

**BEFORE COMMISSIONERS
APPOINTED BY QUEENSTOWN
LAKES DISTRICT COUNCIL**

**QUEENSTOWN LAKES DISTRICT COUNCIL
PROPOSED DISTRICT PLAN**

IN THE MATTER

of a proposed public plan change to the
Queenstown Lakes District Plan — Inclusionary
Housing

AND

IN THE MATTER

of a submission by Queenstown Central Limited

SYNOPSIS OF SUBMISSIONS OF QUEENSTOWN CENTRAL LIMITED

5 MARCH 2024

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MAY IT PLEASE THE COMMISSIONERS:

Introduction

1. Queenstown Central Limited (**QCL**) is a long-term property developer in Queenstown, which has owned 22 hectares of land in Frankton since 2010. It has recently built 2.7 hectares of a five-hectare town centre development.
2. The QCL land is zoned Frankton Flats B (**FF-B**). It is a mixed-use zone with a structure plan dictating the location of activities as per Fig 1.

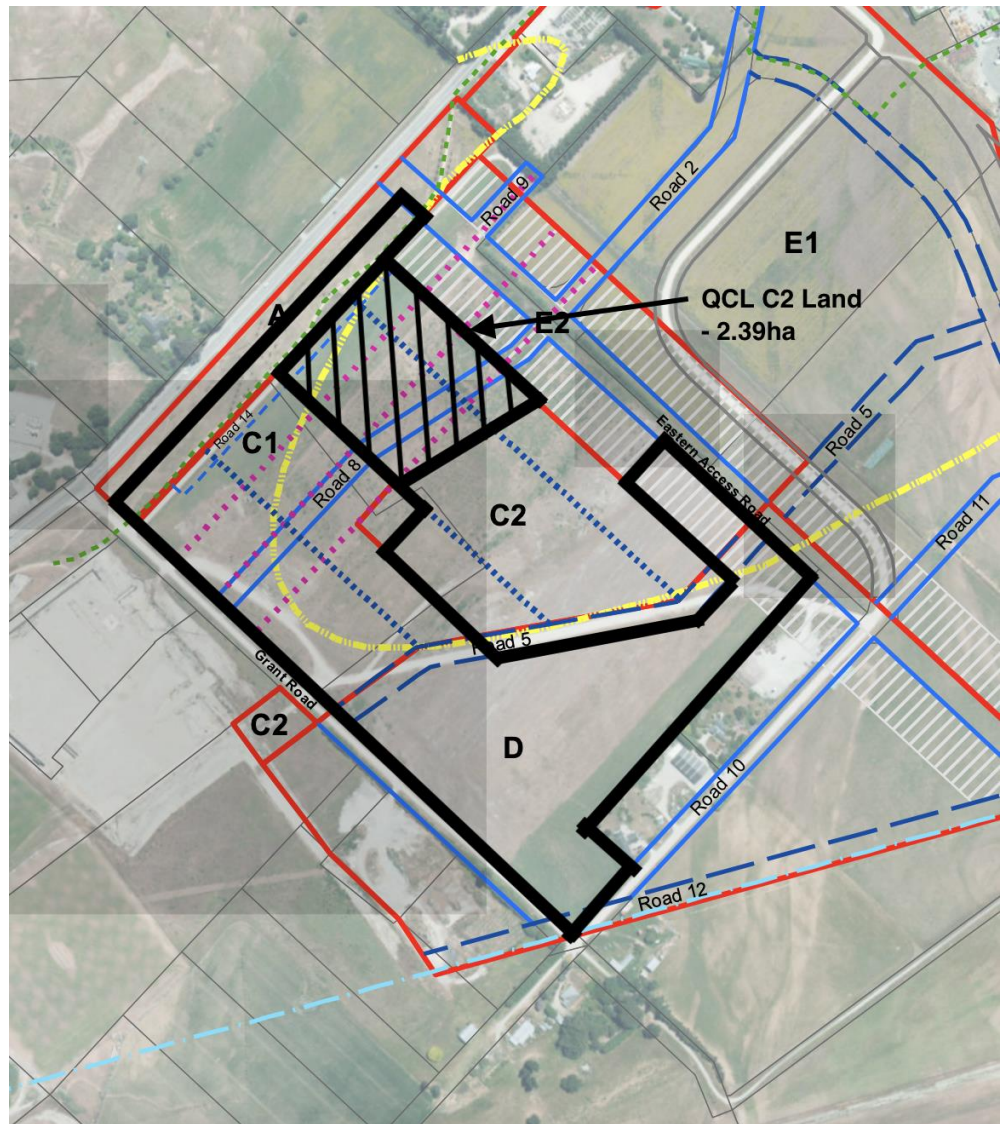


Fig. 1

3. The C2 area is intended predominantly for residential development. The relevant provisions include a minimum density of one dwelling per 200m² of net site area. Ms Hoogeveen touches on related provisions and how conditions as to provision of affordable housing are to be imposed on proposals that do not meet this minimum density standard.
4. The FF-B zone has not been included in the PDP but indications are that it will be and at that time the Variation proposal will presumably be applied to it.¹
5. The FF-B zone is the outcome of PC 19 which was litigated on appeals by various enthusiastic parties in the Environment Court and beyond. The Queenstown Housing Trust (**the Trust**) was a party to those appeals but withdrew once it was clear that densities which would enable affordable housing were to be included in the zone provisions.
6. As to those provisions, Judge Borthwick observed:²
 - (a) "These methods are to be considered against PC19's policy context that is enabling of affordable housing and discouraging low density living (policy 1.2) and in relation to AA-C2 prevent low-density residential living (policy 8.1). The policies are to be achieved through a range of methods including a standard imposing a minimum density of one dwelling per 200m² of net site area (12.20.6.1 (vii)(a)). The evidence was that terrace housing is a typical format at this density can be an affordable product.
 - (b) ... We are satisfied that the two methods do give effect to the policies. Whether an affordable housing product is offered to the market is a different matter."
7. Part of the C2 area was subdivided and sold to a residential developer who constructed 56 of the 225 consented residential townhouses known as Remarkables Residences. The balance of this residential land is now back on the market. The remaining undeveloped FFB land includes options for residential activity above ground floor level in the C1 Area.

¹ See evidence statement of Chris Ferguson at [128].

² *Queenstown Airport Corporation Ltd v Queenstown Lakes District Council* [2014] NZEnvC 197 at [75]–[76].

8. The FF-B zone has not been reviewed as part of the ODP since it became operative in 2014 but Council officers advise that a review is planned for this year.
9. Despite zone provisions that enable affordable housing (**AH**) through density, site coverage and height controls, the proposed Variation would impose the same financial contribution on residential development as zones that do not provide for these minimum densities.

Executive summary / QCL's position

10. QCL accepts that the district has an unquantified shortage of AH both for rental accommodation and ownership.
11. QCL suggests that the single most active cause of an AH shortfall is the rate at which dwellings are deployed in the short-term Residential Visitor Accommodation market, most commonly Air BnB, which comprises 23% of the district's dwellings; a rate that is 10x greater than the national average of 2.3%.³
12. This RVA factor will continue to undermine the market for AH and initiatives to provide for AH, until its incidence is significantly reduced. That reduction should be Council's priority, rather than exploring novel methods to fund the work of the Trust.
13. The work of the Trust is presently funded by developer agreements (in lieu of land); central Government support and Council grants from the general rates take.⁴
14. The proposal is to increase the Council share of direct support (primarily) to the Trust by introducing a District Plan methodology (the Proposal) to enable mandatory imposition of additional financial contributions by way of conditions on new, non-exempt, residential subdivisions and developments across the district requiring land or the payment of cash.

³ Statement of Evidence of Fraser Colegrave at [25].

⁴ Statement of Rebuttal Evidence of Amy Bowbyes rebuttal at [2.4]–[2.5].

15. The scope of District plans to assist Council functions is restricted to the RMA purpose of sustainable management of natural and physical resources.
16. The District Plan must also give effect to any national policy statement. Relevant here is the National Policy Statement on Urban Development 2020 (NPS-UD) which has the objective: "Planning decisions improve housing affordability by supporting competitive land and development markets."
17. The Proposal must meet the statutory and common law tests for reasonably mitigating adverse effects and not be beyond the legal scope for imposition of financial contributions.
18. The necessary section 32 assessment includes mandatory elements that cannot be glossed over or neglected.
19. QCL applauds Council's efforts to zone more land with density provisions that direct development of AH, such as FF-B, Te Putahi Ladies Mile and the Intensification Variation, but it opposes the Proposal because:
 - (a) It is a sub-optimal option and not proven to be necessary.
 - (b) It fails the fundamental requirements for a condition of consent including the reasonableness test.
 - (c) It is not a financial contribution because it is not a reasonable response to an adverse effect of an actual residential development. (Note that even the Purpose statement of the Inclusionary Housing chapter at 40.1 does not reference any adverse effect arising from the building of houses. It touches on causes of the issue but introduces a method unrelated to those causes.)
 - (d) If it does not meet the tests for a reasonable condition as to a financial contribution, the Proposal remains little more than a tax on the small sector that is seeking to increase housing supply.
 - (e) It is not supported by an adequate section 32 assessment.
 - (f) The supporting evidence omits to properly quantify the extent of the AH issue or what will be required to remedy it.

- (g) It will very likely result in higher house prices and a reduction in affordability for everyone except those helped by the Trust.⁵
- (h) It will very likely result in a reduction in both total housing supply and the supply of affordable housing.⁶
- (i) It will very likely exacerbate any housing affordability problem that the Council is seeking to address.
- (j) Other initiatives have been or are being implemented to address the causes of AH (including RVA / Air BnB provisions; the Housing Intensification Variation, the Te Putahi Ladies Mile Plan Change and the 2021 Spatial Plan) and that time is needed for effectiveness to be measured.⁷
- (k) The identified risks of the Proposal outweigh the likely benefits including not giving effect to the objectives of the NPS-UD 2020, and
- (l) FF-B already contains provisions to provide for affordable housing⁸ and should be treated as exempt (and exemplary).

Fundamental requirements for a condition of consent

20. If the Proposal is to be imposed by way of a s 108 condition of resource consent it has to reasonably relate to an aspect of that consent and be within the scope of the discretion conferred by s 108. The Supreme Court has described this requirement:⁹

The conditions must also fairly and reasonably relate to the permitted development and not be unreasonable.

21. The SC went on to observe:¹⁰

⁵ Joint Witness Statement (Economists) at [24(3)(i)-(v)]. Mr Osborn and Mr Colegrave considered those risks to be “very likely” (see [24(a)]. Also note the evidence of Mr Colegrave that the Trust provides only 0.6% of the District’s total dwelling stock: Statement of Evidence of Fraser Colegrave at [96].

⁶ Joint Witness Statement (Economists) at [24(3)(i)-(v)]. Mr Osborn and Mr Colegrave considered those risks to be “very likely”: see [24(a)].

⁷ Statement of Rebuttal of Amy Bowbyes at [2.13].

⁸ Resulting from litigation in which Council and the Trust were parties.

⁹ *Waitakere City Council v Estate Homes Ltd* [2006] NZSC 112, [2007] 2 NZLR 149 at [61].

¹⁰ At [66].

We consider that the application of common law principles to New Zealand's statutory planning law does not require a greater connection between the proposed development and conditions of consent than that they are logically connected to the development. This limit on the scope of the broadly expressed discretion to impose conditions under s 108 is simply that the Council must ensure that conditions it imposes are not unrelated to the subdivision. They must not for example relate to external or ulterior concerns.

22. In practical terms this calls for an assessment of the consent (subdivision) in question and examination as to whether it has some logical connection to the supply of affordable homes in the district.
23. The converse would be a condition that assumed all subdivisions contributed to an outcome without identifying the relevant factual aspects that might or might not relate to that particular outcome. On the face of it, the present proposal is exactly that because it is founded on an assumption that all residential development contributes to unaffordability.
24. Without a case-by-case assessment as to affordability impacts, the Council will not be able to meet the SC's mandatory requirement of ensuring that these proposed conditions are *not unrelated to the subdivision*.
25. By way of example a residential subdivision of FF-B C2 land to enable a minimum density of one dwelling per 200m² or less of net site area might well meet the Environment Court's expectation as to an affordable product and, if so, a condition as proposed could amount to double-dipping or at the very least a condition as to an *ulterior concern*.¹¹
26. In the case of this proposal, a condition that assumes that all subdivisions contribute to unaffordable housing in the absence of such evidence is beyond the limit on the scope of the broadly expressed discretion to impose conditions under s 108.¹²

¹¹ *Waitakere City Council v Estate Homes Ltd*, above n 9, at [66].

¹² See the discussion at [36] below.

27. The absence of evidence is discussed below in relation to s 32 suffice it to say that the economists appear to agree that there is a lack of reliable data as to the size of the issue or what it will take to fix it.

28. For these reasons QCL submits that the proposal fails the first and fundamental requirement of a s 108 condition.

Scope to impose a financial contribution

29. Counsel adopts the framework set out in Ms Baker-Galloway's submissions on the law, summarised as follows:

- Section 77E RMA provides the power to make rules requiring financial contributions for all activity classes, except those which are prohibited.
- Section 77E(2) adds that a valid financial contribution rule must address the purpose for which it is required (which may include the purpose of ensuring positive effects on the environment to offset any adverse effect); and how and when the level of contribution will be set and become operative.
- The scope of financial contribution conditions is then constrained by s 108(10) and s 108AA(1)(b).
- Section 108AA(1)(b) as introduced in 2017 restricts the scope of financial contributions by requiring that the condition is directly connected to one or more of the following:
 - (i) an adverse effect of the activity on the environment:
 - (ii) an applicable district or regional rule, or a national environmental standard:

...

30. In addition, the broader *Newbury* principles established in case law continue to apply.¹³ As summarised by Ms Baker-Galloway, to be *vires* the requirement for monetary or land contributions as a condition of consent must be for a planning purpose, related to the adverse effects of the consented proposal, and otherwise are not unreasonable; (emphasis added).

¹³ *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 731.

31. In stark contrast the Variation proposal methodology does not call for an assessment of the adverse effects the proposal being consented which is at odds with what the High Court deemed to be reasonable scope requirement for a financial contribution in the case of *Infinity Group v QLDC*.¹⁴
32. That case was an appeal from the Environment Court on a preliminary point of law concerning QLDC's PC 24, a proposal to introduce a regime for seeking financial contributions for affordable housing.
33. As summarised in the judgment, that proposal called for a case-by-case assessment of the impact of subdivision and development on the supply of Affordable Housing in order to determine whether a contribution was necessary. This was also expressed as *an assessment to determine whether any certain types of initiative will generate a demand for AH over a certain threshold requiring action to mitigate the effect of development on housing affordability*¹⁵ (emphasis added).
34. This link between cause and effect in PC24 was so obvious that Chisholm J. did not examine it in any detail, but he helpfully concluded:

[41] A literal reading of s 31(1)(a) indicates that one of the functions of a territorial authority is to establish objectives, policies and methods to achieve integrated management of the effects of the use or development of land within its district for the purpose of giving effect to the Act. It goes without saying that there must be a link between the effects of the use or development of the land and the objectives, policies and methods that are established to achieve integrated management. Moreover, that the purpose must be to give effect to the Act.

[42] On its face, and without going into the merits, PC24 appears to fit within the framework of the function described in s 31(1)(a). It concerns a perceived effect of the future development of land within the district. However, the requirement to provide affordable housing will only arise if the development is construed as having an impact on the issue of affordable housing. Thus the requisite link between the effects and the instrument used to

¹⁴ *Infinity Investment Group Holdings Ltd v Queenstown Lakes District Council* [2011] NZRMA 321.

¹⁵ At [11].

achieve integrated management exist. And for reasons that will follow, its purpose is to give effect to the Act.

[43] Similar conclusions can be reached with reference to s 31(1)(b). Under that paragraph the functions of territorial authorities include the control of any actual or potential effects of the use or development of land. This wide function reflects the sustainable management regime established by the Act. I do not think that the four statutory examples included in para (b) detract from the breadth of the function. Consequently if the use or development of land within the Queenstown Lakes district has the effect, or potential effect, of pushing up land prices and thereby impacting on affordable housing within the district, the Council has the power to control those effects through its district plan, subject, of course, to the plan ultimately withstanding scrutiny on its merits. (emphasis added.)

35. The merits of PC 24 were never tested because the Council withdrew it before it could be tested by the Environment Court, but the point remains that there has to be more than a s 5 sustainable purpose at play; there has evidence of a link between the proposal up for consent and the adverse effect that the financial contribution is seeking to mitigate. Without a site-by-site assessment methodology, there can be no evidence of an impact on the issue of affordable housing least of all, a negative impact.
36. Where a residential activity is already permitted in a zone, the community has concluded that it will have benefits there rather than adverse effects. That conclusion cannot reasonably be undone and reversed by way of a Variation without evidence that the initial zoning decision was flawed.
37. Residential development is a permitted activity in the FF-B C2 area and as such, subject to compliance with the standards, is deemed not to have adverse effects. On the contrary, Judge Borthwick concluded that, "... terrace housing is a typical format at this density and can be an affordable product ... We are satisfied that the two methods do give

effect to the policies ... enabling of affordable housing and discouraging low density living".¹⁶

38. Incidentally, 10 years ago when FF-B was the subject of PC19 appeals, Mr Mead was a planning witness for the Council and expressed satisfaction with the C2 regime to address AH concerns at that time. Now he is advancing a theory that all residential development is an adverse effect per se.

Section 32

39. The s 32 assessment report must contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.¹⁷
40. Also mandatory is the requirement to consider of the efficiency of the proposed policies. This requires analysis of three components of efficiency:¹⁸
- i. The benefits and costs of the proposed provisions;
 - ii. The benefits and costs of the alternative; and
 - iii. The risks of acting or not acting (s 32(2)(c)).
41. Section 32(2)(c) is a "backstop" where there is insufficient information of (a) and (b).¹⁹
42. Finally, the s 32(2) assessment of economic efficiency "involves a comparison of the net social benefits of the objective in question with the social benefits of the best alternative (often but by no means necessarily, the status quo)".²⁰
43. Section 32(2)(c) is engaged here because there is a lack of reliable information and real uncertainty about the extent of Queenstown's

¹⁶ *Queenstown Airport Corporation Ltd v Queenstown Lakes District Council*, above n 2, at [75]–[76].

¹⁷ Section 32(1)(c).

¹⁸ *Federated Farmers of New Zealand (Inc) v Mackenzie District Council* [2017] NZEnvC 53 at [457].

¹⁹ *Self Family Trust v Auckland Council* [2018] NZRMA 323 at [311].

²⁰ *Federated Farmers of New Zealand (Inc) v Mackenzie District Council*, above n18, at [458].

housing affordability problem and what measures are needed to fix it.²¹ The requisite level of detail appears to be absent both from the assessment reports and the Council's evidence.²²

44. Similar uncertainty exists in respect of whether pre-existing Council initiatives will rectify the issue:
- (a) The Joint Witness Statement of the economic experts confirmed that the extent of the affordable housing problem in Queenstown could not be quantified.²³ Nor could they say whether affordable homes were not being created or whether subsequent market effects made them unaffordable.²⁴ The true extent of the problem or what is required to ameliorate it remains uncertain; and
- (b) Ms Bowbyes, for the Council, notes that changes seeking to manage the effects of RVA have recently come into effect, but it is too early to assess their impact.²⁵ It is therefore uncertain whether that and other initiatives listed by Ms Bowbyes are already addressing affordability, and to what extent.
45. Given this uncertainty, the s 32 assessment should have analysed the risk of acting or not acting but did not. When that analysis is undertaken properly, the applicant submits it is clear that the risks of progressing with the Variation are greater than the risks of omitting it.
46. As Mr Colegrave explains, inherent in the Proposal is the risk that it will increase housing costs on all new developments and decrease new builds, leading to more expensive housing for everyone and worsening the housing affordability crisis in the region.²⁶ That this is a tangible risk is supported by the evidence of Mr Osborn.²⁷
47. That risk must be compared with the risk of maintaining the status quo or providing additional funding to the Trust via rates, as QCL suggests, or

²¹ Section 32(1)(c): the corresponding level of detail to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal

²² Section 32(1)(c)

²³ Joint Witness Statement (Economists), at [5].

²⁴ At [18].

²⁵ Statement of Rebuttal of Amy Bowbyes at [2.13].

²⁶ Statement of Evidence of Fraser Colegrave at [50]–[51].

²⁷ Statement of Philp Osborne at [58].

national tax, given the importance of Queenstown tourism to the wider economy.

48. Maintaining the current status quo does not risk worsening the problem. At worst, the problem remains as is. But, as noted, the Council has recently implemented a range of initiatives aimed at improving housing capacity and affordability, most notably the variation in relation to residential visitor accommodation.²⁸ Since those changes have come into effect recently, however, it is too early to be certain of their effect.
49. The Intensification Variation and the Te Putahi Ladies Mile Variation are underway. The latter has been fast-tracked and is awaiting a decision. Final recommendations include provision for high-density residential at 50dph and constraints on RVA (Air BnB). The recommended upper limit of dwellings is 2,400. If provisions constraining RVA in the zone to achieve the national average were included and implemented, some 480 units would theoretically be available for longer-term rental.
50. While the Council assesses whether existing measures are having the desired impact, the Trust (or other elected body) can continue to be funded from general rates which, as set out below, are a more reliable funding methodology.²⁹

The Variation will exacerbate Queenstown's housing affordability problem

51. The very likely effect of the Variation is to impose greater costs on those involved in subdividing and developing property in district.³⁰ The Variation increases the cost of subdividing or building by the "contribution rate".³¹ That imposes a cost on developers that they would not otherwise face.
52. When faced with this additional cost, developers have three choices:
- (a) They could pass the additional cost on to buyers;
 - (b) They could absorb the cost by developing less, or

²⁸ Statement of Rebuttal Evidence of Amy Bowbyes at [2.9]– [2.13] and [3.3]–[3.10].

²⁹ Refer footnote 31 below.

³⁰ Joint Witness Statement (Economists) at [24(3)].

³¹ For a summary of the different contribution rates for different types of subdivision and development, see Statement of Fraser Colegrave at [52].

(c) They could look elsewhere for development opportunities.

53. All of these options will make housing less affordable:³²

(a) If the costs are passed on to buyers, then the cost to the buyer of the new home will clearly increase accordingly. This makes all new subdivision and development affected by the Variation more expensive for buyers. Some housing that would otherwise have been considered affordable will be pushed out of that bracket.³³ These higher prices will affect all new development and subdivision and note, the experts do not have sufficient information to say whether the variation will result in net more affordable houses under the control of the Trust than would otherwise be created.³⁴

(b) Less development (whether generally or in Queenstown) will also decrease housing affordability. If developers do not pass on the Variation cost, or are not able to pass it on, then development in Queenstown Lakes will be deterred. The effect of the Variation that is not passed on is to make the profit margin of the development or subdivision lower than it would otherwise have been. As a result, fewer developers are likely to want to work in the Queenstown market, and overall, fewer new builds will be built as a result. If overall housing stock stays lower, housing affordability and accessibility will not improve.³⁵

54. It is submitted that the increased funding to the Trust cannot make up for the risk of housing prices increasing or development decreasing. The Trust's work in the Queenstown community presently represents 0.6% of the Queenstown housing market.³⁶ While those who are fortunate enough to get assistance from the Trust will benefit from this Variation, the Council must also consider the effects on the overwhelming majority of the Queenstown residential population who will not receive that assistance or who might be eligible but choose to find a way onto the property ladder where there is an opportunity for capital gain in an open

³² Joint Witness Statement (Economists) at[23(b)]; and Statement of Fraser Colegrave at [150]–[153].

³³ Joint Witness Statement (Economists), at [23(d)] (Colegrave and Osborn).

³⁴ Joint Witness Statement (Economists) at [23(d)].

³⁵ Statement of Evidence of Fraser Colegrave at [39].

³⁶ Statement of Evidence of Fraser Colegrave at [96].

market rather than being constrained to selling back to the Trust for the original purchase price + inflation.³⁷ But these are factors that the s 32 assessment appears not to grapple with.

55. QCL therefore submits that the likely risk the Variation will worsen housing affordability is a s 32(2)(c) risk that warrants the status quo being preferred – noting as it does that under the status quo funding to the Trust can still be increased through application of general rates under the Local Government (Rating) Act 2002.

56. Ms Baker-Galloway rightly points out that the s 32 assessment of the rates' funding option is inadequate. The reasons against that option are said to be:

- i. Complexity
- ii. Infrastructure needs are more deserving, and
- iii. Councillors prefer an alternative.

and are not fleshed out, nor is there an acknowledgment in the assessment process that funding from rates is already an existing option apparently occurring without any known complexity.

57. In terms of economic efficiency, the option of funding the Trust via rates has not been properly explored.

58. QCL's expert economist, Mr Colegrave, opines that continuation of funding through rates is the best way to fund the Trust. He points to the following benefits:³⁸

- (a) Rates spread costs widely and fairly. The breadth of the ratepayer base results in a small increase per ratepayer compared to a more significant contribution required from developers, of which there are significantly fewer.
- (b) Rates do not impose a cost on the very members of the community who are attempting to address the housing affordability issue that the Council seeks to address by increasing the housing stock.

³⁷ See the summary of the programme here: <https://www.qclht.org.nz/programmes/secure-home-programme/>

³⁸ Statement of Evidence of Fraser Colegrave at [100].

(c) Rates are easy to design and administer. The Council is already using this tool.³⁹

59. Funding through rates can therefore achieve the Council's goal of improving housing affordability by increasing the capacity of the Trust to assist the Queenstown community but without the perverse effect of taxing the developers who are trying to build more housing and improve the housing supply.
60. This route is much more likely to achieve the purpose of the RMA and improve housing affordability as required by the NPS-UD.
61. As is submitted for other parties,⁴⁰ It makes no sense to treat new residential housing developers as part of the problem, when they are a critical part of the solution by providing new housing to meet ongoing growth and taking on the risks to do so. As a result, the Variation could have serious unintended adverse effects, including increasing the price of new homes and eroding affordability for the broader market.⁴¹
62. If increasing funding from rates (to increase AH) is politically unpalatable that is no reason for it to be dismissed out of hand. Political well-being is not a s 5(2) purpose of the RMA.
63. In short, the Council does not have to run the risk of worsening the very problem they are trying to address while there is good reason to believe that pre-existing initiatives might already be gaining traction. That is the very consideration that s 32(2)(c) is intended to achieve.
64. Ultimately the reliability of any s 32 process and the merits of a plan change proposal depend on the quality of the supporting information. In this case there are conflicting opinions and inconclusive gaps that give real cause for concern. Examples have been cited by other counsel. Some include:

³⁹ Statement of Rebuttal Evidence of Amy Bowbyes at [2.4].

⁴⁰ Submissions of Ms Baker-Galloway at [80].

⁴¹ Statement of Evidence of Fraser Colegrave at [130b].

(a) The evidence of Mr Colegrave is that the Variation will reduce affordability, increase the cost to housing supply and reduce the number of future homes available in the district.⁴²

(b) While Mr Eaquab's opinion is that the Variation will result in an increase in retained affordable housing, that is unquantified, and dependent on the Trust's performance. Otherwise, the economics experts confirm they:

do not have sufficient information to comment on whether the variation may or may not result in net more affordable houses under the control of a community housing provider than would otherwise been created.⁴³

(c) The experts consider that the variation will result in either a decrease in residential supply or an increase in prices. SE considers that this effect has been addressed by way of separate Council plan variations seeking to enable additional development entitlements whereas FC and PO do not see or necessarily agree with that link. PO and FC additionally disagree with the principal of balancing or averaging out the consequences of this variation or other separate plan changes or plan variations, and consider that its incremental effects should be viewed in isolation consistent with common economic practice, which is primarily concerned with effects "at the margin" where all other factors are held constant.⁴⁴ (emphasis added)

65. As other counsel submit, taking into account his concessions in the JWS and despite efforts to right the ship in rebuttal, the evidence of Mr Eaquab is broad-brush and does not contain a clear statement of the economic costs and benefits of the Variation, on whom and over what period of time. It does not quantify (let alone monetise) any policy outcomes.⁴⁵

⁴² At [36]-[42].

⁴³ Joint Witness Statement (Economists) at [23.d].

⁴⁴ Joint Witness Statement (Economists) at [23.b].

⁴⁵ Submissions of Ms Baker-Galloway at [85].

66. On the evidence available to the Panel, QCL submits that there is less risk involved in maintaining the already multi-faceted status quo than there is in implementing the Variation.

More efficient and equitable solutions

67. QLC it submits that there are significantly better mechanisms available to the Council to both fund the valuable work of the Trust and to improve Queenstown housing affordability more generally.

68. New developments are not the cause of Queenstown's high housing prices. Three main factors that contribute to high costs are:

(a) The cost of building is very high, both because construction prices are high and because Queenstown has high land costs compared to other districts in New Zealand.⁴⁶

(b) A large percentage of housing is being diverted away from long-term residential housing in favour of short-term accommodation for tourism (Air BnB), and the percentage of short-term accommodation in the area is increasing,⁴⁷ and

(c) A disproportionate number of people seeking to move to the district to experience the environmental and lifestyle opportunities.

69. The Council has mechanisms at its disposal to directly address those issues:

(a) It should not add to the cost of buildings but imposing an additional financial contribution on developers via the Variation. On the contrary, it should be encouraging an increase in development and subdivision. The PDP should be incentivising smaller dwellings on smaller sectors, which are the types of dwellings that will meet the needs of low-income earners in the area,⁴⁸ and increasing density and zoning to increase supply as per FF-B Zone and Ladies Mile.⁴⁹

⁴⁶ Statement of Evidence of Fraser Colegrave at [57]–[61].

⁴⁷ At [62]–[74]; almost 25%.

⁴⁸ Statement of Evidence of Fraser Colegrave at [111]–[120].

⁴⁹ Statement of Evidence of Hannah Hoogeveen at [4.13].

(b) The Council should reconsider imposing regulation or targeted rates on short-term accommodation (RVA) to incentivise the provision of long-term accommodation over short-term. There are a range of regulatory policy options available to the Council, including a targeted rate on short-term accommodation. Such a rate can be justified on account of the direct adverse correlation between the increase in short-term rental accommodation and the decrease in long-term residential accommodation.⁵⁰

(c) The Council could ramp up the introduction of planning provisions that incentivise and facilitate the provision of dedicated worker accommodation (such as facilitating prefabricated residences for workers and incentivising businesses to provide such accommodation).⁵¹ Policies in that nature will create housing options for the district's low-income workers who are particularly affected by the cost of housing.

70. All of those options will address the heart of the housing affordability issues in the district without imposing additional burdens on the very group who can help to address those issues. Those options provide a mechanism by which the Council can address housing affordability and better fund the Trust but without inadvertently risking increasing housing costs or reducing the housing supply.

71. QCL urges the Council to consider any or all of those above options to address the identified but unquantified AH issue in a way that does not risk putting competition or sustainability at risk to the extent of breaching the NPS-UD and being at odds with the s 5 purpose of the RMA.⁵²

Conclusion

72. If the district has an AH issue that warrants a district plan intervention in order to support the service workers of the visitor industry, it is probably a national issue but, at the very least, it is a district-wide issue that should

⁵⁰ At[4.14].

⁵¹ Statement of Evidence of Fraser Colegrave at [126]–[128].

⁵² Statement of Evidence of Hannah Hoogeveen at [4.17]–[4.18].

be characterised as an element of the Council's core business.⁵³ In that respect, the continued use of rating to fund the Trust comes with considerably less risk than the Variation which will operate as a tax on developers and very likely disincentivise the construction of housing capacity including affordable homes and increase the cost of those homes that are built.⁵⁴

73. Instead of adopting the Proposal, which brings the risks of those unintended consequences, QCL recommends that the Council continue to fund the Trust through rates and address the affordability of housing more generally by zoning provisions that encouraging smaller builds and discouraging short-term RVA.
74. QCL urges the Panel reject the proposed Variation which is little more than a crude attempt to tax the very capital needed to address housing supply issues.



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Counsel for Queenstown Central Ltd.
4 March 2024

⁵³ Housing affordability was the subject of a mayoral taskforce:
<https://www.qldc.govt.nz/your-council/major-projects/mayoral-housing-affordability-taskforce/>

⁵⁴ Joint Witness Statement (Economists) at [24] (Osborn and Colegrave).