

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

Summary and Supplementary Evidence of David Frederick Serjeant

4 March 2024

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Introduction

- 1 My full name is David Frederick Serjeant.
- 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 Statement focussed on the RMA and social goods, the overseas experience with affordable housing, and support for a much broader prescription for funding affordable housing. None of these matters have been addressed by way of rebuttal evidence, so that the conclusions of the Statement essentially stand.
- 6 Without being repetitive therefore, I emphasise the following matters.

Is the Variation “Reasonable”?

- 7 I use the term reasonable here, because that is how Mr Mead described it. I concluded, based on over 40 years of experience in resource management, that it is not a reasonable approach. Of course, reasonableness is not the RMA test, and I come back to touch on s.32 requirements below.
- 8 The legality of the Variation is a matter for legal submission. However, from a planning point of view, my evidence establishes that there are no other examples in New Zealand resource management planning instruments where a private resource is being managed so as to effect a direct transfer of that resource from one resource user to another private user. Such transfers as they exist are always for the benefit of the public at large and/or are generally to avoid, remedy or mitigate the adverse effects of the resource user.
- 9 Mr Whittington submits that “policies are redistributive, intentionally or otherwise, all the time”, and then gives the example of ‘reverse sensitivity’.¹ However, reverse sensitivity, serves my conclusion above well. Reverse sensitivity is recognised in case law and now codified in District Plans

¹ Whittington submissions at [8.4(d)]

through the adoption of quarry buffer zones and other such techniques. The key thing is that the 'redistribution' is to address a specific neighbour-to-neighbour adverse effect and so is geographically defined, in the same way as many other controls are adopted along a zone interface. It is not a requirement for one group of landowners in disparate areas of a district to subsidise another group of landowners for a shortage of a resource for which the first group of landowners have nothing to do with.

- 10 In relation to redistributive effects under the RMA, my evidence did not extend to address why Council's do not adopt wide scale measures of redistribution, beyond the mitigation of direct environmental effects. The reason is that you could well imagine the floodgates being opened investigating all kinds of measures to address local inequities in resources which s.5 recognises (*"social, economic, and cultural well-being and for health and safety.."*). Housing is fundamental to well-being, but so is food, and access to a wide range of health and educational benefits.

The Rating Option

- 11 Mr Ferguson and I are supportive of the rating option (either general or targeted) and critical of the lack of serious consideration of it by Council experts. Ms Bowbyes rebuttal evidence adds little to the explanation as to why the rating option has not been fully considered in the section 32 analysis.
- 12 Not only is housing affordability severe in Queenstown, but as I set out in my evidence, even if the QLCHT 15-year housing provision target is met, this will do little to alleviate the existing situation. One of the problems with the Variation approach is that the outcomes, as in the number of affordable homes that are expected to be produced, are unknown. Certainty is a key element of the efficiency and effectiveness test in s.32, and no metrics have been provided by the Council as to the extent to which the Variation will reduce affordability and thus meet Objective 3.2.1.10. One of the reasons for uncertainty is that the income is reliant on the activities of the market.
- 13 The setting of a rate for affordable housing is much more certain. What might such a rate look like? The QLCHT had contributions of \$43.6million over the last 20 years, or in round figures \$2.2million per annum. Albeit at this small contribution (given the size of the problem) this would equate to an average rate contribution of \$110 (a 3% increase) for each of the 20,000 QLD residential ratepayers. Whilst there are many demands for rate increases, including those relating to physical infrastructure, affordable housing is undoubtedly a concern of the whole community.

- 14 The Council experts, and the Panel, have a legal obligation to compare the rates option with the Variation in terms of the requirements of s.32 to identify the most appropriate way to achieve the objectives, having regard to the reasonably practicable options, and the efficiency and effectiveness of those options.

Overseas Experience

- 15 My Statement provided a review of overseas experience with inclusionary zoning/affordable housing. My key conclusion was that care must be exercised in making comparisons with such programmes, as the characteristics of each are highly variable in terms of whether they are mandatory/voluntary, whether an on-site contribution is preferred or a payment in lieu option is available, whether incentives are offered, what the development threshold (unit numbers) is before a contribution is required, the level of contribution sought, and whether the contribution is linked to residential or non-residential development, or both. In addition to these characteristics is the important factor of the overall delivery of affordable housing within the particular jurisdiction and the proportion of affordable housing that the programme is seeking to deliver.
- 16 Beyond those general conclusions I noted that on-site development within residential areas is the typical requirement and that the contribution should be spread as broadly as possible. Further, that Queenstown has some parallels with overseas resort areas which causes of the affordable housing shortage, with employee housing for resort type businesses being a significant driver. In resort areas, non-residential contributors are more common, as linkage contributions from the creators of the housing shortage (i.e. housing for employees) are sought.

Supplementary Evidence

The Use of Incentives

- 17 In his rebuttal evidence at para. 6.15 Mr Mead casts doubts on bonus systems under the RMA, a view also expressed by Mr Whittington in the hearing last Monday. My experience with bonus systems is that they have been employed over many years to achieve positive outcomes and have been successful in doing so in a range of environments. For example, the Auckland CBD has had bonus floor areas for the retention of historic heritage and the provision of public open space for many years and still does so under the Auckland Unitary Plan. Bonus subdivision systems, some incorporating transferable development rights, operate in many upper North Island District Plans rewarding the protection of indigenous vegetation.

- 18 Mr Meads criticism of such a bonus system in Queenstown in his section 32 report was limited to how additional height might be considered as a bonus. Mr Mead raised the issue that *“if additional height is justified on effects grounds, then why should this benefit be confined to proposals that offer affordable dwellings?”* This has not been a problem in either of the examples I have referred to above. The answer is simply that the bonus is available as an offset compensation to the provider of the social or environmental good, but not otherwise. Obviously, there needs to be some attention given to the extent of the bonus to address design and amenity concerns. Such a bonus system might have been incorporated into the Urban Intensification Variation but the connection between intensification and affordable housing appears to be an opportunity lost by the Council.
- 19 I consider that bonus provisions are an important part of the overall ‘toolbox’ of provisions that the Council should use to add to the supply of affordable housing, including rates. They complement uplift type provisions in the following way:
- (i) Legacy windfall provisions – applying to those property owners who have typically owned their property for a long time and the Urban Growth Boundary or enabling zoning has eventually arrived so that land development is provided for;
 - (ii) Plan change or large scale consent uplift provisions – land development enabled by significant input by land owner/developer at significant expense and effort in structure planning exercise or similar, typically with bespoke contribution (these provisions have been historically successful in producing affordable housing or contributions); and
 - (iii) Bonus provisions - provisions residing in existing zones where development at smaller scale (block) level can be undertaken within known parameters relating to discretionary uplift (greater heights/densities) in return for set contributions.

David Serjeant
4 March 2024