BEFORE HEARING COMMISSIONERS
IN QUEENSTOWN | TĀHUNA ROHE

UNDER THE	Resource Management Act 1991 ("**Act**")
IN THE MATTER OF	the proposed "Inclusionary Housing" Variation to Queenstown Lakes District Council's Proposed District Plan
AND IN THE MATTER OF	submissions on the Variation
BETWEEN	**GLENPANEL DEVELOPMENTS LIMITED** ("**GDL**")
	Submitter
AND	**QUEENSTOWN LAKES DISTRICT COUNCIL**
	Planning authority

REPRESENTATIONS ON BEHALF OF GDL

Before a Hearing Panel: Jan Caunter (Chair), Jane Taylor, Ken Fletcher and Lee Beattie

Introduction

1. As the Panel is aware, I am project managing various matters for submitters, including GDL. I have appeared earlier in the proceedings, for Cardrona Village Limited ("**CVL**") and Kingston Flyer Limited ("**KFL**").

2. As also indicated, and confirmed by Ms Baker-Galloway, GDL is part of the "Anderson Lloyd" consortium.

3. That said, GDL has requested, particularly as its witness, Mr Tylden, may not be able to appear at the hearing, that:

   (a) I appear to briefly emphasise some specific matters on behalf of GDL; and

   (b) I lead evidence from Mr Oliver, the tax expert that GDL has called to supplement the evidence of the Anderson Lloyd consortium.

GDL matters

4. Firstly, GDL supports the intent to provide social housing in Queenstown. However, GDL considers, beyond re-zoning and other normal RMA initiatives, that social housing is the responsibility of central government; or, at the very least, a matter for rates and the Council's responsibilities under the LGA, rather than the RMA.

5. In that regard, GDL considers the Variation as a tax, which is prohibited without specific parliamentary authority.

6. The identification of the Variation as imposing a tax is important, if not determinative. While not a perfect analogy, the Court of Appeal's decision in *Centrepoint*[1] provides strong support for defining what the Variation is, as part of resolving whether it is lawful. In the case of *Centerpoint*, the question for the Court was whether the proposed activity was a "religious institution", or something else. It stated (at p708):

> … the single main purpose of the occupier's use of the land, to which secondary activities were incidental or ancillary, was not that of a religious institution but rather that of a small village with elements of residential, commercial, industrial, social, cultural, religious and recreational uses, none of the elements listed being fundamental or predominant. Alternatively, if the approach is the second in *Burdle* the occupier carried on a variety of activities in respect of which it was not possible to say that any one was incidental or ancillary to another.

7. While the context was different, the analytical process has the same key requirements. In *Centrepoint*, for example, the analysis required:

   (a) considering the terms in question and deciding on their essential characteristics;

   (b) ***finding the facts***; and

   (c) deciding whether they fit the terms in question.

8. Given the High Court's previous emphasis on whether or not a RMA proposal is a tax is a matter of fact, this is something that must be resolved, as part of determining whether it is within the lawful bounds of the RMA or its financial contribution provisions.

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1 *Centrepoint Community Growth Trust v Takapuna City Council* [1985] 1 NZLR 702 (CA).

9. Secondly, in terms of GDL specific matters, is the time taken to get to potential development, which, at a practical level, weighs heavily against imposing social housing obligations on it.

10. In **2016**, development of the site was proposed under the HASHAA process. This would have been an early "uplift" in its zoning, and GDL could have provided social housing as part of the proposal at that point in time.

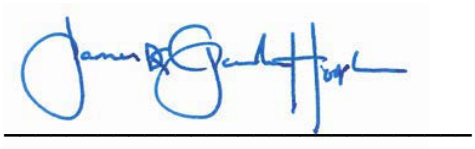
11. However, it is now some eight years later, with holding costs, as well as multiple processing costs, running into the millions, and there is now no ability to provide social housing as part of the development in the same way.

12. It should be noted that impositions requiring a developer to provide social housing is quite different to a developer delivering housing that is affordable, including by design. If land is required to be taken for social housing, the reality is that the balance of a development will be much less affordable.

Forward progress

13. GDL is committed to opposing the Variation, because it considers it to be wrong.

14. Any social redistribution has to be by way of taxation and spend by central government; not by QLDC, under tenuous (or non-existent) delegated authority to impose such a tax.



Project Manager
4 March 2024