BEFORE THE INDEPENDENT HEARINGS PANEL

IN THE MATTER of the Resource Management Act 1991(the **Act**)

AND

IN THE MATTER submissions on the Inclusionary Housing Variation to the Queenstown Lakes Proposed District Plan

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STATEMENT OF EVIDENCE OF ALASTAIR FINLAY PORTER ON BEHALF OF REMARKABLES PARK LIMITED
Dated: 6 March 2024

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BROOKFIELDS
LAWYERS

1. INTRODUCTION

1.1 My full name is Alastair Findlay Porter.

1.2 I am a director of Remarkables Park Limited (**RPL**) and I am authorised to give this evidence on behalf of RPL in relation to the Inclusionary Housing Variation to the Queenstown Lakes Proposed District Plan (**Variation**).

1.3 I have a B.Com, I am an ACA, and have been involved in property development for more than 50 years , including more than 30 years in Queenstown. I am the Executive Chair and CEO of Porter Group Limited, Remarkables Park Limited, Shotover Park Limited and Queenstown Park Limited. I am a past Chair of both the Queenstown Chamber of Commerce and Shaping our Future.

1.4 As a company Remarkables Park Limited have facilitated higher density development by third parties including Affordable Housing and are involved in Research & Innovation including in building and transportation and provide some staff and consultant accommodation.

1.5 Remarkables Park is currently working on a large scale affordable rental project.

2. SCOPE OF EVIDENCE

2.1 This statement of evidence covers the following:

(a) What determines affordability,

(b) The need for affordable rental housing in the district;

(c) The implications of the Variation for the economics of housing development.

(d) Retrospectivity of the Variation

(e) Alternative approaches to increase the supply of affordable housing in the district.

(f) Conclusions.

3. WHAT DETERMINES AFFORDABILITY

3.1 Affordability is a function of the ratio of "price" of housing (rental or ownership) to net household income (noting that;

(a) interest rates on loans are a significant cost;

(b) income is not the only funding source of money as many people benefit from family loans and inherited money).

3.2 The "price" of housing is affected in the open market by Supply and Demand. Classical economics tells us that; increasing the supply will help to reduce prices, a key factor affecting Supply is Building Costs. Dampening Demand will similarly help to reduce prices.

3.3 So in summary the opportunities to improve the affordability of housing include at least addressing;

(a) Improving <u>net household incomes</u>

(i) <u>Higher earnings</u> – better returns for businesses improve ability to pay higher remuneration.

(ii) <u>Lower costs reducing net incomes</u> – e.g. not needing to own a car and lowering rates burden on property, lower interest rates.

(b) Increasing Supply of housing

(c) Dampening Demand for housing.

3.4 The proposed variation does not positively address any of these factors, it in fact does so negatively by increasing building costs.

3.5 The only outcome it will deliver is to subsidise an unquantified but almost certainly relatively negligible supply of affordable housing.

3.6 Further comment relating to these options are discussed in the following paragraphs.

4. NEED FOR AFFORDABLE RENTAL HOUSING IN THE DISTIRCT

4.1 RPL acknowledges that the provision of affordable housing in relation to affordable rentals is a pressing issue for the Queenstown Lakes District

(**District**). If this issue is to be resolved its important proposed solutions have net positive benefits, and certainly not risk making the supply of public & private housing worse than it already is.

4.2 The private sector plays the major role in the development and provision of housing in our communities. The public sector has not provided effective solutions to the housing affordability crisis with which many districts across New Zealand are faced.

4.3 While RPL acknowledges that there is a significant issue with housing affordability in the District, and in fact New Zealand, it notes that the scale of the problem is incorrectly quantified in the Sense Partners Report which supports the Variation.

4.4 Queenstown has, in effect, a two-tier housing market with high end/luxury housing (much of it second homes) on one tier and local resident housing on the other tier. As such, the use of an average sales price metric to calculate the cost of housing as a ratio to income is inappropriate because the high proportion of luxury housing pushes up the average. A better measure of house prices in the District, as it relates to purchase affordability, would be to exclude house prices in excess of $2.5m. Luxury houses already make a significant rates contribution to the district yet due to absentee ownership and use are not proportionally consuming services provided by Council at the same rate as permanent residents.

4.5 The Sense Partners Report also overstates the impact of the problem where it suggests that the proportion of people commuting long distances to work is solely driven by housing affordability. This does not account for the fact that people often live in more remote locations in order to split commute distances between domestic partners who work in different parts of the District or adjoining districts, or to enjoy the lifestyle benefits of rural living.

5. IMPLICATIONS OF THE VARIATION FOR HOUSING DEVELOPMENT

5.1 The Variation seeks to improve the supply of affordable housing by taxing the provision of all new housing. This intervention will as noted increase building costs and create the opposite result to that which is sought.

5.2 The Variation treats developers as the cause or exacerbators of the affordability problem, despite these stakeholders being a critical part of the solution by providing new housing supply. The private sector delivers the vast bulk of housing, including affordable housing, in New Zealand. Therefore, to incentivise further affordable rental housing delivery by the private sector, the role of Council should be to enhance development opportunities and encourage growth by addressing existing issues such as consent costs and delays, rather than exacerbating these roadblocks through a tax or an additional layer of bureaucracy which council lacks the capacity to manage.

5.3 By overlooking this crucial fact, the Variation is highly likely to have serious unintended consequences, by increasing the price of new homes and pushing development to areas where the costs are lower (in some cases outside the District). This is because the Variation impedes the work of the private sector as the most effective and important provider of housing and affordable housing.

5.4 The Sense Partners Report states that its analysis of inclusionary zoning in QLDC so far shows no perceptible negative impact on housing supply, house prices, house size or quality - which are the main concerns raised in international literature. However, inclusionary zoning that has been implemented so far in QLDC (i.e., Special Housing Areas and developer agreements at the time of re-zoning) is fundamentally different from what is now proposed. For this reason, conclusions as to the effect of the Variation on housing supply, house prices, house size or quality cannot be drawn from past experience.

5.5 Given Inclusionary zoning will increase the price of all new housing supplied to the market, other than the insignificant quantity generated by this tax, it will very likely have negative impacts on housing supply, house prices, house size or quality, when affordable housing requirements if resolved as proposed and factored into feasibility calculations prior to re-zoning.

5.6 RPL considers that the Variation is in effect a tax, and this is the correct lens through which to analyse its impacts. Viewed as a tax, the Variation necessarily creates dead weight loss and adverse effects on housing supply and affordability.

5.7 As noted, the price of housing is fundamentally a product of supply and demand. Affordability is the relationship of price to household income. The Variation imposes a tax on the supply of sections for residential development and the supply of residential dwellings. The effect of this tax is a disincentive on the provision of residential land and dwellings. This in turn will increase price as:

(a) A lesser supply of residential land and dwellings is brought to the market as development proposals become unviable or development is diverted to other districts that do not have the same tax applied; and

(b) The residential land and dwellings that are brought to the market will have the increased costs of the tax included in the price. The cost of the proposed tax will not be borne by developers, who have no alternative if they wish to stay in business but to treat this the same as all other costs and pass it on to the purchaser with a margin on top, plus GST on top of that cost increase. Demonstrating the passing-on of this cost with an appropriate project margin (estimated at least 30%) will be essential to receive bank funding for developments, noting that given it takes at least 3 years to bring a residential development to a conclusion this may be a return as low as 10% per annum for the developer on a project which contains significant risk.

5.8 The factors discussed above will have a compounding adverse effect on price and housing affordability. The Variation does nothing to increase household incomes. Therefore, the increase in housing costs as a result of the Variation will reduce housing affordability for those seeking to purchase (except for the few people that receive housing from the Housing Trust).

5.9 QLDC's advisors may consider that the tax is set at a low enough level that the effect on development viability and housing supply will be minimal. This would be incorrect. The proposed tax is set at 5% of the market value of serviced lots within the Urban Growth Boundaries. To use a hypothetical example, if a subdivision has a value of $20m, then $1m would need to be gifted to the Council. This cost would then be applied to the remaining $19m of development value which is a 5.3%. The developer will need to show a margin of at least 30% on this cost to convince a lender to provide development funding, which equates to a further 1.59% cost. With GST of 15% imposed on top of this (6.89%), prices of urban subdivisions will be driven up by at least 8%.

5.10 Rather than a low-level impact, this presents a high economic cost – and has the effect of disincentivising new developers and penalising the very people who provide housing in the District. This is not a theoretical concern: RPL has already had experience of prospective purchasers of land for residential development being dissuaded by the prospect of the Variation and looking elsewhere (outside the District) for development opportunities.

5.11 In addition to the significant adverse cost that the Variation will occasion for housing development and affordability, the Sense Partners Report has failed to properly account for other costs such as:

(a) The transaction costs associated with the Proposal including valuation and consenting costs. Valuations will be required as a matter of course to either demonstrate compliance with the proposed standards in rule 40.6.1 or seek resource consent to deviate from those standards. This is a relevant cost of the proposal. In addition, RPL has concerns with the certainty (and therefore the legality) of a development standard that relates to the outcome of a valuation which requires a significant component of subjective judgement. Such valuations will inevitably become a battleground. In addition, it is unclear as to when the standard applies - which is extremely problematic given that residential property values fluctuate over time and can both increase and decrease. This all results in a major potential for disputes to arise as to the application of standards. This in turn will create consent processing time delays, which are already one of the biggest costs for developers and one of the greatest impediments to increased housing supply;

(b) The cost of incentivising residential development, in particular low-rise, low-density development, outside the Urban Growth Boundaries with adverse effects on transport efficiency, increased cost of infrastructure provision, and poor urban form outcomes; and

(c) The impact of a slow-down in development activity caused by the Variation causing Council to under-recover for debt-funded growth infrastructure.

6. RETROSPECTIVITY

6.1 An issue of particular concern for RPL is the retrospectivity of the Proposal. As noted in the Sense Partners Report, inclusionary zoning in policy parlance applies either:

(a) When planning gains are made (e.g., re-zoning); or

(b) When giving incentives to provide affordable housing (often in the form of density and/or height bonuses or waivers of fees and processing times).

6.2 In those circumstances, the costs of inclusionary zoning can be factored into the development scheme feasibility analysis at an early stage (pre-land purchase) and benefits are provided to offset the costs. Further, true inclusionary zoning provides for developers to develop in the location themselves, rather than (as per the Variation) providing for development by another developer in a different location. These are the archetypes of true inclusionary zoning, which is fundamentally missing from the Variation.

6.3 But the proposed Variation is to apply retrospectively to developments that are well advanced and that were planned without having factored in a 5% tax on all development. i.e., it is proposed to apply to developers who have been offered no up-zoning or no increase in density or height that might offset the cost. This presents a significant and unanticipated change in the costs of the development for existing developers.

6.4 While the Variation will impact new developments by raising costs that will be passed on to buyers, it will also have a substantial impact on existing housing developments and result in rising house prices. If presented with this predicament, developers with existing developments are placed in a bind: they will either have to pass on the cost, resulting in rising prices in existing housing, or if they cannot pass on the cost due to the fact that the market would not allow for higher prices, then they will have to reconsider the viability of developments and if necessary not proceed. Whether applied retrospectively or for new developments, the added costs will impact the ability for the private sector to provide affordable housing in communities.

6.5 In a general sense, raising the costs of development and reducing profitability for developers is a negative message to the market and will have a chilling effect on the sector and disincentivise new developments. This is because developers will and can only engage in new developments so long as it is a profitable enterprise. In short, in order for the private sector to effectively provide affordable housing in communities, development must also be profitable to attract prospective developers. In contrast, this Variation will have a negative effect on developments by diminishing profit margins for prospective developers which increases risk which increases financing costs and will mean less housing and affordable housing in the District will be provided by the private sector.

6.6 In any case, there are significant issues of fairness raised when QLDC is retrospectively putting developers in a position where they are having to pay for unplanned costs – especially in the absence of any incentives or trade-offs to minimise the impacts of these costs on developers. Because the Variation is a purely retrospective cost, with no balanced incentives for developers, it is a misnomer to describe it as “inclusionary zoning”, which may be why the Council has change the nomenclature from “inclusionary zoning” to “inclusionary housing”.

6.7 In the case of RPL specifically, the Remarkables Park Zone is a unique integrated zone and as such is being appropriately developed as a master planned project. RPL has therefore looked at the development of the zone overall and made long-term decisions about infrastructure provision, including the social infrastructure of a high school, where the site was sold at a concessionary rate to the Ministry of Education and affordable housing development to third party affordable housing providers. These decisions are all part of a balanced equation which factored in higher returns for other areas of land within the zone. This integrated master planned decision making is undermined by the effect of the Proposal.

7. EQUITY

7.1 Is it a reasonable proposition that the people who have saved sufficient to invest in housing should have to now subsidise those who have not yet saved sufficient for home ownership?

7.2 Furthermore, why are residential providers and purchasers being asked to solve a problem they have not created?

7.3 Neither of these are equitable propositions.

8. ALTERNATIVE APPROACHES

8.1 RPL supports alternative approaches to addressing rental housing affordability, particularly approaches that focus on increasing housing supply. These alternative approaches include providing incentives and reducing regulatory hurdles to residential development, as addressed below.

Greater intensity of development

8.2 The Council should enable and incentivise much greater intensity of development in existing areas. Intensive apartment development will provide a typology that is more affordable for the district than the standalone housing that is the prevalent form of development in the District at present. There is also strong support for this approach in the National Policy Statement on Urban Development 2020 (**NPS-UD**).

8.3 Enabling greater urban density in appropriate locations has benefits in terms of the efficient provision of bulk infrastructure and supports transport efficiencies and the uptake of active travel modes.

8.4 In addition to enabling greater density generally, further density bonuses should be provided where developers choose to provide affordable housing. This would have the effect of aligning incentives with delivery.

8.5 I am aware that QLDC has now notified its Proposed Urban Intensification Variation. While this proposal is not the subject of this hearing, I have doubts that the changes to height and density that are proposed are sufficient to achieve the step changes which is necessary to ‘shift the dial’ on housing and affordable housing.

Remove regulatory hurdles – DCs and resource consent processing

8.6 Developers are already disincentivised to develop in the Queenstown District due to its complex District plan requirements and regulatory hurdles. This is why large national developers generally do not operate in the District. Instead, the Council should look to reduce regulatory hurdles in respect of development contributions and resource consent processing to boost affordable housing supply.

8.7 By way of example, the levels of development contributions (**DC**) required by QLDC are a significant impediment to urban development in the District. RPL recognises the need for the Council to equitably recover the growth-related costs of infrastructure. However, to the extent that the Council seeks to promote affordable housing, relief should be provided from the DC burden for appropriate housing typologies. For instance, the DC levels for Multi-Unit Residential could be discounted where units meeting an affordable housing typology are delivered. This would incentivise the market to provide the dwelling typology that is identified by QLDC as being insufficiently developed i.e., smaller more affordable dwellings.

8.8 Similarly, QLDC could apply a deferred and/or discounted DC regime to those developers offering to provide rental apartments (build-to-rent). Instead of requiring an up-front cash payment from a build-to-rent developer at the time of construction, QLDC could spread DC payments over, say, 20 years, with a right to require full recovery in the event of an earlier sale. Such a regime is particularly suited to DCs as they are taken to cover the cost of future infrastructure and a build-to-rent developer would be receiving a long-term rental income from which to pay them.

8.9 Another substantial hurdle to residential development in the District is resource consent and associated non statutory consent processing times. The delays associated with slow processing and unnecessary peer reviews of reports causes significant cost to developers, which is then reflected in the market price of dwellings. Rather than adding additional process costs to residential development through the standards and consent requirements proposed, the Council should look to increase the efficiency of its consenting processes, which would reduce cost and improve housing affordability.

Fund the Housing Trust through general rates

8.10 The memorandum of Meredith Connell dated 7 July 2021 found that the provision of affordable and social housing is within the purpose of local government[1] and that QLDC could use a proportion of its general rate to address affordable housing issues in its District. This option is then dismissed by Meredith Connell on the basis that the use of general rates to fund the provision of affordable housing may not be “politically palatable”. QLDC did not take this option to the community for consultation, so the political palatability of it is untested. In this way, QLDC appears to have approached consultation with a closed mind as to alternative options to its existing

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1 As amended by the Local Government (Community Wellbeing) Amendment Act 2019 which restored the promotion of “social, economic, environment, and cultural wellbeing” to the statutory purpose of local government.

Proposal. It is presumptive of the QLDC to dismiss the viability of using general rates to address affordable housing on the basis that it will be unpopular with ratepayers. In any event popularity or unpopularity are not factors that I presume will be considered by this hearing.

8.11 To the extent that a lack of affordable housing is a problem for society generally, then there is a rationale for identified sectors of the rating base part funding the cost of provision. A more sophisticated rating approach would be to incentivise businesses to support private provision of staff housing or pay higher use commercial rates (as it is generally businesses that create employment and add to the demand for worker accommodation, and it is businesses that would stand to gain from any reduced staff turn-over associated with more affordable accommodation.)

8.12 To deal with the "housing affordability crisis", the Housing Trust should give immediate priority to acquiring and providing affordable rental accommodation, rather than to assisting a relatively small number of residents to achieve home ownership. It is the current unmet demand for rental accommodation that is the critical issue. Assisting residents into ownership involves a transfer of wealth to the individual recipients and this should be of much lower priority now, while there is a rental affordability crisis that affects the wider community. If other measures to increase the pool of affordable rental accommodation prove to be successful then the Housing Trust could, at a future date, readjust its priorities and consider whether to retain these rental units for rental or convert a portion to ownership.

8.13 The Housing Trust could also be funded through targeted commercial rates, particularly toward those who use entire dwellings for short term rental e.g., Airbnb, Bookabach, etc.. There is no reason why those who use entire dwellings for short term rentals should be exempt from paying commercial rates on the same basis or more given the higher infrastructure cost of servicing urban sprawl as others providing visitor accommodation. Compliant short term rental operators already pay a rate targeted at tourism promotion that is passed on to Destination Queenstown. In a similar way a targeted housing affordability rate could be charged to commercial premises, including entire-dwelling short term rental operators and passed on to the Housing Trust. Those commercial operators who employ permanent or transient workers and provide rental accommodation as part of this employment could be exempt from paying the targeted housing affordability rate, as the provision of staff housing would be alleviating affordability issues in the District.

8.14 Ultimately, as the QLDC itself admits, funding the Housing Trust will only ever be a partial solution to housing affordability in the District. To provide viable, long-term solutions for the District, the Council should take steps to enable a continued supply of housing and affordable housing from the private sector.

Proactive control and enforcement of short-term rental regulation

8.15 RPL notes that QLDC has identified the number of entire dwellings or apartments currently being used as short term rental accommodation as a significant contributor to the current shortage of dwellings and apartments that are available for long term rental and as a cause of the high rentals being charged for long-term rental accommodation. QLDC needs to be proactive to introduce measures to charge commercial rates and more for the use of entire dwellings or apartments as "Airbnb" style accommodation.[2]

8.16 By taking proactive enforcement measures, Council would be able to collect funds for the Housing Trust or start moving houses otherwise being used as short term rental back onto the permanent rental market. RPL suspects that these measures alone may result in several hundred houses / apartments returning to the permanent rental market without the need to take any further regulatory steps. Any measure which reintroduces several hundred dwellings to the rental market in a short space of time would make a significant difference to the demand for housing in the District.

8.17 To better control the spread of entire-dwelling-short-term-rentals throughout all parts of the district, Council should consider making this a prohibited or non-complying activity in all new residential areas. Council has already imposed restrictions on entire-dwelling-short-term-rentals in Special Housing Areas (SHAs) and it should be relatively simple to impose strong restrictions in new residential areas.

Less prescriptive provisions

8.18 The Proposal sets out prescriptive requirements for contributions of money and land and provides no scope for developers to choose to provide, including to retain, affordable housing in other ways that are more efficient. If

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2 https://crux.org.nz/crux-news/the-airbnb-invasion-of-queenstown/

the PDP is to include affordable housing rules, then these should provide clear pathways for developers to meet objectives with alternative methods, such as the development and retention of rental accommodation that is available for rent. At present the provisions set up an expectation that alternative forms of contribution should only be considered where exceptional circumstances apply. Any provisions should support rather than hinder alternative approaches.

9. CONCLUSION

9.1 The proposed variation is a blunt, unsophisticated, inequitable, inadequate, expensive, counter productive intervention that will exacerbate the problem it is seeking to solve.

9.2 Any alternatives need to take into account the following;

Building Cost

9.3 Nothing that increases building costs e.g. such as this variation.

9.4 Consider anything that reduces building costs e.g. such as lower consenting costs and lower development levies and faster consenting.

Short Term Visitor Accommodation (STVA) Houses

9.5 Recognise Short Term Visitor Accommodation is a major problem for various reasons including;

(a) Lower Density competing with High Density Hotels,

(b) Lower Density excessively uses scarce land resources,

(c) Lower Density urban sprawl results in high infrastructure costs,

(d) Low Density urban sprawl adds to traffic congestion,

(e) Returns so high they;

(i) Attract purchasers to buy land and build houses in Queenstown for STVA.

(ii) Divert scarce finite building resources, increasing building costs away from other developments including housing.

(f) Low Council rates collected on Low Density compared to High Density, reduces funding available to Council.

9.6 This problem needs resolving. A significant rates penalty would be a start, but enforced zoning probably the only solution. Issues of retrospectivity will need to be considered.

Homelessness

9.7 Clamp down on living in cars etc.

9.8 Not good for;

(a) People,

(b) Town's image,

(c) Disincentivises private enterprises to find solutions.

Problem with encouraging Low Density use of Land

9.9 Short term use of land for Low Density Housing is a long term pain when all scarce land resource has been used up.

Renting, Ownership, Risk, Wealth management

9.10 Becoming involved in the issue as to whether people should get involved in the risk or ownership of houses is a wealth management matter which Councils should not be involved with for a number of reasons;

(a) Queenstown's problem is for people to be able to live affordably in the district. Whether they do that by rentals versus various forms of ownership, is not a matter Council needs to be involved with.

(b) Its not a foregone conclusion that housing will always go up in value, or will be a more affordable solution than renting.

Rentals

9.11 All rentals short and long term are important in Queenstown; because of the need to try and attract transient workers into short term accommodation away from houses, that are more suitable for long term families.

Net Household Incomes

9.12 Council providing rates relief and sourcing cheaper loan finance to assist with affordable housing.

Dated 6 March 2024

Alastair Finlay Porter