

Before the Independent Hearings Panel

Under the Resource Management Act 1991 (**RMA**)

In the matter of submissions on the Inclusionary Housing Variation to the Queenstown Lakes Proposed District Plan (**Variation**)

Summary and Supplementary Evidence of Chris Ferguson

4 March 2024

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Introduction

- 1 My full name is Christopher Bruce Ferguson.
- 2 I prepared a Statement of Evidence on the Inclusionary Housing Variation dated 19 December 2023 (**Statement**).
- 3 My qualifications and experience are set out in my Statement.
- 4 I reconfirm that I have read and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023.

Summary of Evidence

- 5 My evidence supports the objectives of the Variation as a way to provide a further focus on housing for low to moderate income households. The key difference between my evidence and the planning evidence for the Council is in terms of the methods being proposed to achieve the objective.
- 6 The outcome of my assessment under s32 of the RMA of the reasonably practicably options to address the objective is a 'package' of regulatory and non-regulatory methods. My preferred option is to utilise local government rating to provide an avenue for funding of the trust and a range of regulatory responses that include a continued focus on land supply, a greater focus on the statutory instruments to ensure the delivery of land at more affordable prices points, including expanding supply through the intensification variation, and formulating policy oriented at capturing planning uplift.
- 7 The advantages of this approach are:
 - (a) It does not place all of the eggs in one basket. The economists agree that the variation will result in either a decrease in residential supply or an increase in prices.¹ The preferred approach outlined in my evidence avoids a direct conflict with an action being undertaken that does not support and limits impacts on the competitive operation of land and development markets.²
 - (b) By creating a source of funding to the Queenstown Lakes Community Housing Trust (**QLCHT**), or other housing provider through rating, my preferred option is capable of creating a supply of Affordable Housing, including with a retention mechanism in place. Noting that the

¹ Page 6, JWS of Economics Experts (30 January 2024)

² Policy 1(d), NPS-UD (2020)

Variation seeks to also create a funding mechanism for the QLCHT and does not in itself create Affordable Housing.

- (c) Funding Affordable Housing through rates will utilise an established system for setting and collecting funds, which will avoid the comparatively higher administrative costs needed to operate a new financial contribution regime from scratch.
- (d) Ensuring adequate provision of land supply for residential housing is not being relied on as the only mechanism to address affordability. I agree with the evidence for the Council that land supply by itself has limitations and a more nuanced approach is necessary.
- (e) A review of the density provisions within the PDP would ensure better utilising of latent capacity within existing urban areas to have or enable a variety of homes that meet the needs, in terms of type, price, and location, of different households.³ My evidence identifies potential barriers towards realising lower price houses with density controls throughout the existing residential zones encouraging larger and less affordable sites for housing.
- (f) Formulation of an Inclusionary Housing policy specific to planning uplift received at the time of rezoning has been widely used and accepted as being efficient and effective at providing more than \$43m of funding to the QLCHT. Evidence for developer entities supports its continued use. The opportunity for additional gains to be realised is possible through a range of future RMA processes, arising from the Spatial Plan, Future Development Strategy and development of further structure plans for key growth areas.

Funding through rates

- 8 The rebuttal evidence by Mr Mead fails to evaluate the package of preferred methods being proposed in my evidence to address the objective. He is critical of aspects of my Statement that in his view, rely on a wait and see approach and is focussed on land supply as the solution to affordable housing. Funding through rates is dismissed as an option on the basis of the rebuttal evidence of Ms Bowbyes, who in turn simply states that *“Councillors have supported pursuing inclusionary housing through the district plan as opposed to using rates, as confirmed through their formal ratification of the Homes Strategy 2021 and Joint Housing Action Plan*

³ Policy 1(a), NPS-UD (2020)

2023".⁴ Neither of these strategies have been through a first schedule RMA process, tested for their alignment with higher level national and regional directives or in terms of s32 of the RMA.

- 9 The Council's economist is critical of rating as being a politically vulnerable solution, implying that there is a problem with having a reviewable funding model. Any funding method, including financial contributions, should be capable of review. The RMA requires Councils to both monitor the effectiveness of plan policies and to undertake a complete review every 10 years. Historically the Queenstown Lakes District property market has been highly cyclical and if that trend continues into the future, funding through financial contributions could not be relied upon as a continuous source of funding. Equally, the QLCHT and/or Council may be able to access increased central Government or other funding sources⁵. For these reasons I consider the ability to review funding an important component of any method, more so given the dynamic nature of housing affordability.

Housing choice vs housing supply

- 10 At paras 77 – 81 of my Statement, I provide analysis of the impact of current planning controls in use within the PDP. I accept that this analysis is confined to the three most widely used residential zones but is illustrative of a common approach within the PDP, which in my view contributes towards constraints in the supply of land more capable of accommodating housing at more affordable levels. As above, this suggestion is made in the context of other mechanisms i.e. rating that would deliver affordable housing with a retention mechanism. In my view both approaches are valid.
- 11 The statutory directive provided within the NPS-UD, requires, at a minimum, well-functioning urban environments to have a variety of homes that meet the needs in terms of type, price, and location of different households. My Statement suggests that there is a lot more that can be achieved within the ambit of the PDP to provide more enablement of, at least, density capable to delivering more affordable housing. The intensification variation will contribute to some degree, so far as it relates to

⁴ Para 2.6, Page 5, Rebuttal Evidence of Ms Bowbyes (13 February 2023)

⁵ For example, the National – Act party coalition agreement agrees to "*introduce financial incentives for councils to enable more housing, including considering sharing a portion of GST collected on new residential builds with councils.*"; reiterated through the cabinet paper by the Minister of Housing, Infrastructure and RMA Reform, Fixing the Housing Crises" (<https://www.hud.govt.nz/assets/Uploads/Documents/Cabinet-papers/Cabinet-Paper-Fixing-the-Housing-Crisis.pdf>)

implementing Policy 5 of the NPS-UD⁶. The scope of this variation is not however directed more broadly to Policy 1 of the NPS-UD seeking to provide well-functioning urban environments with a variety of housing types.

Windfall Gains

- 12 My evidence supports the development of a policy within the PDP that would be designed to capture planning uplift through planning processes. The evidence for the developers and the QLCHT supports their continued use and historic success. They are attractive as a mechanism because they allow for the flexibility to negotiate outcomes, including the scenario discussed with Ms Scott for the Trust to convert land contributions into cash allowing for investment in locations of their choosing, potentially delivering a greater number of affordable houses.

- 13 What defines a 'windfall' is also unclear and dependent on the benefits of the proposal to create housing outcomes, what the proposal achieves against what the existing zone provisions might anticipate and other constraints on the ability to realise gains. For these reasons I strongly prefer a policy approach to capturing planning uplift where that would allow an evaluation of a variety of factors, including:
 - (a) The scale of the proposed increase in housing opportunity relative to what the underlying zone allows.
 - (b) The degree to which the outcome would deliver housing with typologies, density and size is more affordable.
 - (c) Alignment with strategic growth priorities to address shortfalls in supply, including supply at lower price points.
 - (d) To what extent that supply is constrained through access to infrastructure, servicing costs, access costs, hazard mitigation, etc, diminishing the extent of any value uplift.

⁶ Policy 5, NPS-UD, Regional policy statements and district plans applying to tier 2 and 3 urban environments enable heights and density of urban form commensurate with the greater of:

a) The level of accessibility by existing or planned active or public transport to a range of commercial activities or community services; or

b) Relative demand for housing and business use in that location

Transitional Arrangement

- 14 I understand the Commission have been exploring transitional arrangements, including the concept of any rules have delayed effect, potentially being used as a tool to compel development before a certain timeframe. Obviously this suggestion expands the scope of the variation as a potentially significant incentive for the delivery of housing. How effective that would be in providing housing for affordable housing for low to moderate income households would depend on factors such as the ability to target affordability through housing typologies and density, and the state of the available / zoned land stock at the point of transition, including where and when the District most needs that supply to be delivered.
- 15 However, any transitional arrangement is ultimately limited by the provisions to which they relate. If the rules remain targeted at financial contributions on future subdivision and development, the provisions (as they are) would not prevent landowners sitting on that land, delaying on-sale, or subsequent development of houses. On this basis, I cannot see a simple way to see how such transitional arrangements would be effective at achieving the objective.

Outstanding matters with provisions

- (a) Recognition of land subject to existing stakeholder agreements
- (b) Subdivision of land having a residential purpose, subdivision across multiple and mixed-use zones, and interchangeability between permitted land use activity
- (c) Recognition of land subject to existing but unimplemented resource consents, or variations to existing consents.
- (d) The application of the Chapter 40 rules to Volumes A and B of the District Plan.
- (e) The impact of the wording of Rule 40.6.1 2 as relating to all residential floor space not subject to a financial contribution at the time of subdivision
- (f) The uncertainty in relation to the transfers of lots to QLDC for any land contributions.

Chris Ferguson

4 March 2024