

17 February 2023

Via Email: fe@parliament.govt.nz
Finance and Expenditure Committee

To whom it may concern

SUBMISSION TO THE FINANCE AND EXPENDITURE SELECT COMMITTEE ON THE WATER SERVICES LEGISLATION BILL AND THE WATER SERVICES ECONOMIC EFFICIENCY AND CONSUMER PROTECTION BILL

Thank you for the opportunity to present a submission on the Water Services Legislation Bill and the Water Services Economic Protection and Consumer Protection Bill.

Queenstown Lakes District Council (“QLDC”) is supportive of and accepts the need for regulatory reform of Three Waters services. However, significant concerns remain about the nature and programme of reforms across the local government sector, particularly in relation to the following:

- The speed and piecemeal nature of the reforms is insufficient to ensure that the design of the “system” as a whole will meet the needs of communities and achieve the stated outcomes.
- There is substantial overlap with resource management reforms and the Future for Local Government review, but there is little alignment in approach between them.
- Communication with the public has been insufficient to ensure a strong understanding of the objectives of the reform and the nature of the changes taking place.

Points of emphasis regarding the implications of the Bill include that:

- There was insufficient time to complete detailed analysis as such QLDC refers to the recommendations made by Taituarā and LGNZ.
- QLDC is opposed to retaining responsibility for water related charging and for the charging arrangements proposed for stormwater. The WSEs should take full responsibility for charging from establishment.
- The role of the Regional Representative Group needs to be strengthened to ensure that comments made on critical artefacts (eg the asset management plan) are given effect to.

This submission has not yet been ratified by the full council and this will be addressed in our 23rd March 2023 Council meeting. Thank you again for the opportunity to comment.

Yours sincerely,



Glyn Lewers
Mayor



Mike Theelen
Chief Executive

**SUBMISSION TO THE FINANCE AND EXPENDITURE SELECT COMMITTEE ON THE WATER SERVICES LEGISLATION BILL
AND THE WATER SERVICES ECONOMIC EFFICIENCY AND CONSUMER PROTECTION BILL**

1. Introduction

- 1.1. QLDC forms part of Entity D, along with 21 other councils, and has approximately 80 staff impacted by the establishment of Entity D. The district has a resident population of 50,160, making it the 6th largest council in the Southern Water Services Entity. Queenstown Lakes is also one of the fastest growing areas in New Zealand Aotearoa. It has an average total daily population of 66,532 (visitors and residents) and a peak daily population of 102,648. The district's population has grown 74% over the past ten years and Statistics NZ predicts that the district's population will grow an additional 48% by 2043. The Whaiora Grow Well Urban Growth partnership worked collaboratively together to develop the district's first spatial plan and is currently working on developing the associated Future Development Strategy.
- 1.2. QLDC supports the need for reform of Three Waters to ensure safe drinking water, environmental protection, efficient service provisions and improved māori participation in decision-making. As a high growth Council QLDC also supports the need for a strong focus on, and funding available for investment in, the improvement of infrastructure to meet future needs. However, QLDC remains opposed to the engagement, consultation and implementation approach that is being taken to determine the future service delivery model. QLDC also remains unconvinced that the model being implemented will ensure that the growth demands of the Queenstown Lakes District can be met.

2. Previous feedback was not considered.

- 2.1. QLDC provided a submission on the Water Services Entities Bill, and it is disappointing that this feedback, which mirrored that given by other Councils, was not incorporated into the Water Services Entities Act 2022.
- 2.2. QLDC's previous submission raised overarching concerns about the way in which these reforms are being designed and implemented. The Council remains opposed to:
- 2.2.1. the speed at which the legislation supporting the establishment of the Water Services Entities and the new regulatory regime are being passed through to enactment, and the piecemeal nature of this. Insufficient time is being taken to ensure that the legislative mechanisms being put in place, and the "system" for Three Waters that they embody, are fit for purpose, will achieve the stated outcomes, and take into account the views of all key stakeholders.
- 2.2.2. the lack of coordination in timing, dependencies, service delivery models and resourcing between the Three Waters reform programme, resource management reform and the Future for Local Government review. There is substantial overlap between these programmes that are currently not adequately being considered in the design of the local government system as a whole.
- 2.2.3. the quality and suitability of the information available to the community around key aspects of the reform. Complex issues take time to convey effectively to a wide audience. Shortened timelines have restricted the ability to engage appropriately with Iwi/hāpu and the wider community. Any engagement undertaken locally by Councils risks overlapping with, or being at odds with, nationally led communications on the Three Waters Reforms.

- 2.3. It remains QLDC’s position that the transition programme should be paused, and further work undertaken on the service delivery model, alignment with other reform programmes, and communication of the expected benefits of the reforms.

Recommendations:

R.1 – The Three Waters reform programme should be paused, and further work undertaken to ensure the most appropriate service delivery model, aligned with other reform programmes, is put forward.

R.2 – A communications and engagement strategy for each Entity should be developed, based on a national strategy but in partnership with territorial authorities, and should define the different communication roles for Central and Local Government.

R.3 – Central Government should release quality and accessible information on Three Waters reform, the expected benefits, impacts and timelines. This should be developed in consultation with local government (a communications and engagement working group is recommended).

3. The time given to prepare submission was insufficient to enable the implications of the Bills to be fully considered.

- 3.1. The introduction of the Bill under urgency, over the Christmas break, indicates that there is no intent to genuinely engage with key stakeholders or take into account the views of those parties that have the most intimate knowledge of the issues.

- 3.2. QLDC has not been able to fully consider the implications for Council and the community, nor to engage with the community or hapū / iwi on the changes. This is in part due to the short timeframes given for submission but was exacerbated by the concurrent timeframes for preparing submissions on the resource management reforms and the Future for Local Government review, as well as managing the high number of requests from the NTU in relation to Three Waters implementation activities.

- 3.3. As sufficient time to adequately consider the implications has not been given, no attempt has been made to do so, rather QLDC defers to the analysis undertaken by Taituarā and Local Government New Zealand and support their submissions.

4. QLDC defers to the detailed analysis undertaken by LGNZ and Taituarā, and particularly supports those recommendations that relate to ongoing operations of, or relationships with, Councils.

- 4.1. LGNZ and Taituarā have both undertaken detailed analysis of the Bills and their implications for the water services system as a whole, as well as for Councils specifically. QLDC has not had the time to undertake the same level of analysis and refers to their submissions. Particular attention is drawn to the following points made by these parties on the Water Services Legislation Bill:

- 4.1.1. **Ministerial discretion to amend allocation schedule:** The Bill affords the Minister too great a level of discretion in making amendments to the allocation schedule (clause 40(2), schedule 1). Taituarā has recommended that Ministerial amendments to the allocation schedules should be provided to local authorities for comment. QLDC goes further than this and recommends that where the Minister wishes to make an amendment, or is asked to approve an allocation schedule that includes an amendment that the relevant Council has not agreed to, this must be resolved by an independent party, for example the Commerce Commission.

- 4.1.2. **Stormwater management plans:** Responsibilities for developing stormwater network management plans are unclear. Clause 257(2) obliges Councils and Transport corridor managers to “work with” WSEs, however it is unclear what this involves and whether Councils have any involvement in decision making. This should be clarified.
- 4.1.3. **Rating exemptions:** Partial rating exemption for the WSEs, as outlined in clause 342, is unjustified. All Three Waters assets should be fully rateable.
- 4.1.4. **Decision-making on Three Waters debt:** While the level of debt is being worked through collaboratively between Councils and DIA, the Bill states that the final assessment of the total debt amount will be made by the DIA Chief Executive (Clause 54(1) Schedule 1). There is no recourse if there is a disagreement on the amount. This is at odds with the assurance of a collaborative transition and of the tenor of the communications received to date from the NTU. The Bill should be updated to reflect that the debt amount be jointly agreed or, where agreement cannot be reached, arbitrated by an independent party eg the Commerce Commission.

Recommendations:

R.4 – Where the Minister wishes to make an amendment or is asked to approve an allocation schedule that includes an amendment that the relevant Council has not agreed to, this must be resolved by an independent party, for example the Commerce Commission. [Clause 40(2) of Schedule 1]

R.5 – Clarify the obligation to work with the WSEs on development of the stormwater network management plans. [Clause 257(2)]

R.6 – Clause 342 should be deleted, making all three water assets fully rateable.

R.7 – The debt amount must be jointly agreed between the WSE and the relevant Council or, where agreement cannot be reached, arbitrated by an independent party eg the Commerce Commission. [Clause 54(1) of Schedule 1]

- 4.2. In addition to those points raised by LGNZ and Taituarā QLDC has noted the following issues for Councils that need to be addressed by the Committee:
 - 4.2.1. Councils continuing to collect charges for water services for five years after the transition to the WSEs is unreasonable. Councils will be in the position of no longer being in control of the delivery or performance of the services, but still being the interface point with the community through billing. This has flow on effects for people defaulting on their rates payments – if water charges are increased by the WSE and ratepayers are unable to pay the increased amount they will default on their whole rates bill, not just the water portion. QLDC have no interest in continuing billing on behalf of the WSE; the Bill should make clear that any continuation of billing services on behalf of WSEs should be voluntary.
 - 4.2.2. WSEs may charge Council for stormwater services in the first three years from establishment and leave Council to then on-charge this even though Council no longer has this service in their plans. This is an unreasonable burden on Councils; WSEs should charge for their total services to the customer direct from establishment.
 - 4.2.3. If the implementation of the Three Waters regime is slowed down, the timing for the implementation of the Water Service Economic Efficiency and Consumer Protection Bill also

needs to be slowed down to ensure that Councils are not required to implement this new regime before transition to the Water Services Entities.

- 4.2.4. The Regional Representative Group (“RRG”) is critical in ensuring that Councils retain some influence over the management of water assets that are central to long-term planning and community wellbeing. However, the role of the RRG remains unclear in respect of critical aspects of the system (asset management plans, infrastructure strategy, funding and pricing plans, assessments of water services). There are references to the RRG reviewing these key artefacts but there doesn’t appear to be any requirement on the WSE to take on board the feedback. If RRGs are going to be effective WSEs must “give effect to” any feedback from RRGs.

Recommendations:

R.5 – The Bill should be altered to remove the obligation for Councils to collect charges for WSEs and make clear that any ongoing role in relation to this is voluntary, as agreed with each WSE. [Sections 336 to 338]

R.6 – The Bill should be altered to remove the ability for WSEs to charge Councils for stormwater rather than customers. [Clause 63 of Schedule1]

R.7 – If the Government pushes out the establishment date for the new WSEs they must also ensure that the dates relating to the powers and regulations under the Water Services Economic Efficiency and Consumer Protection Bill are also pushed out.

R.8 – Where the Regional Representative Group is consulted on critical aspects of the WSE operations the WSE must “give effect” to the feedback.