

IN THE MATTER of the Resource Management Act 1991 (“RMA” or “the Act”)

AND

IN THE MATTER of the Inclusionary Housing Plan Change by **QUEENSTOWN LAKES DISTRICT COUNCIL** to the operative Queenstown Lakes District Plan

STATEMENT OF EVIDENCE OF GREGORY JOHN DEWE

1. INTRODUCTION

1.1 My name is Gregory John Dewe. I am the Operations Manager at Fulton Hogan Land Development Limited (“FHLD”). As such, I am authorised to give this evidence on behalf of FHLD.

Qualifications and experience

1.2 I hold a Bachelor of Arts Degree and a Master’s Degree in Regional and Resource Planning from the University of Otago.

1.3 I have worked at FHLD for the past 12 years, originally as a development manager and for the last 5 years in my current role.

1.4 I was formerly a Planning Consultant at Aurecon for over 16 years, where I assisted various land development entities such as Selwyn District Council, FHLD, Hobsonville Land Company Limited, and others.

Fulton Hogan Land Development Limited

1.5 FHLD is one of New Zealand’s largest residential land development companies and it has made a significant contribution to housing supply in New Zealand over the past 25 years. Examples of FHLD’s developments (some of which were/are joint ventures) include:

- (a) Dannemora, Auckland (4,000 dwellings completed in 2007);
- (b) Millwater, Auckland (3,000 dwellings, which will be completed within the next 2 years);

- (c) Milldale, Auckland (4,000 dwellings and a 6ha town centre development, started in 2018);
- (d) Pokeno, Waikato (2,000 dwellings and 30ha of industrial development, which will be completed within the next 2 years);
- (e) One Tree Point, Northland (450 dwellings, with 350 completed to date);
- (f) Halswell, Christchurch (1,200 dwellings, completed in 4 years following the Christchurch earthquakes); and
- (g) Lincoln, Selwyn (900 dwellings, which will be completed in the next 3 years).

1.6 In addition to the above, FHLD has recently commenced the development of approximately 38ha of land within the Northlake Special Zone in the Operative Queenstown Lakes District Plan ("ODP"), which has a dwelling capacity of over 350 dwellings. This development is being undertaken as a joint venture by WFH Properties Limited.

Purpose and scope of evidence

1.7 The Inclusionary Housing Variation ("Variation") as proposed by the Queenstown Lakes District Council ("QLDC" or "Council") will have a material negative impact on FHLD's ability to do business in the Queenstown Lakes area. The purpose of my evidence is to provide an overview of how the Variation will impact large-scale developers like FHLD, in terms of its operations within the Queenstown Lakes housing and development market; and recommend alternative mechanisms for achieving affordable housing that would deliver positive outcomes in a way that would be fairer and more effective.

1.8 Specifically, my evidence will address the following:

- (a) Provide an overview of FHLD and its activity in the Queenstown Lakes District (Section 3);
- (b) How the Variation will impact the housing and development market within the Queenstown Lakes District (Section 4);
- (c) Flaws in the reasoning which supports the incorporation of the Variation within the Queenstown Lakes District plan, including:

- (i) The purported planning windfall gains to developers (Section 5); and
- (ii) The reliance on overseas jurisdictions (Section 6);
- (d) Suggests alternative options for addressing affordability in the Queenstown Lakes District which would be better received by the development community (Section 7); and
- (e) Provides a conclusion (Section 8).

1.9 A summary of my evidence is contained in Section 2.

1.10 In preparing my evidence, I refer to and rely on the following evidence of:

- (a) Mr Daniel Ian Thorne, Senior Planner and Director of Town Planning Group (NZ) Limited, dated 21 December 2023; and
- (b) Mr Fraser Colegrave, Founder and Managing Director of Insight Economics, dated 21 December 2023.

2. **SUMMARY OF EVIDENCE**

2.1 A summary of my evidence in relation to the Variation is outlined below.

The Queenstown Lakes District

2.2 FHLD does not dispute that there is a housing affordability issue in the Queenstown Lakes District. This is due to a number of driving factors, including:

- (a) The high portion of second homes that are vacant for many months of the year and short-term rentals in the area, which directly reduces the pool of properties that may otherwise be available; and
- (b) The limitation of supply as a result of protecting important landscape values.

2.3 The Variation, however, has adopted a blunt and reactionary approach that essentially places a tax on developers, burdening the residential development community with creating a solution. The blunt and reactionary approach adopted in the Variation is likely to result in either:

- (a) Fewer sections being developed in the Queenstown Lakes District – lessening supply; and / or

(b) The remaining sections available for sale increasing in price to offset the Variation.

2.4 These results will contribute toward the Queenstown Lakes District population becoming worse off in terms of affordable housing, except for the select few who can secure housing with the support of the Queenstown Lakes Community Housing Trust ("QLCHT").

Flaws in analysis to implementation of the Variation

2.5 The Variation appears to be premised on the basis that developers receive "planning windfall gains" and should be compelled to return some of those gains to the community to provide affordable housing; but fails to consider the reality that pursuing private plan changes and seeking resource consents are expensive, time-consuming, and not without risk.

2.6 While I agree to an extent that private developers accept inclusionary requirements when they are known in advance and levied in a consistent way, the Variation is to be introduced after many developers have already bought land and paid for it on the basis of the ODP rules in place at the time of the purchase. These rules did not include the requirement to give away 5% of the development for free without any "planning gain" to offset this cost, and to my knowledge Council has not investigated what disruption the Variation is expected to cause to developers with existing landholdings.

2.7 Instead, the Council's economist has suggested that any effect of the Variation on those with existing land holdings would be offset by "planning windfall gains," which have been realised through the implementation of provisions to give effect to the National Policy Statement on Urban Development ("NPS-UD") and / or amendments to the Resource Management Act 1991 ("RMA"). However, the Council has failed to realise the lack of certainty and, therefore, the relevance of these provisions given that the Urban Intensification Variation ("UIV") is subject to submissions and / or that the new coalition Government has not yet released draft Bills recording their amendments to the RMA.

2.8 In addition to the Council's flawed reasoning regarding purported "planning windfall gains," I have serious concerns regarding that the Council's rationale for the Variation places significant reliance on overseas jurisdictions; but has failed to acknowledge how these locations differ from the issues faced within the Queenstown Lakes District and has included little analysis regarding how these overseas examples work in practice.

Alternative options for addressing housing affordability

- 2.9 The Council has not adequately considered alternative options for providing affordable housing in the Queenstown Lakes District, which would deliver affordable housing in a way that would be fairer and more effective. I have discussed some of these alternative options below.
- 2.10 However, in consideration of timing, the most appropriate response would appear to be to modify the Variation so that additional development opportunities are available to offset the effects of the Variation, especially for those with existing landholdings. Suitable modifications which would allow the new tax to be offset, include:
- (a) Enabling increased density where the Variation applies; or
 - (b) Only applying the Variation to the land that has been rezoned / upzoned after the Variation has become operative.
- 2.11 However, if there is no benefit to developers to accompany the implementation of the Variation, it is likely that developers, if possible, will avoid developing in areas where the Variation applies or will pass on the additional 5% Variation tax to consumers.
- 2.12 In conclusion, unless the Variation is amended along the lines suggested, the Variation will impact the operations of large-scale developers like FHLD within the Queenstown Lakes housing and development market and will likely result in increased housing costs for the majority of individuals in the Queenstown Lakes District.

3. FULTON HOGAN LAND DEVELOPMENT LIMITED

- 3.1 FHLD's philosophy is to create high quality master planned new communities that respond to the local setting and incorporate or enhance what is of significance at the site. FHLD's approach is to appoint an experienced multidisciplinary team to undertake the master planning process so that factors such as stormwater management, ecology, and landscape are considered right from the very beginning of the process. Our objective is to establish communities that respond to the natural attributes and any other significant features of the site.
- 3.2 As a result of its size and experience and the backing of Fulton Hogan, FHLD is able to deliver land development projects at a scale that is at the larger end of what occurs in New Zealand.

- 3.3 Fulton Hogan’s expertise in infrastructure delivery means that we are able to deliver the necessary infrastructure to our projects often much more efficiently than many other developers. We have the resources and ability to construct the necessary bulk three waters and roading infrastructure to integrate our developments with adjoining communities and do so for all of our developments.
- 3.4 As a significant land development company, we are prepared to play our part in helping to address housing affordability issues that exist not only in the Queenstown Lakes District area but also in other parts of New Zealand. The most obvious contribution we can make to the issue is through increasing the supply side of the equation by providing quality housing and/or development ready sites.
- 3.5 Our recently commenced development within the Northlake Special Zone includes a requirement to provide sites to QLDC or QLCHT, if so directed by QLDC, for affordable housing. We were aware of this requirement at the time we purchased the site and, as such, were able to factor this into our planning of the development. This is a matter I will return to later in this evidence.

4. **IMPLICATIONS OF INCLUSIONARY HOUSING VARIATION FOR THE QUEENSTOWN LAKES DISTRICT**

- 4.1 We do not dispute that there is a housing affordability issue in the Queenstown Lakes area, and FHLDC would like to be part of the long-term solution via helping to increase the housing supply, which in turn will help to limit future increases in the cost of housing. We are also prepared to contribute towards the issue of housing affordability, beyond increasing housing supply within the District, in our capacity as land owners. However, we do not consider that the Variation will achieve the outcomes being sought and that it is inherently unfair as it makes one small part of the community – i.e. those undertaking residential land development – responsible for the issue alone.
- 4.2 The current approach taken within the Variation is essentially a tax on developers, akin in alternative industries to either:
- (a) Forcing supermarkets to give away 5% of all their goods because the price of food is unaffordable for many (which it is); or

- (b) Making fuel stations give away 5% of their fuel for free because the cost of fuel is too expensive.

To my mind, housing affordability is not an issue that only a small part of the community (i.e., residential developers) should be expected to address.

4.3 As commented on by Mr Mead and Ms Bowbyes for the Council, the drivers behind the high cost of housing in the Queenstown Lakes District include:

- (a) The high portion of second homes that are vacant for many months of the year and short-term rentals in the area, which directly reduces the pool of properties that may otherwise be available; and
- (b) Limitation of supply as a result of protecting important landscape values.

4.4 While these complex issues are specific to the Queenstown Lakes District, the Council has decided to adopt a very blunt and reactionary approach purportedly based on the success of international examples.

4.5 As the issue of housing affordability within the Queenstown Lakes District area has been created by factors not solely attributable to the residential development community, there is no justification for burdening the residential development community with creating a solution to the issue.

4.6 The approach being promoted by the Council will likely result in either:

- (a) Fewer sections being developed in the Queenstown Lakes District if a developer has land in other locations where it is more favourable to develop – lessening supply within the Queenstown Lakes District area; and /or
- (b) The remaining sections available for sale increasing in price to offset the Variation, which essentially acts as a new land tax.

These results contribute toward the population within the Queenstown Lakes District being worse off in terms of affordable housing than they currently are, except for the select few who are able to secure housing with the support of the QLCHT.

4.7 These adverse impacts of the Variation, which have been dismissed by those reporting on the Variation for the Council, could be avoided if a different approach was adopted. I elaborate on this below.

5. **PURPORTED “PLANNING WINDFALL GAINS”**

5.1 The Variation appears to be premised on the basis that those who receive “planning windfall gains”, i.e. developers, should be compelled to return some of those gains to the community to provide for affordable housing – i.e. a “planning windfall tax”.

5.2 I strongly disagree that there is a “windfall” associated with obtaining planning approval. Pursuing private plan changes and seeking resource consents are expensive, time consuming, and not without risk. Private plan change and resource consent applicants are required to pay the Council and their consultants for the exercise and, if granted, applicants are subject to conditions that for the most part attract development or financial contributions. As such, significant resources are often required to:

- (a) Gain an approval; and
- (b) Give effect to it.

Private individuals and businesses that go through this exercise, of course, do so in the hope that there will be a return in due course for the effort and resources applied, but I disagree that if someone has gained approval, it necessarily equates to some sort of ‘windfall gain’ as promoted by Mr Equb.

5.3 I also disagree with Mr Equb’s statement that “*The Inclusionary Housing policy...will match the broad increase in planning windfall gains (and housing supply) enabled by the NPS-UD (and likely future changes from RMA reforms)*”.¹ I note that Mr Thorne has explained that the changes proposed by QLDC to give effect to the NPS-UD via the UIV are far from certain given that they are subject to submissions.

5.4 In addition, I am unaware of what inside knowledge Mr Equb has of the RMA reform he says is to be undertaken by the new coalition Government, but with there not even being any draft Bills released by the Government at the time of filing this statement I do not consider any weight can be given to the proposition that there is likely to be some sort of future ‘planning gain’ being created over all residential zones in the Queenstown Lakes District.

5.5 Mr Equb asserts that the primary “windfall” gains arise when “*there is a planning change of land to residential use.*”² However, the variation proposes to apply the inclusionary housing tax to land that is already zoned. I would

¹ Evidence of Shamubeel Equb, at [6.7].
² Evidence of Shamubeel Equb, at [5.16].

agree that at the time land is rezoned there will normally be an increase in the value of that land. That said, unless undertaken by the Council (which appears to be rare across much of New Zealand in recent years) the rezoning of land is an expensive, long, and risky exercise undertaken by private bodies or individuals.

- 5.6 A party who undertakes a private plan change to rezone land to residential may have held it for many years and may either look to sell to a developer once it is rezoned, or the land may have already been purchased by a developer who has then sought to rezone the land. If the Variation provisions were only to apply to land that was rezoned (or up-zoned) after the date that the provisions become operative, then there may well be a planning gain to offset the new tax. This planning gain would arise because the underlying land value before the rezoning occurred, would have already been adversely impacted by the Variation provisions.
- 5.7 Mr Eaquab also states that *“private developers accept inclusionary requirements when they are known in advance and levied in a consistent way.”*³ This may well be the case, but the Variation is to be introduced after many developers have already bought land and paid for it on the basis of the ODP rules in place at the time of the purchase, which did not include the requirement to give away 5% of the development for free without any “planning gain” to offset this cost.
- 5.8 Mr Eaquab dismissively suggests that following the implementation of the Variation, *“there may be some disruption to existing landholdings, but that should not be a reason for not changing policy settings.”*⁴ In effect, Mr Eaquab is saying that some people will be worse off under the Variation as they will be adversely affected, but that is not a valid reason not to proceed. The size of this impact has not, however, been assessed as far as I can see.

6. RELEVANCE OF OVERSEAS EXAMPLES

- 6.1 The Council’s rationale for the Variation places significant reliance on overseas initiatives – including across Australia, the UK, Germany, USA and “various parts of Europe.”⁵
- 6.2 Mr Colegrave articulates within his evidence that there are serious concerns surrounding the reliance on these international examples and the relevance of these cited experiences because each of these international locations

3 Evidence of Shamubeel Eaquab, at [6.2].

4 Evidence of Shamubeel Eaquab, at [5.20].

5 Evidence of Shamubeel Eaquab, at [5.6 – 5.18]; Evidence of David Mead, at [3.15 – 3.17].

differs from the issues faced within Queenstown Lakes District. In other words, Mr Eaquab, in reliance on these international examples, has not accounted for the contextual variation between the countries.

6.3 Additionally, I note that despite relying on these overseas examples as evidence that inclusionary housing measures are fair and reasonable, the Council has provided very little detail regarding how these overseas examples work in practice, including, for example, whether additional development opportunities are provided to offset the Variation which essentially acts as a tax.

7. **ALTERNATIVE OPTIONS TO ADDRESS AFFORDABILITY**

7.1 In my opinion, the Section 32 Report includes insufficient consideration of other viable alternatives for providing affordable housing.

7.2 For example, the Section 32 Report should have included consideration of a number of alternative options, including:

- (a) Provisions that allow flexibility for comprehensive forms of housing (i.e. multi-unit, duplex, terrace, and apartment type developments) within larger greenfield subdivisions.
- (b) The removal of barriers to brownfield housing developments through relaxing minimum allotment / residential density rules and other performance standards that can hinder innovative higher density development.
- (c) The introduction of provisions to enable a greater level of development to occur where the Variation is being applied. In this way, some of the costs associated with the 5% contribution could be offset, resulting in a situation that Mr Eaquab purports will occur, in terms of a 'planning gain' to offset the cost of the Variation.
- (d) A modification of the current Variation proposal so that it only applies to areas that are rezoned urban or 'up-zoned' (i.e. where the density of development is increased) after the date of the provisions becoming operative. Similarly, in this way, the provisions would only apply to where there has been a 'planning gain'.

7.3 If the Variation, which essentially acts as a proposed tax, was offset by being able to increase density within the same development, the additional costs associated with the Variation could be offset rather than passed onto consumers. Alternatively, if the tax is only applied to land that is

rezoned/upzoned after it becomes operative, then the 'planning gain' concept would apply, offsetting the tax. However, if there is no benefit to developers to accompany the implementation of the Variation, it is likely developers, if possible, will avoid developing in areas where the Variation applies or will pass on the additional 5% Variation tax to consumers.

7.4 I appreciate that delaying the introduction of the Variation would delay the response to the affordability issue facing the Queenstown Lakes District. As such, the most appropriate response would appear to be to modify the Variation to incorporate some of the suggestions made above so that additional development opportunities are available to offset the Variation. I consider that this approach would have the following benefits:

- (a) There would be an increased supply of houses within the existing zoned areas, which would appear to be consistent with the outcomes sought by the NPS-UD.
- (b) As a larger number of sections would be created over the same area of land, the average lot size would reduce, which will help to keep section prices lower.
- (c) It would allow the new tax to be offset, thus meaning that the balance of the sites in a development would not have to increase in price to cover the cost of giving away 5% of sections built for no return.

7.5 I appreciate that the UIV promoted by QLDC might achieve the above but given that it is subject to a separate submission process and is in no way linked to the Variation, I do not believe it can be relied on to provide mitigation for the costs of the current Variation. To my mind, the sort of provisions included in the UIV need to be included in the current Variation so a complete package can be considered together.

8. **CONCLUSION**

8.1 Unless the Variation is amended along the lines suggested above, it is likely to result in housing costs for the majority in the Queenstown Lakes District increasing whereas I believe it would be relatively simple to avoid such a situation occurring.

Gregory Dewe

21 December 2023