaboratively between all Otago and Southland Councils. This submission represents the view of officers and has not yet been endorsed by full council.

QLDC would welcome the opportunity to be heard on its submission.

Yours faithfully,



Jim Boulton  
**Mayor**



Mike Theelen  
**Chief Executive**

## 1.0 Background

- 1.1 The Queenstown Lakes District is a high growth area<sup>1</sup> and a high-profile tourist destination. The district includes both urban and rural areas, large and small population centres and townships that are geographically remote.
- 1.2 Under pressure from both resident and visitor numbers, the existing system presents a number of challenges. As one of the highest volume consenting authorities in the country, QLDC frequently tackles challenging and litigious matters that are outside of the norm.
- 1.3 Since COVID-19, the district has entered a period of volatility, uncertainty, complexity and ambiguity. Border closures have significantly impacted the district's economy, workforce and wellbeing. However, QLDC's demand projections consider this to be a short-term issue which will not change long-term projections of growth.
- 1.4 A significant percentage of the district is either an outstanding natural landscape or national park. Not only do such landscapes need to be protected but improved environmental health must be ensured.
- 1.5 QLDC has recently adopted a spatial plan that was developed in partnership with central government and Kāi Tahu. This spatial plan offers considerable potential as a long-term strategic planning tool and as such, we are keen to see such documentation afforded legislative weight through Resource Management Act (RMA) reform.
- 1.6 In June 2019, the Council declared a climate and ecological emergency<sup>2</sup> and has since established a Climate Action Plan, focusing on emissions reduction mitigation activities as well as adaptation considerations. Residents of the district have significant climate change aspirations<sup>3</sup>, in terms of both mitigation and adaptation activity. Addressing climate change requirements has become increasingly difficult within the existing framework and QLDC welcomes the introduction of an outcomes-based, fit for purpose approach.

## 2.0 Introduction

- 2.1 QLDC broadly supports the intent of the changes to simplify and improve resource management within Aotearoa. However, the separable and disaggregated nature of the consultation process inhibits full exploration of the implications of the Bill and the wider reforms. Limiting discourse to discrete parcels of partial legislation does not enable cogent and comprehensive comment to be made.
- 2.2 QLDC notes that without visibility of schedules 1,2 and 3 it is difficult to provide commentary on the potentially significant implications for local democracy and representation.
- 2.3 QLDC's submission addresses high-level concepts and concerns, with detailed technical comment provided by officers in a combined Otago and Southland councils submission separately.
- 2.4 QLDC also supports the submission made by Taituarā.

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<sup>1</sup> <https://www.qldc.govt.nz/community/population-and-demand>

<sup>2</sup> <https://www.qldc.govt.nz/your-council/our-vision-mission/climate-action-plan>

<sup>3</sup> <https://www.qldc.govt.nz/your-council/our-vision-mission/climate-action-plan>

### **3.0 Significant concerns about the implications for local democracy**

- 3.1 QLDC has significant concerns about the implications for local democracy in relation to both RMA reform and Three Waters reform. Both processes seek to reduce the role of both local government and the communities that they serve. When considered together, these contemporaneous review processes have the potential to significantly change the local government landscape, reduce accountability and remove the ability for local communities to easily influence and shape the services on which they rely.
- 3.2 The Queenstown Lakes District has a well-educated, highly engaged and frequently litigious community that increasingly seeks greater opportunities for genuine participation in matters of local democracy. The district does not typically suffer from apathy on any matters and those within the local communities who have the resources and time to do so, often express extremely strong views pertaining to the environment and resource management. Central and regional government is ill-equipped to manage relationships, partners and stakeholders at a local level and greater assurance is required as to the processes and models that will be adopted.
- 3.3 QLDC supports the creation of a national planning framework in theory but based on the information currently available does not support the creation of regional natural and built environments plans and associated planning committees. Greater detail is required in schedules 2 and 3 before considering the consequences of these changes further.
- 3.4 The implementation principle outlined at clause 18 (c) requires redrafting, to acknowledge that an understanding of local environment and communities will be central to good governance.
- 3.5 The representative model presented for the planning committees appears untenable. The provision of one representative per local authority may result in the over-representation of small districts, whilst larger urban centres and locations with large visitor populations will be under-represented. As a high growth district that plays an important role in the National tourism industry, whilst managing some of the highest consent numbers and values in the country, the suggested model does not appear fit for purpose nor democratic. In light of this, requiring local authorities to bear the cost of the secretariat appears inappropriate.
- 3.6 QLDC has concerns at the practical effect of reducing the current range of documents to 14 regional plans. While regional level planning may work well for some region-wide resources, it will not effectively address many of the urban amenity and land use issues that operate in all our urban centres. A plan that seeks to address communal level values across communities as diverse as Queenstown, Dunedin, Oamaru and Cromwell will not be credible to individual communities.
- 3.7 Similarly, the significance and importance of the district's landscape, rivers and water bodies need to be understood at both a local, national and even international level, but remains distinct and unique from the balance of the Otago region. At present, the draft is unable to demonstrate how the needs of the different communities will be reflected in the NBA plans, or what discretion local communities will have in their administration of such plans.

### **4.0 Key concepts require further explanation, alignment, structure and substance**

- 4.1 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. Further detail will be required to fully understand ways in which this can be best achieved.

- 4.2 The purpose of the legislation in clause 5 is open-ended and does not clearly prevent environmental health from being traded-off against development. The Bill needs a much stronger hierarchy, with environmental protection ensured rather than enabled. The requirement to 'promote' environmental outcomes is not a strong enough direction to ensure those outcomes are actually achieved.
- 4.3 QLDC notes that the Bill does not provide a definition of 'effect', which could be significant. There is a considerable amount of case law and institutional understanding of what this currently means under the RMA, which may be squandered if not also defined within the Bill.
- 4.4 The inclusion of offsetting and compensation alongside avoiding, remedying and mitigating<sup>4</sup> adverse effects is concerning in clause 5 as there are no clear safeguards around when it is acceptable to compensate for harm (instead of simply not causing it in the first place). There is considerable risk that offsetting will be used to enable development that will result in poor environmental outcomes. QLDC recommends that the off-setting of carbon is not permitted
- 4.5 QLDC notes that the Bill adopts the precautionary approach (clause 16 and clause 18g), as opposed to the stronger formulation of the precautionary principle. The precautionary approach is generally recognized to be a softening of the principle. Use of the precautionary approach (as outlined in principle 15 of the Rio Declaration 1992<sup>5</sup>) feels dated, given subsequent international legislation has adopted the precautionary principle instead.
- 4.6 QLDC further notes that definitions of harm in the precautionary principle need far greater clarity and operational explanation. Explanation of serious and irreversible harm could be addressed within the National Planning Framework.
- 4.7 QLDC encourages any definition of wellbeing to align with definitions provided within section 3(d) of the Local Government Act<sup>6</sup>. Improvements to existing definitions should be reflected across both pieces of legislation.

## 5.0 The environmental outcomes and limits require greater consideration

- 5.1 The environmental outcomes listed at clause 8 presents a strong summary of important matters, but without the provision of an internal hierarchy will be challenging to use effectively. In an era of complexity, prioritization of these outcomes will be needed to ensure good decision-making and process delivery.
- 5.2 Clause 8 is weighted towards environmental outcomes, and it is unclear how these outcomes will be reconciled with the government's Urban Growth Agenda and the NPS-UD. Good urban development invariably involves changes to the biophysical environment and cannot be confined to the margins if the country is to deliver strong well-developed and affordable communities. The Bill and its processes need to include process to sensibly reconcile different and competing agendas.

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<sup>4</sup> Through the inclusion of offsetting and compensation in the definition of 'mitigate' in Clause 3

<sup>5</sup>[https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_CONF.151\\_26\\_Vol.I\\_Declaration.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf)

<sup>6</sup> promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach.

- 5.3 QLDC notes that the environmental outcomes currently do not prioritise domestic and community supply and recommends that this is also included. It is essential that effective access to drinking water supply is maintained.
- 5.4 QLDC recommends that clause 8(k) includes environmental activities at (i) and adds a point to address enabling low-emissions living solutions.
- 5.5 QLDC also seeks inclusion of an additional limb to clause 8(m) that seeks to maintain the character and quality of the rural environment. The district has a large amount of rural land, a significant portion of which is classified as Outstanding Natural Landscape (ONL). The character and quality of this environment is essential for the economic and social wellbeing of both the District and New Zealand. It is therefore essential that any rural development maintains this character and quality. The areas of the rural environment that are outside the ONL classification are under considerable development pressure. Balancing these issues in the rural environment has recently been the subject of an extended and intensive Environment Court process, following appeals on the Queenstown Lakes Proposed District Plan. This time and investment should not be compromised by the proposed Bill.
- 5.6 QLDC recommends that in the section 'Contents of the National Planning Framework', water needs to be allocated (and reallocated) amongst competing activities in a way that meets the purposes of the Act and the environmental outcomes anticipated. It is important that this is done in such a fashion as to prevent effective ownership of water as a resource.
- 5.7 QLDC supports the concept of environmental limits, but all limits will need to be carefully established and monitored to prevent development 'down' to the minimum viable option.

## 6.0 Summary

- 6.1 QLDC welcomes the bold decision by government to reform the 30-year-old Resource Management Act, and to fundamentally shift to an outcome-based focus.
- 6.2 The Council appreciates the opportunity to comment on the Exposure Draft of the legislation but notes that the paucity of detail renders such comment limited. Until the detailed provisions are understood, it is difficult to comment in any detail.
- 6.3 The Council remains concerned that local communities appear to be increasingly disempowered by the process, and that the adoption of regional plans will not allow local communities to reflect their own expression of development (even within a strongly defined National Planning Framework). In this regard the Bill seems inconsistent in its direction, and at best prioritises broad regional level outcomes ahead of the development of community building aspirations of individual parts of the system.