

11.4. Building Consent submission for retrospective approval


PURPOSE OF THE REPORT | TE TAKE MO TE PURONGO

1. The purpose of this report is to present the submission made to the Ministry of Business, Innovation and Employment on its consultation on the Review of the Building Consent System.
2. This report seeks Council's retrospective approval of the submission's content. The submission was made to the Ministry of Business, Innovation and Employment on 31 August 2022.

RECOMMENDATION | NGA TUTOHUNGA

That Council

1. **Note** the contents of this report; and
2. **Approve** retrospectively the contents of the Review of the Building Consent System submission (Attachment A).

	Prepared by:	Reviewed and Authorised by:
Name	Jennifer Fraser	Michelle Morss
Position	Policy Manager, Strategy and Policy	General Manager, Strategy and Policy
Signature		
Date	21/07/2022	21/07/2022

CONTEXT | HOROPAKI

3. The Ministry of Business, Innovation and Employment (MBIE) consulted on the Review of the Building Consent System for New Zealand recently, with submissions closing on 31 August 2022.
4. While MBIE was only consulting on the Review of the Building Consent System, they concurrently released a policy position statement regarding risk, liability, and insurance in the building sector.
5. MBIE has stated that the policy position statement is not within the scope of this review, however it is Council's position that consideration of feedback on risk, liability, and insurance in the building sector will be integral to the success of any reform of the building sector and consent system in Aotearoa.

6. The Queenstown Lakes District Council (QLDC) sent a written submission to the Ministry of Business, Innovation and Employment Committee (attached below).

ANALYSIS AND ADVICE | TATARITANGA ME NGA TOHUTOHU

7. QLDC is supportive of the review of the building consent system but thinks that a holistic review means that risk, liability, and insurance in the sector must be included.

8. This submission is divided into two parts. The first outlines how ratepayers bear a disproportionate burden of liability, with Building Consent Authorities (BCAs) often being the only party left to compensate homeowners when building defects arise, known as the 'last party standing'. This has become particularly notable in relation to 'leaky buildings' claims.

9. The impacts of the current joint and several liability approach to building defects causes QLDC's BCA function to be more cautious and more demanding. This has a negative impact on performance of the BCA and also creates higher compliance costs for the building sector. In addition, carrying high levels of potential liability for building failure increases Council's costs and reduces its capacity to invest elsewhere in the development of the district.

10. QLDC recommends a proportionate liability framework accompanied by compulsory guarantees or insurance products which would still retain and protect the homeowner's interest but would also cap the liability impact on ratepayers.

11. The second part of the submission provides responses in the requested consultation submission form template, that cover the strategic context, desirable outcomes, and issues with the current building consent system.

12. Councillors have had opportunity to view and comment on the attached submission in draft form prior to it being lodged. As the submission deadline did not align with a Council meeting, the purpose of bringing this paper retrospectively is to ensure the submission is formally sanctioned by Council and to give transparency to the community.

13. This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:

14. Option 1: to retrospectively agree the contents of the attached submission.

Advantages:

The submission will remain in the Ministry of Business, Innovation and Employment's process and QLDC will have participated effectively.

Disadvantages:

There are no clear disadvantages to this option.

Option 2: to request the withdrawal of the attached submission from the Ministry of Business, Innovation and Employment's process.

Advantages:

The submission will be withdrawn from Ministry of Business, Innovation and Employment's process and any inaccurate representations of QLDC's position will not be considered.

Disadvantages:

No aspect of QLDC's position will be represented in the process.

15. This report recommends Option 1 for addressing the matter (if representative of the council's position) to ensure that QLDC participates effectively in the consultation process.

CONSULTATION PROCESS | HATEPE MATAPAKI

16. This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy. This advice deals with a matter of interest to a range of individuals, organisations, groups, and sectors in the community.

17. The persons who are affected by or interested in this matter are all residents and ratepayers of the Queenstown Lakes District communities.

RISK AND MITIGATIONS | NGA RARU TUPONO ME NGA WHAKAMAURUTANGA

18. This matter relates to the Strategic/Political/Reputation. It is associated with RISK00038 within the [QLDC Risk Register](#). This risk has been assessed as having a low inherent risk rating.

19. The approval of the recommended option will support the Council by allowing us to implement additional controls for this risk. This shall be achieved by monitoring future changes in legislation based on the advice to government, in particular addressing those issues that directly affect QLDC and the Queenstown Lakes District community.

FINANCIAL IMPLICATIONS | NGA RITENGA A-PUTEA

20. There are no financial implications.

COUNCIL EFFECTS AND VIEWS | NGA WHAKAAWEAWE ME NGA TIROHANGA A TE KAUNIHERA

21. The following Council policies, strategies and bylaws were considered:

- The outcomes and principles of the Vision Beyond 2050
- The QLDC Spatial Plan
- The QLDC District Plan
- The QLDC Climate and Biodiversity Plan
- The QLDC Annual Plans.

22. The recommended option is consistent with the principles set out in the named policy/policies.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KAWANATAKA A-KAIKA

23. Section 10 of the Local Government Act 2002 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 well-being of communities in the present and for the future.

24. The recommended option:

- can be implemented through current funding under the Ten Year Plan and Infrastructure Strategy
- 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.

ATTACHMENTS | NGA TAPIRIHANGA

Number	Title of Attachment
1.	QLDC submission to the Ministry of Business, Innovation and Employment on the Review of the Building Consent System