

25 June 2025

Finance and Expenditure Committee

Parliament Buildings

Wellington

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

## **SUBMISSION ON THE REGULATORY STANDARDS BILL**

Tēnā koe,

1. The Dunedin City Council (DCC) welcomes the opportunity to provide feedback on the proposed Regulatory Standards Bill (RS Bill). As a territorial authority with significant regulatory responsibilities, the DCC supports efforts to improve the quality and transparency of regulation in Aotearoa New Zealand. However, the DCC has concerns about the RS Bill's scope, design, and potential impacts.

### **Exclusion of Local Government**

2. The DCC submits that the RS Bill should not apply to local government instruments (such as bylaws or any other secondary legislation created by local government). This is because:
  - a. Local authorities are already subject to rigorous legislative and procedural requirements when making bylaws and other secondary legislation; and
  - b. There is potential for uncertainty given the range of instruments developed by local authorities.

### *Existing controls*

3. The DCC notes that local authorities are already subject to rigorous legislative and procedural requirements when making bylaws and other secondary legislation. Mandatory consultation is often required under the Local Government Act 2002 or other legislation, and local authority processes and decisions are subject to judicial review.
4. In the case of bylaws, local authorities must determine whether a bylaw is the most appropriate way of addressing a perceived problem and must ensure that a proposed bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990. Bylaws can only be made for limited specified purposes and local authorities must consult using the Special Consultative Procedure (SCP) if the bylaw is of significant interest to the public or significant impact on the public.
5. Applying the RS Bill to local government would be duplicative and burdensome, undermining local autonomy and accountability.
6. Additionally, the DCC notes that many existing frameworks (e.g., the Constitution Act 1986, New Zealand Bill of Rights Act 1990, LDAC Guidelines and bylaw empowering statutes) include regulatory principles and could be strengthened rather than separate legislation being introduced.



*Potential for uncertainty*

7. The RS Bill applies to Bill, government amendments and secondary legislation. There is potential for uncertainty regarding secondary legislation in the context of local authorities. This is because of the range of instruments prepared by local authorities.

8. Bylaws developed by local authorities and council-controlled organisations are clearly secondary legislation for the purposes of the Legislation Act 2019 (please see section 161A(1) of the Local Government Act 2002). It may however be arguable whether other instruments created by local authorities could be deemed to be secondary legislation. For example, please see section 161A(2) of the Local Government Act 2002 which records that:

Any other instrument (whatever it is called) that is made by a local authority or a council-controlled organisation is secondary legislation for the purposes of the Legislation Act 2019 if it has significant legislative effect.

9. DCC reiterates its view that the RS Bill should not apply to local government instruments (such as bylaws or any other secondary legislation created by local government). However, if it is to apply, then there would need to be certainty around exactly what instruments would be captured under the RS Bill. For example: It would need to be absolutely clear that a District Plan is not captured by the RS Bill (noting that section 76(2) of the Resource Management Act 1991 (RMA) says that rules in a District Plan shall have the force and effect of a regulation). If the RS Bill did technically capture instruments such as District Plans, then this would be highly problematic, particularly if there is new scope for debate regarding compensation for “impairment” of property.

**Te Tiriti o Waitangi / the Treaty of Waitangi**

10. The DCC has significant concerns regarding the RS Bill and te Tiriti/Treaty. The DCC acknowledges that te Tiriti and the Treaty are not direct translations of each other but are used together when addressing issues around principles of the Treaty (e.g., active protection, participation, partnership, redress, etc).
11. The main concern is that the RS Bill is silent on te Tiriti/Treaty. There is no te Tiriti/Treaty principle found within clause 8 of the RS Bill. This was mentioned by two ministries in the Information Release document: the Ministry of Justice and Te Puni Kōkiri – highlighting the significance of this concern at the Ministry level.
12. Failing to integrate te Tiriti/the Treaty within the RS Bill could override Māori interests and rights to participate in decision-making processes. The potential to bypass meaningful engagement and consultation with hapū and iwi Māori on future legislation diminishes the voices and perspectives of Māori.
13. The DCC believes the exclusion of a te Tiriti/Treaty principle may leave a gap in incorporating te Tiriti/the Treaty (and any legislation adhering to the current Treaty principles) within the consistency accountability statements (CAS). It would rely on individual decision-makers and guidelines to integrate a te Tiriti/Treaty element into the CAS, instead of te Tiriti/Treaty being placed at the same level and assurance as the remaining principles within the RS Bill.
14. The DCC notes the principles pertaining to liberties and taking of property is within a Western context. The RS Bill lacks a te ao Māori viewpoint on property, for example, group





ownership over land and the specific connection takata whenua (*indigenous people of New Zealand*) have with their whenua (*land*). This demonstrates a lack of recognition for kaitiakitaka (*guardianship*) and the significant relation takata whenua have with a taoka (*treasure*) such as te taiao (*the environment*).

15. The DCC submits that this lack of te ao Māori perspective could damage legislation based on Māori interests, where a narrower viewpoint can be taken that ignores wider te ao Māori factors.
16. The DCC questions how clause 8(c) will relate to, and impact, Māori Land.
17. The DCC submits the rule of law principle poses a similar problem to the same principle used within the Treaty Principles Bill. This principle assumes that all individuals in Aotearoa New Zealand start the same and have access to the same opportunities. It is widely accepted that this is not the case. This principle may allow legislation that is deemed to have equitable outcomes, rather than equal outcomes, to be called into question and scrutinised unjustly.
18. The DCC submits there is no direct provision for consultation or engagement with Māori. This is particularly concerning as legislation that has a significant impact on Māori and their tino rakatirataka (e.g., the Treaty Principles Bill) may make it to Parliament before takata whenua have had a say in the process. However, the DCC further submits this can be reconciled by including consultation/engagement with Māori and stakeholders as a part of the good law-making principle.
19. The DCC notes the exclusion of te Tiriti/Treaty settlements and arrangements from the RS Bill could be seen as appropriate due to the negotiation-based nature of these documents. However not including te Tiriti/Treaty settlements and arrangements, in addition to the absence of a te Tiriti/Treaty clause, could result in inconsistencies between past, developing and future treaty legislation.
20. The DCC acknowledges many of these concerns could be mitigated at the practical level – through processes, guidelines and interpretations related to the RS Bill. However, the DCC submits that it would be more appropriate to rectify these issues within the RS Bill for consistency of consideration and application across all current and future pieces of legislation. Legislation will always be prioritised over process.

### **Compensation**

21. The DCC submits that clause 8(c) regarding the taking or impairment of property, needs further consideration and probably should be removed from the RS Bill. It is unclear what is meant by “property”. For example, is this intended to relate solely to real property or is it intended to be wider? What is meant by “impairment”? DCC submits that there is already clear legislation around compensation and the reference to compensation in the RS Bill has the potential to create disputes.

### **Environmental considerations**

22. The DCC is concerned that the RS Bill has the potential to adversely affect environmental protection. Environmental considerations are not specifically referenced in the RS Bill as a matter that should be considered when making legislation, but there appears to be an



expectation that compensation will be payable if environmental protections affect “property.”

### **Implementation and Stewardship**

23. The DCC believes effective regulation requires not only sound policy design but also robust implementation and ongoing stewardship. The DCC wants to acknowledge that the Department of Internal Affairs’ guidance documents regarding Local Water Done Well were very helpful. DCC would like to see more such guidance in other areas.
24. The DCC therefore submits that the RS Bill should include principles requiring regulators to plan for support for implementation before legislation is introduced.
25. The RS Bill should also mandate regular review and evaluation of regulatory systems. The DCC believes that stewardship should be a proactive and continuous process that includes:
  - a. Monitoring and evaluation of existing regulations to ensure they remain effective and relevant.
  - b. Planning for future changes, including anticipating emerging issues and adapting regulations accordingly.
  - c. Ensuring that regulations are reviewed regularly, with mechanisms in place for amendment or repeal if they are no longer fit for purpose.

### **Concerns with the Regulatory Standards Board (the Board)**

26. The DCC questions whether the Board will meaningfully improve regulatory quality.
27. The purpose and function of the Board may become a symbolic or politicised forum for relitigating policy decisions. The Board’s findings carry no binding legal effect and may simply create a new layer of bureaucracy without addressing the root causes of poor regulation, such as rushed policy-making or inadequate consultation/engagement. Furthermore, the Board could undermine local democratic accountability if it is empowered to critique local government bylaws without having participated in the local engagement and decision-making processes.
28. The composition of the Board must reflect the diversity of Aotearoa New Zealand’s regulatory landscape. The current proposal only requires that members have “skills and knowledge,” which is vague. The DCC recommends requiring expertise in a range of areas, such as law and economics, regulatory stewardship, Te Ao Māori, tikanga Māori, and te Tiriti o Waitangi/the Treaty of Waitangi and the perspectives of regulated sectors, including local government. This would ensure the Board is well-equipped to understand the practical realities of regulation across different sectors and communities.

### **Conclusion**

29. The DCC supports the goal of improving regulatory quality but believes the current RS Bill requires significant revision. The DCC calls for collaborative work with local government and other stakeholders to ensure any new regulatory framework is effective, inclusive, and fit for purpose.

30. Thank you for taking the time to consider the DCC's submission.

31. The DCC wishes to speak to this submission at any hearings.

Ngā mihi



Jules Radich  
**MAYOR OF DUNEDIN**