

Form 5
Submission on a Variation to the
Queenstown Lakes Proposed District Plan

Clause 6, First Schedule, Resource Management Act 1991

To: Queenstown Lakes District Council (“Council”)

Name of Submitter: **Gibbston Valley Station Ltd (“Submitter”)**

Introduction

1. This is a submission on the proposal (**Proposal or Plan Change**) to amend the Queenstown Lakes Proposed District Plan (**PDP**) by inserting a new Objective and new Policies into Chapter 3 Strategic Directions, and by adding proposed Chapter 40 Inclusionary Housing to Part 5.
2. The Submitter could not gain an advantage in trade competition through this submission.
3. The Submitter is interested in, and opposed to, the Proposal in its entirety.
4. This submission relates to all of the provisions of the Proposal.
5. Without derogating from the generality of the above, the reasons the Submitter is opposed to the Proposal are:
 - (a) The Proposal is unlawful.
 - (b) The Proposal will not assist the Council in carrying out its functions in order to achieve the purpose of the Resource Management ACT 1991 (**RMA**). Ultimately, the Proposal will not achieve its stated objective to increase the availability of affordable housing in the Queenstown Lakes District.
 - (c) The Proposal does not achieve the requirements of section 75 of the RMA, in particular the Proposal does not give effect to the Regional Policy Statements of Otago and the National Policy Statement for Urban Development 2020 (**NPS-UD**). Furthermore, the Proposal will obstruct the ability to effectively implement the NPS-UD by making development more unaffordable.
 - (d) Through its proposed rules, the Council has given inadequate consideration of section 76 (3) of the RMA regarding the actual or potential effects on the environment, including any adverse effects.
 - (e) The section 32 evaluation is fundamentally flawed and gives the appearance of being reversed-engineered to provide support to the Proposal, lacking the balance and objectivity that is required for such evaluations. Furthermore, the evaluation:

- (i) does not consider a full range of other reasonably practicable options for achieving the Proposal, such as rent to own models of housing or methods to increase the rental market to provide housing (as opposed to home ownership). For those alternative methods that were considered, the evaluation of those options was inadequate and evaluated in a vacuum to support the desired objective of the Proposal. The consideration of alternatives in the section 32 report are grossly inadequate and superficial.
 - (ii) contains an inadequate assessment of the costs and benefits. The costs of the proposal far outweigh the benefits by creating winners and losers. 'Winners' will be that small segment of the community that is seeking a house through the housing trust model of ownership whereas the 'losers' will be those in the community who are wanting affordable housing but do not want shared ownership. The 'losers' will bear the brunt of the financial costs of the Proposal by having the burden of buying higher priced land that accommodates the overhead from the development tax.
- (f) The costs of the Plan Change significantly outweigh any purported benefits.
 - (g) The Proposal will have a number of perverse outcomes and unintended consequences, including making home ownership in the district less affordable whereby the mandatory tax will ultimately be passed onto purchasers by developers.
 - (h) The Queenstown Lakes Community Trust is identified as the primary beneficiary of the levied taxes (40.1 of Proposed Chapter 40). It is questionable in law as to whether a District Plan can firstly levy a tax of the nature proposed and also direct the recipient of that tax being a non-statutory third party. The Plan Change is also silent on how any third party is going to achieve the purported outcomes and there is no certainty that such an entity can deliver affordable housing. If the purported outcomes are not achieved, what is the process for the Council to rescind the Plan Change and refund the taxes paid? What monitoring of the Plan Change are proposed to ensure that the outcomes are achieved and what timeframe will that monitoring be undertaken? There are no implications or recourse from failed outcomes from this Plan Change, which adds a significant cost that would further outweigh any benefits.
 - (i) The Proposal represents an inappropriate means of exercising the Council's functions, having regard to the efficiency and effectiveness of the provisions relative to other means.
 - (j) The Proposal will not achieve the Purpose of the RMA and will not result in sustainable management.

Relief sought:

6. The Submitter requests the following decision:
 - (a) as primary relief, the Plan Change is declined in its entirety and other processes (including non-statutory processes) are explored to address the issue of housing affordability in the district;
 - (b) as secondary relief, the provisions are amended to exclude the Plan Change from applying to all non-urban zones in the district, including the Gibbston Valley Resort Zone, Gibbston Valley Rural Visitor Zone and Gibbston Character Zone;
 - (c) any other additional or consequential relief to the PDP, including but not limited to, the maps, issues, objectives, policies, rules, discretions, assessment criteria and explanations that will fully give effect to the issues raised in this submission.
7. The Submitter wishes to be heard in support of its submission.
8. If others make similar submissions, the Submitter will consider presenting a joint case at any hearing.

DATED 24 November 2022



On behalf of Gibbston Valley Station Limited

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FURTHER SUBMISSION ON PROPOSED VARIATION TO THE QUEENSTOWN LAKES DISTRICT PLAN: INCLUSIONARY HOUSING

To: Queenstown Lakes District Council
By email: pdpsubmission@qldc.govt.nz

1. Name of person making further submission:

Trojan Helmet Limited and Boxer Hill Trust (**Further Submitters**)

Address for Service: Rebecca Wolt

Rebecca@rebeccawolt.co.nz

0212442950

2. The proposal that this further submission relates to is:

Inclusionary Housing Variation to the Queenstown lakes District Plan (**Proposal**).

3. The Further Submitters are:

Persons with an interest greater than the general public has. The Further Submitters were original submitters on the Proposal (Submission #181), and own land that will or may be impacted by the Proposal, namely resort and rural living zoned land, and land that is proposed to be zoned for rural living.

4. This further submission relates to the following original submissions:

See **attached** table (**Attachment A**), which forms part of this further submission.

5. The Further Submitters do wish to be heard in support of this further submission.

9. If others make a similar submission, the Further Submitters will consider presenting a joint case with them at a hearing.



Rebecca Wolt on behalf of Trojan Helmet Limited and Boxer Hill Trust

Date: 23rd day of February 2023

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Telephone: 0212442950

Contact person: Rebecca Wolt, Barrister

ATTACHMENT A

ORIGINAL SUBMITTER	SUBMISSION NUMBER	SUPPORT/OPOSE	REASONS	RELIEF SOUGHT
Glendhu Bay Trustees Limited (GBTL)	#75	Support	THL and BHT share the concerns of GBTL, including with regards to the <i>vires</i> and reasonableness of the Proposal; the adequacy of the section 32 analysis and consideration of alternatives to the Proposal; the potential for perverse outcomes and unintended consequences arising from the Proposal; the limited benefits and significant costs of the Proposal; the illogical and inconsistent application of the Proposal to some zones/developments but not others (capturing, for example; the WBLP but not the Rural Lifestyle and Rural Residential Zones); the efficiency, effectiveness and timing of the Proposal, and the Proposal's consistency with the NPSUD. THL and BHT support the relief, including in so far as it seeks suspension of the Proposal in order for the Council to seek declaratory relief as to the <i>vires</i> /legality of the Proposal. This would be an efficient use of ratepayers' and submitters' resources, as opposed to proceeding with the Proposal in the in the face of significant legal uncertainty as to <i>vires</i> and numerous submissions/challenges as to the same.	That the submission is allowed
Millbrook Country club Limited (Millbrook)	#117	Support	THL owns resort zoned land (the Hills Resort Zone) and will be impacted in a similar manner to and the shares the	That the submission is allowed

			concerns of Millbrook with regards to the proposal. THL and BHT support the relief, including in so far as it seeks that housing and visitor accommodation development within the District's resort zones is excluded or exempted from the Proposal.	
Remarkables Park Limited (RPL)	#124	Support	THL and BHT share to concerns of RPL with regards to the Proposal, including but not limited to its inconsistency with the purpose of the RMA; failure to meet the tests in section 32 of the RMA; that it will increase the cost of and disincentivise development; that there is no relationship/nexus between the identified 'problem' and proposed 'solution'/variation; that it will benefit some at the cost of others, while failing to address the immediate problem of rental affordability; that the benefits are overstated and the costs underestimated; that the Proposal will have retrospective effect; that the Proposal is <i>ultra vires</i> the RMA; and that there are alternatives to the Proposal that are more efficient and effective that have not been properly considered.	That the submission is allowed
Winton Land Limited (Winton)	#132	Support	THL and BHT share the concerns of Winton that the Proposal is outside the scope of QLDC's functions under the RMA; that the section 32 analysis is deficient including in so far as there is a lack of evidence that the proposed provisions will achieve their objective, and inadequate	That the submission is allowed

			consideration of costs and perverse and unintended outcomes; that the Proposal is inconsistent with Government policy including the NPSUD; that it is unfair in so far as it disproportionately places the burden on one sector; and that alternatives have not been properly considered.	
Gibbston Valley Station Limited (GVSL)	#155 and #168	Support	THL and BHT share the concerns of GVSL including that the Proposal is unlawful; is inconsistent with section 32, 75 and 76 of the RMA; fails to properly consider alternatives; inadequately assesses potential costs and benefits; will give rise to numerous perverse outcomes and unintended consequences; and that it should be declined or amended so as to not apply to all non-urban zones in the District, including resort zones.	That the submission is allowed

FORM 5:

SUBMISSION ON PROPOSED VARIATION TO QUEENSTOWN LAKES PROPOSED DISTRICT PLAN: INCLUSIONARY HOUSING

TO: Queenstown Lakes District Council

1. This is a submission on the following proposed variation to a proposed plan:
 - a. Proposed Queenstown Lakes District Plan – Inclusionary Housing Variation (the **Proposal**).

NAME OF SUBMITTERS:

2. TROJAN HELMET LIMITED (**THL**) and BOXER HILL TRUST (**BHT**) (the **Submitters**).
3. The Submitters **COULD NOT** gain an advantage in trade competition through this submission.

SPECIFIC PROVISIONS OF THE PROPOSAL THAT THE SUBMISSION RELATES TO:

4. The submission relates to the **ENTIRE PROPOSAL**.

SUBMISSION:

5. THL owns land zoned Hills Resort Zone (**HRZ**). As the name suggests, the HRZ is a resort zone which provides for future visitor accommodation development and onsite visitor activities, in accordance with a structure plan contained in Chapter 47 of the Proposed District Plan (**District Plan**). The HRZ also provides for a limited amount of residential development, albeit it as an ancillary activity to the primary visitor accommodation activity. The zone presently contains and golf courses and related supporting activities (including a clubhouse, offices and maintenance facilities), a sculpture park, and several dwellings, but it is otherwise yet to be developed for visitor accommodation and residential purposes pursuant to the resort zoning.
6. BHT owns land that is zoned or proposed to be zoned Wakatipu Basin Lifestyle Precinct, under which zoning some rural living development is anticipated.
7. While the Submitters generally support the notion of addressing any housing affordability issue within the District, they oppose the general premise of the Proposal where the responsibility for funding or subsidising affordable housing effectively falls to developments where there is a residential and/or visitor accommodation component.
8. The Submitters consider that the Proposal is the not an appropriate means by which to address the housing affordability issue, nor is it properly considered or formulated, particularly in so far as it relates to resort and rural living zoned land.

9. The Submitters thus **OPPOSE** the Proposal in its entirety for reasons just given and including, but not limited to, the following further reasons:
- a. The Proposal amounts to a tax on the supply of dwellings. It would likely reduce the efficiency of the housing market which would impede rather than assist with increasing housing supply.
 - b. The Proposal targets a select few - developers of land for residential, rural living and resort purposes, while the issue – housing affordability, is a wider social issue that is caused by a myriad of factors such as immigration, monetary and tax policies, and price variations in housing due to location or building quality, for example. In the Queenstown Lakes District, other static factors include its geographic location, constraints on land supply due to topography and landscape, and its amenity values.
 - c. There is an insufficient, if any, connection between the issue - housing affordability, and the Proposal – a tax on a particular business sector that supplies residential dwellings, and thus the proposed tax may be ultra vires the Resource Management Act. The Proposal's targeting of this particular business sector (and not others) is at least inequitable when this sector is not the cause of the issue.
 - d. Developers, including resort and rural living developers, provide a supply of residential dwellings where they perceive there to be demand, but creating a supply of dwellings within or outside a resort or rural living zone does not of itself create demand. Requiring a tax to be paid by those *providing* a resource (residential dwellings) is a misguided method to address the issue of affordability and its impact on overall sustainability.
 - e. The Proposal – a tax, is not within the ambit of a district council's functions under sections 31 and 72-76 of the Resource Management Act.
 - f. The issue - housing affordability, and any possible remedy, be it a tax or otherwise, is a matter for central government to consider and address through national policy directives that are properly considered and applied consistently and equitably across all districts and communities.
 - g. The issue could alternatively be addressed to some degree through a local rate under the Local Government (Rating) Act 2002, which targets all land owners in the district, (potentially on a proportional basis), as opposed to targeting solely one particular business sector who has not caused the issue and should not be solely responsible for fixing it.
 - h. The Proposal - a tax, will apply in addition to development contributions and will have significant financial consequences for residential, rural living and resort

developers. It will increase developments costs and will make development in the District unattractive, and in some instances, unviable.

- i. Developers may favour developing elsewhere, in districts where the tax does not apply, which will inevitably reduce the availability of housing in the District and exacerbate the affordability issue.
- j. Alternatively, the proposed tax could cause housing prices to rise as the cost of the tax is passed on to buyers, which would also exacerbate the affordability issue.
- k. A more (and the most) appropriate way for the Queenstown Lakes District Plan to address housing affordability in the District is improve housing supply and choice for the community over the short and long term by facilitating development of a greater range of housing sizes and types which could include providing for higher residential intensities in existing brown-field areas through greater heights and coverage, lesser boundary setbacks and greater overall unit densities. These measures would better provide for compact and integrated urban forms, and would be consistent with the NPS-UD. Additionally, development in land-banked zoned areas could be incentivised and, where appropriate, new areas could be zoned.
- l. With regards to the Proposal more particularly:
 - i. The section 32 evaluation is generalised, lacking in sufficient analysis and specificity, and is poorly reasoned. It does not establish any clear relationship between new residential development and lack of housing affordability in the Queenstown Lakes District. Despite this, the Proposal places the burden of addressing the 'problem' of affordability on new development and the individuals or entities undertaking that. This is inappropriate and unfair.
 - ii. The economic assessment contained in the section 32 evaluation is similarly generalised. It is conceptual only and does not contain any analysis of the Proposal. It does not demonstrate that the Proposal will address housing affordability in the District or benefit the District's community.
 - iii. The proposed District Plan provisions are poorly drafted, ambiguous, uncertain and unclear.
 - iv. The proposed District Plan provisions place the burden of administering the Proposal on developers while providing the Council with an inappropriate degree of discretion over a wide range of matters.
 - v. The proposed District Plan methods, whereby the tax to be paid is calculated by a valuer based on estimated market value before subdivision has occurred and sections are sold, lacks certainty and consistency in

application. Land valuation is a best guess of market value at the time the valuation is prepared, which could be month or years before sections are sold and dwellings built. Market values may change considerably over the timeline of a development. Valuations may vary between valuers. Higher quality developments will be taxed disproportionately. Where land costs have already been factored into a developers' margins (e.g., where development proposals are already underway), the proposed methods present an inappropriate burden on developers whose capital expenditure, margins and overall risk can be influenced by many external factors.

- vi. The Proposal applies to resort zones, whereas the primary purpose of these zones is for visitor accommodation and onsite visitor activities, not residential accommodation. Residential accommodation is enabled in resort zones, but on a much lesser scale than visitor accommodation and as an adjunct to the overall development, which is focused on onsite activities. Resort zones bring significant economic and social benefits to the community, through the District's tourism economy. There is no relationship between the effects of a resort development on the environment and the affordability of housing within the District.
- vii. Some resort developments, for example, the Hills Resort Zone, are subject to District Plan provisions that enable and set aside land for staff rental accommodation specifically. This is for both convenience - so that staff can reside close to their place of work, and for the overall operation of the Resort as a 24/7 amenity for visitors, but also to provide an affordable accommodation option for resort staff. Applying the Proposal to resort zones where staff accommodation is already anticipated would be a duplication of intervention, which would be unjustified, inappropriate and unfair.
- viii. The Proposal should not apply to rural living or resort development because there has been no proper analysis of the impacts of the Proposal on this type of development. The Proposal relies on analysis involving high density residential development in urban areas, being densities that are much higher than those anticipated or achieved outside urban growth boundaries, to demonstrate that intervention of the nature proposed will not result in new development becoming unviable within the Queenstown Lakes District. The Proposal does not contain adequate analysis of the impacts on the feasibility or viability of rural-residential or resort development. This is a major flaw, given the often higher costs associated with undertaking and maintaining developments in these areas, due to costs associated with the establishing new, often bespoke services and infrastructure etc, and amenity requirements.

ix. The Proposal is inconsistent in its treatment of rural living developments. The Proposal does not apply to the Rural Lifestyle zone on the premise that the main purpose of this zone is landscape protection, whereas it does apply to the Wakatipu Basin Rural Amenity Zone (**WBARZ**) and its subzone, the Wakatipu Basin Lifestyle Precinct (**WBLP**), which also have a main purpose of landscape protection, as evidenced by the primary objective for these zones which is to maintain or enhance landscape character and visual amenity values in the Wakatipu Basin (Objective 24.2.1). A consistent approach should be applied to rural living zones, and the WBARZ and WBLP should be excluded from the Variation for the same reasons that the Rural Lifestyle zone is excluded.

m. More generally, the Submitters oppose the Proposal on the basis that:

- i. It does not accord with or assist the District Council to carry out its functions to achieve the purpose of the Resource Management Act;
- ii. It does not promote the sustainable management of resources;
- iii. It does not meet section 32 of the Act;
- iv. It is not consistent with Part II of Act;
- v. It does not represent integrated management or sound resource management practice;
- vi. It does not meet the reasonably foreseeable needs of future generations; and
- vii. It does not implement the most appropriate standards, rules or methods for achieving the objectives set out in the Proposed District Plan.

THE SUBMITTERS SEEK THE FOLLOWING DECISION:

10. That the Proposal is rejected in its entirety; or
11. That the Proposal is amended so that it does not apply to the District's Resort, Rural or Rural Living Zones, including the Hills Resort Zone, the Wakatipu Basin Rural Amenity Zone and the Wakatipu Basin Rural Lifestyle Zone; or
12. That the Proposal is amended in a similar or such other way as may be necessary and appropriate to address the matters raised in this submission; and
13. Any consequential decisions or relief required to address the matters raised in this submission.

The Submitters **DO WISH** to be heard in support of their submission.

The Submitters **WILL CONSIDER** presenting a joint case with others presenting similar submissions.

SIGNATURE OF SUBMITTER:

A handwritten signature in black ink, appearing to be 'Rebecca Wolt', with a long horizontal stroke extending to the right.

Rebecca Wolt

On behalf of Trojan Helmet Limited and Boxer Hill Trust

Date: 24 November 2022

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