

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER Inclusionary Housing
Variation

**STATEMENT OF REBUTTAL EVIDENCE OF DAVID MEAD
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

INCLUSIONARY HOUSING VARIATION

13 February 2024

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1. PROFESSIONAL DETAILS

- 1.1** My full name is David William Arthur Mead.
- 1.2** I prepared the Section 42A report dated 14 November 2023.
- 1.3** I have the qualifications and experience set out in the Section 42A report. I repeat the confirmation given in that report that I have read and agree to comply with the Code of Conduct for Expert Witnesses.
- 1.4** I attended the planner's conferencing session held 30 and 31 January 2024 and participated in a conferencing session on Māori land/Sticky Forest on 8 February 2024.
- 1.5** This statement of rebuttal evidence addresses specific matters raised in the evidence of various planning experts in relation to the Inclusionary Housing Variation (IHV) and its proposed Affordable Housing Financial Contribution (AHFC). In this statement I focus on matters where I consider that some further explanation and discussion of the issues raised in evidence would assist the Panel, under the following headings:
- (a) Scope of Variation
 - (b) Alignment with national and regional plans
 - (c) A tax?
 - (d) Urban focus
 - (e) Methods
 - (f) Costs and benefits
 - (g) Efficiency and effectiveness
 - (h) Māori land / Sticky Forest
 - (i) Proposed provisions.
- 1.6** Where I am recommending changes to the provision wording through this statement of evidence, I have shown those changes in green text as strike through and underline to the text of the Variation attached to this statement.

- 1.7 The fact that I do not respond to all the evidence presented does not mean that I agree with the matters raised. In particular I acknowledge the evidence of the of the various corporate and developer submitters who express concern over the costs and impacts of the proposed AHFC. These costs and impacts need to be considered through an RMA framework.

2. SCOPE OF VARIATION

- 2.1 The Variation amends Chapter 3 of the PDP (by way of new strategic objective 3.2.1.10 and strategic policies 3.3.52 to 3.3.54) and introduces a new district-wide chapter (Chapter 40) into the PDP. The QLDC district plan is being reviewed in stages, with Volume A containing chapters that have been, or are being, revised and Volume B containing operative plan provisions that have yet to be reviewed. This is explained in the Introduction Chapter of the PDP. The relationship of the Variation to Volume B of the district plan has been raised in evidence¹.
- 2.2 Chapter 3 of the PDP (along with Chapters 4, 5 and 6) applies district wide over both Volume A and Volume B land, and as a result, the new strategic objective and policies in the Variation will apply to all land.
- 2.3 As noted by Mr Ferguson, Chapter 1 of the PDP² states that the ODP Affordable and Community Housing Objective 1 and Policies 1.1 - 1.3 (as contained in Section 4.10 of the ODP) still applies to both Volume A and B zones. The objective and policies are as follows:

4.10.1 Objectives and Policies

Objective 1:

Access to Community Housing or the provision of a range of Residential Activity that contributes to housing affordability in the District

¹ Such as Chris Ferguson.

² Provision 1.1B Structure of the District Plan.

Policies

1.1 To provide opportunities for low and moderate income Households to live in the District in a range of accommodation appropriate for their needs.

1.2 To have regard to the extent to which density, height, or building coverage contributes to Residential Activity affordability.

1.3 To enable the delivery of Community Housing through voluntary Retention Mechanisms.

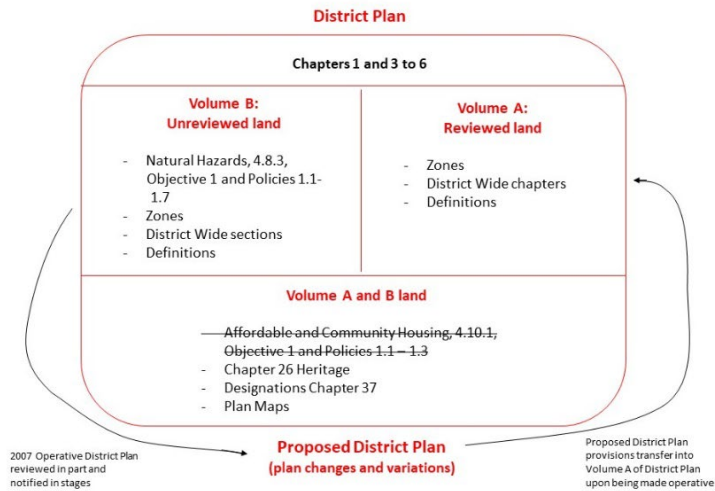
2.4 The ODP identifies that Objective 1 and Policies 1.1 to 1.3 are to be applied through the assessment of:

- resource consents that breach zone standards for density, height, building coverage or minimum lot sizes and dimensions; and
- resource consents for comprehensive residential development in the low density residential zone in accordance with Rule 7.5.3.4(v); and
- proposed changes to this Plan.

2.5 The notified IHV does not amend or remove 4.10.1 which may result in some potential for confusion at a strategic level as to whether the proposed new strategic objective and policies are compatible with the ODP provisions (given that proposed 3.2.1.10 and 3.3.52 to 3.3.54 are directive whereas ODP 4.10.1 is more enabling). To address this the reference to 4.10.1 in Chapter 1 should be deleted. This could be accommodated by an amendment to the diagram in Chapter 1 and clause 1.1B (d), as follows:

Chapters 3, 4, 5 and 6 have encompassed the 2007 District Plan Section 4 (District Wide Issues) with the exception of the following ~~two~~ objectives:

- *Natural Hazards Objective 4.8.3(1) and Policies 1.1 to 1.7 (Section 4.8), which still applies as a relevant district wide objective to Volume B zones.*
- ~~*Affordable and Community Housing Objective 1 and Policies 1.1–1.3 (Section 4.10), which still applies to both Volume A and B zones.*~~



2.6 I consider that there is scope for this amendment based on the evidence of Chris Ferguson.

2.7 I also acknowledge the point raised in evidence that the structure of the District Plan means that at present, the proposed district-wide chapter (Chapter 40) introducing the AHFC only applies to land included in Volume A. The Variation does not apply to the “ODP” land in Volume B. As Volume B land is brought into Volume A, then – assuming the Variation is approved - the land in Volume B will be subject to the proposed provisions. In practical terms, the fact that the district-wide component of the Variation does not yet apply to Volume B land has no specific implications for the structure of the proposed provisions or the analysis that supports it.

3. ALIGNMENT WITH NATIONAL AND REGIONAL DIRECTION

3.1 Most of the planning witnesses state that they do not consider that the Variation gives effect to the National Policy Statement on Urban Development (NPS-UD). In particular, in their view, under the NPS-UD the council is required to concentrate on providing sufficient supply of land and development opportunities. They consider the Variation is contrary to the national direction that planning decisions, at a

minimum, support and limit as much as possible adverse impacts on the competitive operation of land and development markets. In their view, imposition of a financial contribution will create an additional cost that will adversely impact the operation of the land market.

3.2 In response, I note that:

- (a) In formulating district plans, Council is not limited in its scope to the matters set out in the NPS. The NPS does not require the Council to concentrate on sufficiency of supply to the exclusion of any other complementary policies aimed at improving the affordability of housing. Council's remit under Part 2 to promote sustainable management is much wider.
- (b) Nevertheless, I agree that any proposed provision must not undermine the outcomes sought by the NPS.
- (c) The NPS seeks to limit impacts on competitive land and development markets. I understand that competition implies a range of 'players' in the market, competing for market share. The proposed financial contribution is intended to apply to most forms of residential subdivision and development. In this regard, it does not seek to actively reduce the number of 'market participants'.
- (d) The concern raised is that the 'costs' of the proposal may deter some subdivision and development activity, thereby reducing competition. The issues of where the 'costs' fall in the long term is discussed by Mr Equb. I note that to date, there is no evidence that the affordable housing measures that have been negotiated by the council (e.g. through Stakeholder Deeds) have slowed the pace of development or reduced competition.
- (e) I further note that QLD faces a number of unique constraints on competitive land markets, including its relative isolation, nature and extent of its landscape setting and trunk infrastructure which tends to follow linear corridors. Land banking further reduces development activity. These factors concentrate strong development pressures into confined areas; and if anything,

lessen the extent to which competitive actions can help reduce land and house prices. Development tends to occur in defined geographic sectors and landholdings (such as the current Ladies Mile rezoning, as well as at Lake Hāwea South and at Three Parks), rather than occur 'on all fronts'. In the absence of a market-based method to increase competition so as to deliver affordability, I consider it appropriate to intervene through a targeted policy and accompanying provisions.

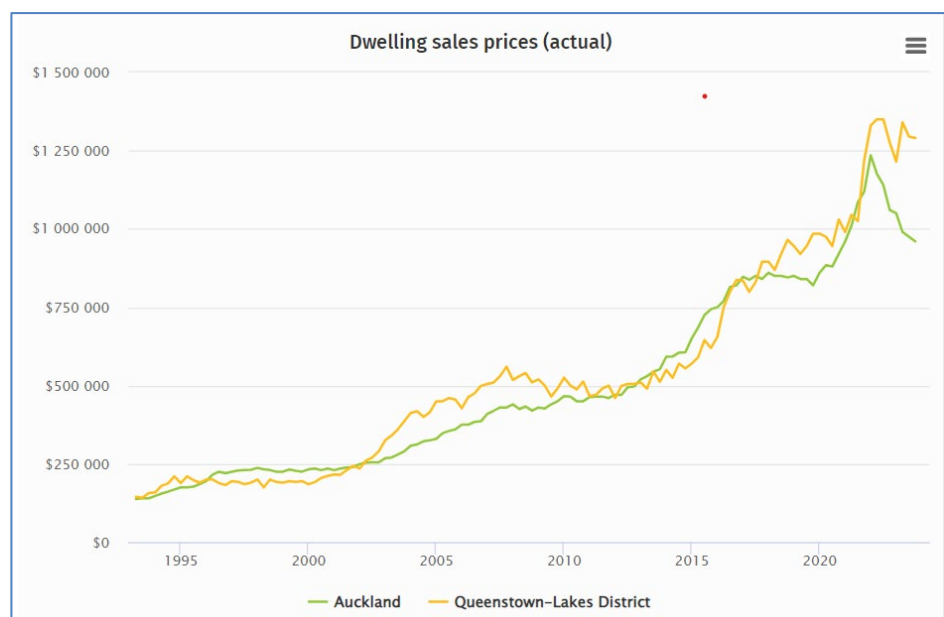
- 3.3** With regards to giving effect to the Otago Regional Policy Statement, I agree that objective UFD–O2 and policy UFD-P2 (development of urban areas) are relevant considerations. These clauses refer to the development and change of Otago’s urban area improving housing choice, quality, and affordability. I note in particular the need to respond to any demonstrated insufficiency in housing or business development capacity by increasing development capacity or providing more development infrastructure as required, as soon as practicable.
- 3.4** The potential for a “more supply” option to address affordability is a key issue raised by many submitters. While at an aggregate level plan enabled capacity may be sufficient to meet demand, the planner Joint Witness Statement highlights a number of issues with translating plan-enabled supply into more housing, particularly enabling more intensive use of land (e.g. smaller lots, shift to terrace housing and apartments). While some of the barriers to the realisation of more supply may be in Council’s control and able to be reduced, I note that there are a range of public and private factors that influence the pace of development.
- 3.5** More fundamentally, in my view the evidence strongly suggests that more supply will not lead to housing that is affordable to those on low to moderate incomes. That is, land and houses may be developed that are more affordable relative to other houses in the district, but not affordable in an absolute sense to low to moderate income households. Neither does more supply result in retention of affordable dwellings for future generations. The eligibility criteria that would apply to housing developed

using the AHFC would ensure that only those on low to moderate incomes would qualify for the housing. That is, the resulting resource would be directed to those who need it, and also be retained for that purpose over time

3.6 I also note that the more supply option requires continuous expansion of greenfields and brownfields opportunities.

3.7 With regard to overall affordability from greater supply, the experience of Auckland is relevant, given the substantial increase in housing capacity delivered by the Auckland Unitary Plan (AUP). Data from Ministry for Housing and Urban Development on house prices in the Auckland region³ shows a levelling off of house price growth in the period 2016 to 2020 which coincides with the expansion of supply enabled by the AUP, but then a rapid increase, then decline in house prices in the Covid era. In other words, it is unclear as to whether the substantial increase in plan-enabled capacity by the AUP supported a sustained correction in house prices, rather than a temporary 'pause'. Figure 1 and 2 below are sourced from the Ministry for Housing and Urban Development.

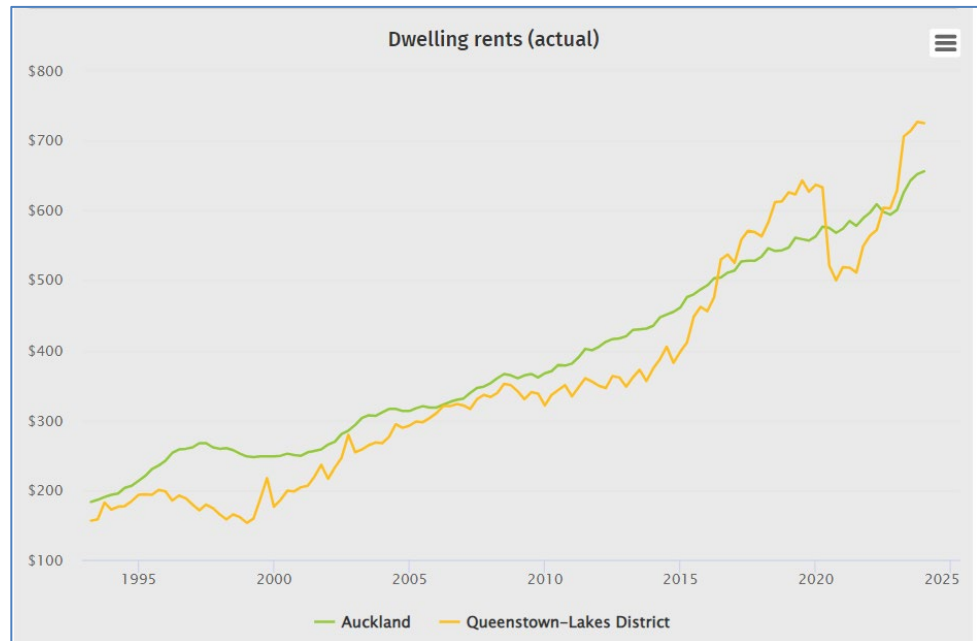
Figure 1: Dwelling median sale prices: Auckland Region and Queenstown Lakes District



³ <https://huddashboards.shinyapps.io/urban-development/>

3.8 Over the period in which dwelling prices stabilised in Auckland, mean dwelling rents continued to grow. See Figure 2.

Figure 2: Mean dwelling rents: Auckland Region and Queenstown Lakes District



3.9 As a local example of the temporary benefit of more supply, Bridesdale was the district’s first Special Housing Area and pitched as an affordable area on the basis of small section sizes and homes. Table 1 sets out council’s rating information for a randomly selected lot in the Bridesdale development. This shows that land values rapidly increased, reducing subsequent affordability.

Table 1: Council rating valuations for a 370 sqm lot in Bridesdale.

	2017	2018	2019	Current
Land value	\$146,000	\$295,000	\$295,000	\$370,000
Improvements value	-		\$485,000	\$630,000
Capital value	\$146,000	\$295,000	\$780,000	\$1,000,000

3.10 The proposed AHFC policy is not intended to be a substitute for increased supply (both greenfields expansion and brownfields intensification). It is complementary to such moves, ensuring that a component of new supply enabled by the PDP (and to be enabled by the proposed Urban Intensification Variation) is directed towards affordable housing demands.

3.11 I discuss supply issues further in this rebuttal.

4. A TAX?

A number of statements of evidence conclude that the AHFC is a form of ‘tax’. By Implication, these submitters and witnesses consider that a tax is not within the scope of the RMA (but may be in scope of the Local Government Act). I note that the RMA contemplates use of ‘economic instruments’ to achieve RMA outcomes – for example a tax or levy on pollution. The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 maintained financial contributions as a method to achieve RMA outcomes. While financial contributions have generally been used to address the direct environmental impacts of a particular development, the RMA allows territorial authorities to require a financial contribution to achieve the sustainable management purpose of the RMA (refer to section 108).

4.1 A ‘tax’ to fund a wider sustainable management objective (for example, use of resource in a way and at a rate that enables environmental, social and economic wellbeing) is provided for by way of the financial contributions provisions of the RMA. I do not see the question of whether the AHFC is a tax or not is fundamental to the issue of whether the AHFC is an effective and efficient method of implementing the objective relating to expanding the supply of affordable housing.

5. URBAN FOCUS

5.1 Brett Giddens⁴ questions whether residential development in ‘rural and non urban zones’ should be included. His evidence states that the IHV policy needs to be amended to clarify that it only relates to urban land within urban growth boundaries (UGB). If an urban growth boundary is expanded in the future, then the objectives and policies of this chapter would apply at that time. Mr Giddens considers that proposed Chapter 40 has a clear disjoint with the strategic objectives and policies of the PDP, which could only be overcome by the exclusion from the AHFC of residential subdivision and development outside of Urban Growth Boundaries, including non-urban, resort, rural, and special zones, as suggest in his Annexure D.

5.2 I do not agree that the scope of the AHFC should be limited to the urban area as defined by the UGB. The QLD area contains a variety of ‘nodes’ of developments in rural areas that have urban characteristics (in terms of infrastructure, density and housing) and where residents access services, amenities and workplaces in the wider area. These developments and activities influence the wider housing market. I continue to maintain that residential developments in identified non-urban zones should be covered by the AHFC.

6. METHODS

6.1 Some of the evidence takes issue with the analysis of options. Three main alternative options put forward are general or targeted rates; enhanced control over short-term letting; and/or some form of a combination of measures that continue to provide for increased land supply, including intensification, and formulation of a policy to capture any uplift in plan enabled capacity through out of zone activity, plan changes or variations, or where density / lot sizes exceed plan standards.

⁴ Planning Evidence of Brett James Giddens 21 December 2023

- 6.2** For example, the evidence of Chris Ferguson refers to the rating option and the latter option of a package of district plan measures designed to increase supply⁵. Dave Sarjeant⁶ at para 19 puts forward a similar package: “If an RMA option is to be pursued then I support a much broader approach, similar to Mr Ferguson’s Option 1, where the contribution target is broader, where incentives are provided, and where the Variation is linked to other strategic initiatives such as the intensification variation. Failing such modifications to the proposed Variation, I support a general rating approach”.
- 6.3** Hannah Hoogeveen at Para 3.10 refers to a need for a supportive set of residential density or intensity provisions, and zoned-land available to increase the housing supply to meet demand. Greater provision for workers accommodation could be implemented across a wider range of zones. Tighter, district-wide control of land use activities such as residential visitor accommodation is also an option.
- 6.4** Tim Williams⁷ points to the delay between land being zoned and development occurring. This delay, and the challenges associated with the process of land being developed into serviced lots or housing is where he considers that the focus should be placed as this will, in his view, greatly assist supply and the competitiveness of the market, as directed by the NPS-UD. Actions could include:
- (a) implement the Urban Intensification Variation.
 - (b) accelerate funding and focus Council resources on the delivery of infrastructure that is currently constraining and delaying supply of “ready to move in to” affordable housing.
 - (c) provide a dedicated team within Council to streamline consents for multi-unit developments and urban subdivision.
 - (d) amending the activity status of urban subdivisions and of multi-unit developments and retirement villages to controlled.

⁵ Statement of Evidence of Chris Ferguson (Planning) 19 December 2023

⁶ Statement of Evidence of David Frederick Serjeant, (Planning), 19 December 2023

⁷ Statement of Evidence of Tim Williams, dated 21 December 2023.

Rates

- 6.5 The issues with use of targeted and or general rates is addressed by Ms Bowbyes. I note that a targeted or general rate imposes an annual, on-going 'cost' on households (and potentially) businesses. This cost may be spread over a wider base than the AHFC but will likely impact all low income households in the district. This 'cost' is less likely to be factored into land prices than the AHFC.

Short term rentals

- 6.6 I understand that the management of short-term rentals has been extensively debated through the district plan review process. The IHV evidence that raises short term rental as an issue does not say in what way visitor accommodation should be further controlled so as to deliver affordable housing. Reduction of the length of time that homes may be rented on a short- term basis (such as 30 or 60 days) does not mean that pressure on the residential land stock will be ameliorated; rather that pressure may transfer to the formal visitor accommodation sector (which may need to expand into residential areas). Equally, reduction in short term rental opportunities may see houses continued to be used as holiday homes or second homes, or be left empty, and not transfer into the long term rental market.

More supply

- 6.7 In terms of the need for further supply, the evidence of Mr Colegrave (para 115) takes issue with the claim in the 42A report that there is sufficient supply to meet demand. Mr Colegrave points to long term estimates of demand against supply in the Council's 2021 Housing Capacity Assessment. He reproduces the table from page 178 of that report. This table shows that – in the long term - there is a shortfall in capacity for detached dwellings, and corresponding surplus in attached dwellings at the total urban area level. Within Wakatipu Ward, there is a shortfall in detached dwellings (-1,700), and corresponding surplus in

attached dwellings (+1,700), with the reverse patterns within the Wānaka Ward.

- 6.8** The report notes that the demand estimates include the required NPS competitiveness margin on demand. It is also relevant to note that the housing assessment did not consider the additional capacity provided by minor dwellings (residential flats) in the urban environment. Minor dwellings have not been quantified, but some will be used as permanent accommodation for resident households (and not used for visiting family or residential visitor accommodation). This would absorb a portion of demand for housing. Even if a small portion of demand is removed from the demand side of the equation, then the sufficiency margins become greater than modelled.
- 6.9** The middle section of the table shows the potential future dwelling estate. This includes the existing dwelling estate together with the Reasonably Expected to be Realised (RER) capacity. RER capacity is constrained by infrastructure limits, which have a substantial impact on capacity. Commercially feasible capacity (without infrastructure constraints) sees sizeable surpluses when demand is instead compared to capacity which is not constrained by infrastructure. This suggests that there is a large amount of zoned opportunity for feasible development options available to the market within each of the various urban locations, with the constraint instead related to the provision of infrastructure.
- 6.10** In addition to the above, my point in relation to capacity is that the assessment of short-term sufficiency shows capacity exceeding demand, yet there is little evidence that this is pushing down land and house prices, relative to what may have otherwise occurred. With regard to the long term supply situation, over time the district plan will be reviewed, and the potential under-provision of opportunities for dwellings will likely be addressed (including by way of the current Urban Intensification Variation).

Supply of affordable housing

- 6.11** With regard to supply of affordable housing (rather than housing supply in aggregate), the 2021 Housing and Business Capacity⁸ Assessment stated that further supply of land or density provisions are unlikely in and of themselves to increase the rate of supply of housing by the development sector in the lower value bands.
- 6.12** “Importantly, an increase in estimated shortfalls of dwellings affordable to non-owner households is outside of the scope of influence of local planning and infrastructure provision but is nonetheless the potential future situation facing the QLD resident community”⁹.
- 6.13** Therefore, increasing the supply of affordable dwellings is likely to take specific effort and initiatives to make development of such dwellings feasible. Encouraging and enabling initiatives that increase the uptake of enabled and serviced capacity in a more affordable price range will continue to be important to help ensure a comprehensive and balanced future dwelling estate. Such initiatives may include:
- (a) Inclusionary zoning;
 - (b) further investment in the district by Kāinga Ora to complement the broad-brush mechanisms like zoning and development controls in the District Plan; and
 - (c) other measures to reduce building costs, complexity and time delays¹⁰.
- 6.14** In terms of district plan methods to complement the AHFC, some evidence calls for a form of bonus or ‘off-set’, whereby density of development can be increased to help ‘pay’ for the contribution. For example, Daniel Thorne (para 2.5)¹¹ proposes that such provisions could

⁸ Housing Development Capacity Assessment Queenstown Lakes District Prepared for Queenstown Lakes District Council and Otago Regional Council, m.e. consulting.

⁹ IBID, Page 195.

¹⁰ IBID, Page 214.

¹¹ Statement of evidence of Daniel Thorne on behalf of Fulton Hogan Land Development Ltd.

include additional density and bulk/height allowances, and that all developments which engage the inclusionary housing provisions but meet the PDP density/minimum or average lot size requirements are processed without public or limited notification.

6.15 I agree that some form of bonus system is common in inclusionary housing schemes that apply in overseas jurisdictions. As discussed in the section 32 report, bonus systems do not fit easily with the RMA. I note that through private plan changes there is the ability to create appropriate development envelopes that recognise financial contribution requirements. Resource consent processes – especially for larger blocks – also provide some scope for off-setting actions. PDP policy 4.2.2.8 already recognises that “in applying plan provisions, have regard to the extent to which the minimum site size, density, height, building coverage and other quality controls have a disproportionate adverse effect on housing affordability”. This policy could be augmented by a policy that is more proactive in supporting increased height and density in larger scale developments, although its ambit would probably need to be restricted to the urban environment.

6.16 In terms of complementary actions to ‘up-zone’ land as described by Ms Bowbyes the council is progressing the Urban Intensification Variation. This Variation, by necessity, must occur as a separate plan change to that of the IHV.

7. COSTS AND BENEFITS

7.1 The submitter evidence on costs and benefits has not introduced any additional or new costs or benefits. The largest cost identified remains potential impacts of subdividers and developers passing on costs to future owners. It is often stated as a ‘fact’ that imposing a levy will directly increase the cost of new homes.

7.2 No evidence is presented on the scale or likelihood of such effect. I note that economists could not agree on the size of this cost. The section 32

report looked at development feasibility to understand impacts on development behaviour. The section 32 report (and economic evidence for council) noted that overtime, costs will be passed back into land values.

7.3 As an example, Mr Colgrave supposes that a developer spends \$8 million to create 20 new residential lots (i.e. at a cost of \$400k each), which they plan to sell for \$500k each to earn a standard developer margin of 25%. One of the 20 lots is gifted to QLDC via the proposed policy, leaving 19 to sell “on market.” The developer can either:

- Sell those 19 lots for an extra \$26,300 each (\$526,300) to offset the financial cost of the policy and maintain their 25% margin or
- Sell them for less than \$526,300 each and earn a lower margin.

7.4 Mr Colgrave does not set out the alternative scenarios whereby the price that the developer is prepared to pay for the land drops to account for the AHFC and/or the density (number of lots in the subdivision) is increased to help ‘off-set’ the costs.

7.5 In terms of land values adjusting, I agree that this effect on land prices is most likely to be seen in greenfields development blocks. In brownfields areas, section and house prices are set by a variety of demands, including developers, owner occupiers and investors. This range of possible buyers is likely to mean that it may not be possible for a house builder to pass on ‘costs’ in terms of high house prices. The AHFC is targeted at multi-unit developments, while the Urban Intensification Variation will help to assist with this adjustment to development feasibility.

7.6 I note that some evidence supports the point that an any adverse impact on house and land prices will be a temporary effect. For example, Greg Dewe at para 2.6¹² notes that “while I agree to an extent that private developers accept inclusionary requirements when they are

¹² Statement of evidence of Gregory John Dewe.

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”.

- 7.7** The submitter evidence also raises an issue of timing – should council first wait to see whether current measures to increase supply are effective in restraining land and house prices before embarking on the AHFC variation? For example Chris Ferguson contends that there is evidence that the existing policies within the PDP encouraging greater housing choice through land supply, density and reduced lot sizes are beginning to translate into building outcomes, which over time, are expected to positively influence average market values. In this context, in his view, the Council should take a wait and see approach. I do not agree that this is an appropriate course of action, given lack of certainty that affordable homes will be provided.
- 7.8** Other evidence¹³ suggests that the Variation provisions should only apply to land that is rezoned (or up-zoned) after the date that the provisions become operative. The evidence notes that there may well be a planning gain as part of the up-zoning 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.
- 7.9** No evidence is presented as to how much additional supply is needed to put substantial downward pressure on land and house prices, nor of the associated infrastructure demands and whether they are affordable.
- 7.10** I note that the existing urban area is subject to a plan change/variation that has an up-zoning component to it. Furthermore, the affordable housing contribution has been well signalled and contributions of land

¹³ Such as Greg Dewe, para 7.2(d).

in greenfields areas is not an uncommon requirement in the context of QLD.

8. EFFICIENCY AND EFFECTIVENESS

8.1 I continue to consider that the proposed AHFC is an effective and efficient method of achieving affordable housing objectives.

8.2 To my mind, the main benefit of the AHFC compared to the other options proposed is its effectiveness in delivering affordable housing. Experience shows that over the 15 years that the Queenstown Lakes Community Housing Trust has been in operation, supported by various planning-based provisions, it has been the main method by which a stock of affordable housing has been built up and retained to help meet on-going affordable housing needs of present and future generations. Market-based subdivisions and developments that have offered an affordable housing component (but with no allocation or retention mechanism) have seen land and housing values rapidly escalate in-line with wider market trends, meaning affordability benefits have rapidly diminished.

9. MĀORI LAND AND HĀWEA/WĀNAKA - STICKY FOREST

9.1 The evidence of Rachael Pull¹⁴, Tanya Stevens¹⁵, Katrina Ellis¹⁶ and Monique King¹⁷ has provided me with a better understanding of the background and context to the submissions on Hāwea/Wānaka – Sticky Forest and Māori land in general. These submissions seek that Māori land and the Hāwea/Wānaka – Sticky Forest block be exempt from the AHFC, including on the basis that the contribution may be a barrier to development of the relevant land. The statement of evidence of Theo Bunker and Lorraine Rouse (dated 19 December 2023) provides further detail on the Hāwea/Wānaka – Sticky Forest land.

¹⁴ STATEMENT OF EVIDENCE OF RACHAEL ELIZABETH PULL ON BEHALF OF AUKAHA (1997) LTD, TE AO MARAMA INCORPORATED AND TE RŪNANGA O NGĀI TAHU (Submission OS72)

¹⁵ STATEMENT OF EVIDENCE OF TANYA JANE STEVENS ON BEHALF OF TE RŪNANGA O NGĀI TAHU

¹⁶ STATEMENT OF EVIDENCE OF KATRINA ELLIS ON BEHALF OF OFFICE FOR MĀORI CROWN RELATIONS – TE ARAWHITI, 19 December 2023

¹⁷ BRIEF OF EVIDENCE OF MONIQUE AHI KING, 19 December 2023

- 9.2** I agree that section 108 (9) RMA excludes Māori land within the meaning of Te Ture Whenua Māori Act 1993 from financial contributions of land. In my view it would be appropriate to identify this exemption in the provisions of proposed Chapter 40 (i.e. that land that falls under Te Ture Whenua Māori Act 1993 cannot form a financial contribution under Chapter 40). Contributions of money are still possible under 108 (9).
- 9.3** I consider that Chapter 40 and the AHFC should apply to Māori land that is developed for residential purposes (albeit with the caveat that a financial contribution in the form of land cannot be required). A contribution in the form of money or some other form of provision of affordable housing may still be appropriate. For activities that do not wish to provide the pre-set AHFC, the discretionary activity resource consent process provides a means by which an appropriate contribution can be determined, should residential subdivision and development be proposed while taking into account the specific development feasibility of the relevant land.
- 9.4** There is some policy support for a case-by-case assessment of any financial contribution of Māori land should land be subdivided or developed for housing. For example, policies that support Objective 5.3.4 - the sustainable use of Māori land – include 5.3.4.1 which refers to enabling Ngāi Tahu to protect, develop and use Māori land in a way consistent with their culture and traditions, and economic, cultural and social aspirations including papakainga. The evidence of Ms Pull also refers to the Regional Policy Statement and Iwi Management Plans. Proposed Chapter 40 provisions (e.g. policy 40.2.1.5 and assessment matter 40.7.1.1) recognise the potential impact of any contribution on financial feasibility.
- 9.5** With regard to the Hāwea/Wānaka - Sticky Forest land, I now understand that this land has a unique history and purpose (tracing back to the South Island Landless Natives Act of 1906). I further understand that the future ownership structure for the land is not yet settled. The likely

development of the land and whether the AHFC would represent a significant burden on the owners/developers is not clear and would require specific assessment.

9.6 Nevertheless, I consider that the specific circumstances of the land should be recognised. The options are a stated carve out excluding the land from the AHFC (as preferred by submitters) or policy support for assessment of the contribution to take into account the specific barriers to the development of the Hāwea / Wānaka Sticky Forest land, which is redress land transferred under the Ngāi Tahu Claims Settlement Act 1998, as determined by resource consent processes that seek a reduction or waiver of the AHFC.

9.7 I prefer the second option, given the lack of detail around development potential and the specific impact of any financial contribution. In addition a carve out of the land from the AHFC would likely create a precedent that other landowners may wish to exploit. To this end, a new policy could be inserted as follows:

Policy Xy Take into account the specific circumstances of the Hāwea / Wānaka Sticky Forest land, which is redress land transferred under the Ngāi Tahu Claims Settlement Act 1998 when determining an appropriate contribution to affordable housing.

10. PROVISIONS

10.1 *Strategic objective:* An amendment to Strategic Objective 3.2.1.10 is proposed by Mr Sarjeant to recognise the current state of unaffordability in the District. I agree with the intent of the amendment put forward by Mr Sarjeant to this proposed objective. I propose insertion of the phrase ‘attained overtime’ into the objective, as follows:

3.2.1.10 Affordable housing choices for low to moderate income households are provided in new and redeveloping residential areas so that a diverse and economically resilient community, representative of all income groups, is attained over time and maintained into the future.

10.2 *Need for a purpose statement:* I agree that in order to satisfy s77E(2) of the RMA, the relevant rule itself must specify the purpose for which financial contribution is required. While the PDP does not state purposes for a rule, the requirement for the rule to state the purpose of the AHFC could be accommodated by a relatively minor amendment, such as the following being added to 40.5:

In accordance with Section 77E(2) of the RMA, the purpose of the following rule is to ensure that provision is made for affordable housing by requiring a financial contribution to be made by most forms of residential development, with this contribution directed to the provision of retained, affordable housing in the Queenstown-Lakes District.

10.3 *Exclusions:* Evidence raises the potential for uncertainty over which areas of the district are excluded from the provisions due to prior agreements, and/or existing, area specific district plan provisions. For example, Mark Benjamin¹⁸ refers to the Lakeview development. This development is located on land that is not part of the PDP, and as such is not subject to the Variation. Nevertheless he is looking for confirmation that the land will not be subject to the AHFC due to the development agreement in place.

10.4 Hannah Hoogeveen¹⁹ refers to the ODP Frankton Flats B zone (FFB). She notes (and I agree) that as a special zone of the Operative District Plan, the FFB zone has not yet been reviewed as part of the plan review process. The provisions remain as they were in 2014 when they were first included in the current Operative District Plan and form part of Volume B of the district plan. This means that the AHFC does not yet apply to the land. She further raises the point that in her view, the provisions of the FFB land mean that it can qualify as land that meets

¹⁸ Primary Statement of evidence of Mark Benjamin for QT Lakeview Development Limited (Submitter OS128)

¹⁹ Planning Statement of evidence of Hannah Hoogeveen on behalf of Queenstown Central Limited (Primary submission 120), 20 December 2023. 3

the 'exclusion' policy (i.e. agreement in place with regards to affordable housing provision) and the variation should identify this exclusion. I note that there is no specific agreement in place between the landowner / developer and the Council in regards to delivery of affordable dwellings. Physical characteristics of the FFB land may lend themselves to an affordable product, but there is no specific agreement in place. The fact that appeal negotiations resulted in no specific affordable housing requirements being incorporated into the plan provisions for the FFB land does not mean that an exclusion is appropriate.

- 10.5** While proposed policy and interpretation text in proposed Chapter 40 states that areas subject to prior agreements and/or existing district plan requirements should be excluded, there is no list or map in the district plan that clearly shows which areas are excluded. This may lead to debate at the time of application as to whether the exclusions apply or not. I acknowledge the point made. The sec 42A report suggested that one method may be for the council to prepare a practice note or similar that lists and maps these areas. This Note would sit outside the district plan. The alternatives would be to incorporate the Note by reference or more formally, by way of a schedule and map that would be part of Chapter 40 (although this would make any updates to be made via a plan change). At this stage, given timelines, the Council has prepared a draft Note that is appended to this evidence of Ms Bowbyes. I suggest that the following wording could be added to the Interpretation section to assist with interpretation of the exclusion provisions:

Council will maintain a schedule of areas where previous agreements and/or plan provisions meet the requirements of 40.2.1.4 (d).

- 10.6** The evidence of Berin Smith²⁰ notes a number of issues with the proposed provisions.
- 10.7** *Reference to Lots:* Mr Smith identifies variable references to lots, while Rule 40.5 applies an activity status to subdivision “containing residential lots”, Rule 40.6.1 applies standards separately to “additional serviced lots” and “additional lots”. The term “additional lots” is problematic because it does not specify whether the lots involved must be for residential purposes or not. I agree that clarification is required, such as referring consistently to “additional, residential lots”.
- 10.8** *Tiered subdivisions:* The AHFC is not clear as to the situation where the relevant land is subject to multiple subdivision applications. Evidence questions whether subsequent stages of subdivision should benefit from an exemption based on prior AHFC payment of subdivision of the same land. For example, there can be at least one initial step creating large super lots (defined by roading, for example) that are then converted to residential lots. Evidence notes that sometimes there are further steps creating larger sized lots for multi-unit development and post-construction subdivision. In such circumstances a fourth stage of subdivision can be carried out by a unit title subdivision of a multi-unit apartment building.
- 10.9** I agree that this may be an issue for larger blocks. Rule 40.5.2 does not provide a consent pathway for an exemption from the AHFC based on prior stages of subdivision having already made a contribution because the Discretionary Assessment Matters listed under Rule 40.7.1 do not cover those circumstances. I note that this situation is similar to that which applies under Development Contribution policies where there is a ‘credit’ recognised from previous subdivisions. Wording that recognises previous contributions could be introduced to address this situation.

²⁰ Statement of evidence of Berin John Smith on behalf of the Darby Partners Limited Partnership, 19 December 2023

10.10 *Valuation:* The proposed Variation requires the provision of a valuation report that is prepared within the 3 months prior to the date of the s.224(c) application. Where the transfer of land is chosen by the applicant as an AHFC, the timing of the valuation should be 3 months prior to the lodgement of the application concerned so that the land to be employed for that purpose can be defined and approved in the application at the outset

11. POSSIBLE AMENDMENTS

11.1 Based on the above discussion, I have identified the following further amendments to the proposed Variation.

11.2 The identified amendments are mostly for the purpose of clarification and as such I do not consider them need to be subjected to a 32AA analysis. The amendments should assist with implementation of the provisions.



David Mead

13 February 2024

Recommended Revised Provisions

Strikethroughs indicate deletions and underlines indicate amendments as set out in the 42A report.

Green highlighted strikethroughs and underline text indicate further amendments recommended in Rebuttal.

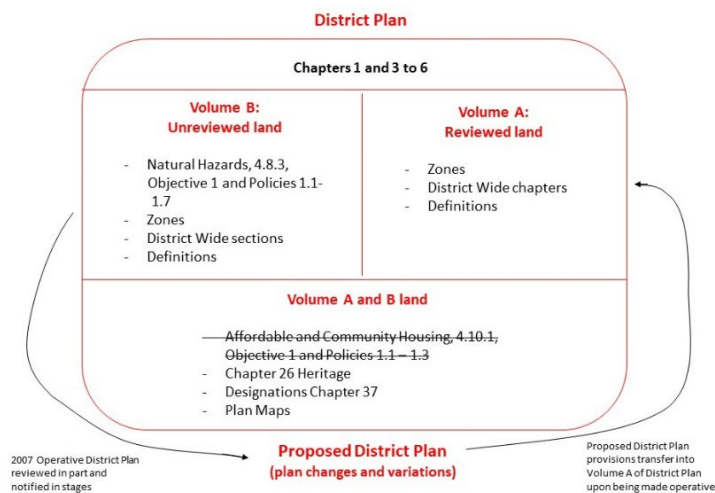
Proposed District Plan

Chapter 1: Introduction

1.1 B Structure of the District Plan

Chapters 3, 4, 5 and 6 have encompassed the 2007 District Plan Section 4 (District Wide Issues) with the exception of the following ~~two~~ objectives:

- Natural Hazards Objective 4.8.3(1) and Policies 1.1 to 1.7 (Section 4.8), which still applies as a relevant district wide objective to Volume B zones.
- ~~Affordable and Community Housing Objective 1 and Policies 1.1—1.3 (Section 4.10), which still applies to both Volume A and B zones.~~



Chapter 3: Strategic Direction

3.2 Strategic Objective

Add the following to 3.2.1 - The development of a prosperous, resilient and equitable economy in the district (addresses issue 1):

3.2.1.10 Affordable housing choices for low to moderate income households are provided in new ~~residential developments~~ and redeveloping residential areas so that a diverse and economically resilient community representative of all income groups is attained over time and maintained into the future.

3.3 Strategic Policies

Inclusionary housing

3.3.52 Ensure that affordable housing choices for low to moderate income households are incorporated into new neighbourhoods and settlements and in redevelopments of existing neighbourhoods.

3.3.53 Ensure that affordable housing provided in accordance with Policy 3.3.52 is retained to meet the long term needs of current and future low to moderate income households.

3.3.54 Require from development and subdivision that involves a residential component the transfer of land or money to the Council as a financial contribution towards meeting Objective 3.2.1.10 and policy 3.3.52 and 3.3.53, with contributions primarily sourced from residential subdivision and development within urban growth boundaries.

40 Inclusionary Housing

40.1 Purpose

The purpose of this chapter is to make provision for housing choices for low to moderate income households in new neighbourhoods and in redevelopments of existing neighbourhoods.

The combination of multiple demands on housing resources (including proportionately high rates of residential visitor accommodation and holiday home ownership, along with visitor accommodation developments in residential areas); geographic constraints on urban growth and the need to protect valued landscape resources for their intrinsic and scenic values, means that the District's housing market cannot function efficiently. This has long term consequences for low to moderate income households needing access to affordable housing. In turn, this has adverse outcomes for the integrated and sustainable management of natural and physical resources, including pressure for additional urban expansion, displacement of lower income households to outlying settlements, and reduction of social and economic wellbeing.

Affordable housing is where a low- or moderate-income household spends no more than 35% of their gross income on rent or mortgage (principal and interest) payments. In the Queenstown Lakes District, and for the purposes of these provisions, 120% of the District's Median Household Income for the most recent 12 months is used to define a low to moderate income.

The rules in this chapter apply to most forms of subdivision and development for residential activities. Provision is made for affordable housing by imposing a standard requiring a financial contribution to be made. This Chapter sets out the purpose of the financial contribution, and the manner in which the level of contribution (i.e. the amount) is determined. The financial contribution to be provided to the Council is for a different purpose to any development contribution listed in the Council's current contributions policy and is imposed in addition to a development contribution.

It is not expected that the financial contribution will result in all relevant developments containing affordable housing. The primary means of implementation of contributions received by the Council will be through the work of the Queenstown Lakes Community Housing Trust who will decide, according to their policies, where and how the financial contribution will be used to deliver affordable housing.

40.2 Objectives and Policies

40.2.1 Objective: Provision of affordable housing for low to moderate income households in a way and at a rate that assists with providing a range of house types and prices in different locations so as to support social and economic well-being and manage natural and physical resources, in an integrated way.

Policies

40.2.1.1 ~~Target~~ Apply affordable housing contributions to residential subdivisions and developments (including Residential Visitor Accommodation and independent living units in retirement villages) where housing is in high demand and generally close to employment, educational and community services, being land within Urban Growth Boundaries, or where a plan change or resource consent seeks to establish urban scale development.

- 40.2.1.2 Require residential developments that indirectly influence housing choices for low to moderate income households, such as residential development in Special and Settlement zones and rural residential subdivisions to contribute to meeting affordable housing needs.
- 40.2.1.3 Ensure that residential subdivision and development set out in Policy 40.2.1.1 and 40.2.1.2 provides a financial contribution for affordable housing. Avoid subdivision or development for residential activities and Residential Visitor Accommodation that does not provide a contribution, or otherwise does not make appropriate provision to help meet the affordable housing needs of the District.
- 40.2.1.4 Recognise that the following forms of residential development either provide affordable housing or do not generate pressure on housing resources and should not be subject to the affordable housing contribution:
- a) social or affordable housing delivered by Kāinga Ora, a publicly owned urban regeneration company, the Council or a registered community housing provider;
 - b) managed care units in a Retirement Village (as defined by the Retirement Villages Act 2003) or Rest Home (under the Health and Services Disability Act 2001); ~~and~~
 - c) Residential Flats: and
 - d) A residential lot or unit located in a **Zone area** that already contains affordable housing provisions in the district plan, or where previous agreements and affordable housing delivery with Council have satisfied objective 3.2.1.10 and 40.2.1 and their associated policies.
- 40.2.1.5 Determine the amount of financial contributions in consideration of the following matters:
- a) The longer-term demand for affordable housing;
 - b) The impact of a contribution on the commercial feasibility of development at an area-wide scale and over different time periods;
 - c) The differences in commercial feasibility between greenfields and brownfields urban development; and
 - d) Whether the subdivision and development is located inside or outside of Urban Growth Boundaries.
- 40.2.1.6 ~~Financial contributions in the form of a monetary contribution are preferred.~~ Contributions in the form of land must be lots located within the subdivision site. Contributions of lots located outside the subdivision site may only occur where this leads to a superior outcome in terms of access by future residents to services and community facilities.
- 40.2.1.7 Financial contributions received by the Council ~~shall~~ must be used for the purposes of providing affordable housing for low to moderate income households.
- 40.2.1.8 Provision of affordable housing by means other than a financial contribution to Council (such as direct transfer of land or units to a Registered Community Housing Provider or to a low to moderate income household) ~~should~~ must only occur in

exceptional circumstances and must include appropriate eligibility criteria and retention mechanisms.

Policy Xy Take into account the specific circumstances of the Hāwea / Wānaka Sticky Forest land, which is redress land transferred under the Ngāi Tahu Claims Settlement Act 1998 when determining an appropriate contribution to affordable housing.

40.3 Other Provisions and Rules

40.3.1 District Wide

Attention is drawn to the following District Wide chapters.

1 Introduction	2 Definitions	3 Strategic Direction
4 Urban Development	5 Tangata Whenua	6 Landscapes
25 Earthworks	26 Historic Heritage	27 Subdivision
28 Natural Hazards	29 Transport	30 Energy and Utilities
31 Signs	32 Protected Trees	33 Indigenous Vegetation and Biodiversity
34 Wilding Exotic Trees	35 Temporary Activities and Relocated Buildings	36 Noise
37 Designations	39 Wahi Tupuna	District Plan web mapping application

40.4 Interpreting and Applying the Rules

40.4.1 Financial contributions of money from a subdivision activity must be paid to the Council before the issue of a certificate under section 224(c) of the RMA. Where land forms part or all of a contribution, all necessary legal agreements to ensure implementation of such a contribution must be completed and executed before the issue of a certificate under section 224(c) of the RMA.

40.4.2 Financial contributions of money from a land use activity must be paid to the Council no later than 3 months after the issue of the necessary ~~building consents~~ Code Compliance Certificate under the Building Act 2004. If land forms part or all of a contribution, all necessary legal agreements to ensure implementation of such a contribution must be completed and executed before the issue of the necessary ~~building consents~~ Code Compliance Certificate under the Building Act 2004.

~~40.4.3 Where a rule specifies a set monetary contribution per square metre of floorspace, this amount shall be adjusted in accordance with the most recent changes to Statistics New~~

Zealand Producer Price Index for Construction Outputs – EE11 Building construction SQUEE1100, with March 2023 as the base year.

40.4.4 For the purposes of this Chapter, residential floorspace is defined as any floorspace in a building that accommodates a residential activity, except the floor area of any garage, or carport, accessory building or outdoor area.

40.4.5 Council will maintain a schedule of areas where previous agreements and/or plan provisions meet the requirements of 40.2.1.4 (d).

40.4.6 Where an activity does not comply with a standard listed in the standards tables, the activity status identified by the 'Non-Compliance Status' column shall apply. Where an activity breaches more than one Standard, the most restrictive status shall apply to the Activity.

40.4.7 The following abbreviations are used in the following tables. Any activity which is not permitted (P) or prohibited (PR) requires resource consent.

P – Permitted	C – Controlled	RD – Restricted Discretionary
D – Discretionary	NC – Non – Complying	PR - Prohibited

40.5 Rules – Activities

In accordance with Section 77E(2) of the RMA, the purpose of the following rule is to ensure that provision is made for affordable housing by requiring a financial contribution to be made by most forms of residential development with this contribution directed to the provision of retained, affordable housing in the Queenstown Lakes District.

	Activities - Inclusionary Housing	Activity Status
40.5.1	Subdivision or development that is proposed to contain or is capable of containing residential lots or units (including residential visitor accommodation units and independent living units in retirement villages) and provides an affordable housing financial contribution in accordance with standard 40.6.1.	P
40.5.2	Subdivision or development that is proposed to contain or is capable of containing residential lots or units (including residential visitor accommodation units and independent living units in retirement villages) which does not provide an affordable housing financial contribution in accordance with standard 40.6.1.	D

40.6 Rules – Standards

	Standards - Affordable Housing	Non-compliance status
40.6.1	<p>An Affordable Housing Financial Contribution shall be provided to Council as follows:</p> <ol style="list-style-type: none"> 1. Subdivisions: <ol style="list-style-type: none"> a. Residential subdivisions within urban growth boundaries or other Residential Zones outside urban growth boundaries: <ol style="list-style-type: none"> (i) resulting in more than 1 but less than 20 new <u>additional residential</u> lots: a monetary contribution shall be paid to the Council equal to 5% of the estimated sales value of <u>the additional serviced residential</u> lots; or (ii) resulting in 20 or more <u>additional residential</u> lots: a contribution of land comprising 5% of <u>additional serviced residential</u> lots transferred for no monetary or other consideration to the Council. b. Residential subdivisions in a Settlement Zone, Rural-Residential Zone, Wakatipu Basin Rural Amenity Zone Lifestyle Precinct or Special Zone <u>creating more than 1 additional residential lot</u>: <ol style="list-style-type: none"> (i) A monetary contribution shall be paid to the Council equal to 1.0% of the estimated sales value of the <u>additional residential</u> lots created. c. <u>The financial contribution required by (a) or (b) above will be reduced by the amount of any affordable housing financial contribution previously provided by subdivision of the relevant land. Residential lots in addition to those that have already paid the financial contribution will be liable to the payment of further financial contributions according to the above rules.</u> 2. Development: <ol style="list-style-type: none"> a. Residential floorspace for any new or relocated units <u>as part of a multi-unit development</u> on lots that have not been subject to a financial contribution under 1 (a) above: A monetary contribution shall be paid to the Council equal to the lesser of: <ol style="list-style-type: none"> (i) 2.0% of the estimated sales value of <u>each additional unit</u> of the additional units, or (ii) \$150 per sqm of the net increase in residential floorspace. b. Residential floorspace for any new or relocated units <u>as part of a multi-unit development</u> on lots that have not been subject to a monetary contribution under 1 (b) above: A monetary contribution shall be paid to the Council equal to: 	D

	Standards - Affordable Housing	Non-compliance status
	<p>(i) \$75 per sqm of the net increase in residential floorspace.</p> <p>c. For new residential <u>floorspace involving multi-unit developments of more than 1 unit</u> on lots that have provided a monetary contribution under 1(a) above, a 'top up' monetary contribution shall be paid to the Council, equal to the formula (A) – (B):</p> <p>With (A) being the lesser of:</p> <p style="padding-left: 40px;">2.0% of the estimated sale value of the additional units, or</p> <p style="padding-left: 40px;">\$150 per sqm of the net increase in residential floorspace, and</p> <p>(B) being the per lot contribution paid under 1(a).</p> <p>3. Exemptions:</p> <p>For the purposes of this standard, the following types of residential activities shall not be counted as contributing to the total number of residential units in a development, nor be counted towards fulfilling the requirement of 40.8.6.1:</p> <p>(a) a Residential Flat</p> <p>(b) social or affordable housing delivered by Kāinga Ora, a publicly owned urban regeneration company, the Council or a registered community housing provider that complies with the requirements of Schedule 40.1, where affordable housing comprises at least 10% of the dwelling <u>residential</u> units in the development; or</p> <p>(c) a managed care unit in a Retirement Village or Rest Home (as defined by the Retirement Villages Act 2003 or the Health and Disability Act), or</p> <p>(d) a residential <u>lot</u> or residential unit located in an Zone <u>area</u> that already contains affordable housing provisions in the district plan, or where previous agreements and affordable housing delivery with Council have satisfied objective 3.2.1.10 and 40.2.1 and their associated policies.</p> <p><u>(e) contributions in accordance with 2(a) and (b) do not apply to development or replacement of a single residential unit on a lot.</u></p> <p>4. Interpretation:</p> <p>a. The estimated sales value of lots, units or residential floorspace shall be determined by a valuation report prepared, at the applicant's expense, by a Registered Valuer (as mutually agreed</p>	

	Standards - Affordable Housing	Non-compliance status
	<p>by the Council and the applicant) within the 3 months prior to the financial contribution being paid. lodgement of the application concerned. In the event of disagreement, the Council shall appoint a valuer to determine the matter.</p> <p>b. <u>Where a rule specifies a set monetary financial contribution per square metre of floorspace, this amount shall be adjusted in accordance with the most recent changes to Statistics New Zealand Producer Price Index for Construction Outputs - EE11 Building construction SQUEE1100, with March June 20234 as the base year.</u></p> <p>c. Māori land within the meaning of Te Ture Whenua Māori Act 1993 is exempt from providing a financial contribution in the form of land.</p>	
40.6.2	Affordable lots provided in accordance with 40.6.1.1. a. ii. shall be located within the development site, serviced and unencumbered <u>by covenants or consent notices that limit the number, size or design of buildings on the lots.</u>	D
40.6.3	Where development is to be staged, the affordable housing contribution is to be provided as each stage proceeds, on a proportionate lot basis.	D

40.7 Assessment Matters

40.7.1 Discretionary Activities

40.7.1.1 The amount of the contribution

- a. Whether the site or development has unique or unusual characteristics that would mean full provision of the required number of affordable lots or monetary contribution imposes a significant financial burden on the development that would make the development unviable, as demonstrated by a site-specific development feasibility assessment that utilises industry accepted assessment methodologies, and an alternative mix or contribution is appropriate. It is expected that a full assessment of costs will be provided based on an “open book” approach i.e. the developer will be expected to make all of the relevant cost information available.

40.7.1.2 Land versus monetary contribution

- b. Whether the contribution is more appropriately provided in the form of money rather than land (lots) due to the location of the lots; their size and/or on-going high costs of upkeep (including resident’s society or body corporate fees or similar).

40.7.1.3 Off-site provisions

- c. Where lots are required, whether off-site locations may be considered for all or part of the requirement where:
 - i. there are exceptional reasons to avoid on-site provision, such as the site being poorly located for affordable housing, and/or
 - ii. the alternative sites are in close proximity to the development (i.e. within 2kms) and offer a superior outcome in terms of improved access to services and transport and or improved mix of dwelling types. Particular consideration will be given to whether the off-site provision will better address priority needs, particularly family housing, and/or
 - iii. the applicant has entered into a legally binding agreement with a Council approved community housing provider who can demonstrate that on-site provision will not meet their operational requirements and that an off-site location will deliver a superior outcome in terms of the number, mix and/or on-going management of the required retained affordable housing.

40.7.1.4 Staging of ~~dwellings~~ residential units and/or lots

- d. Deferral of provision of affordable lots or units to subsequent stages should generally not occur.
- e. Whether delayed delivery of the affordable dwellings or lots can be appropriately secured through a suitable binding agreement with the Council, the terms of which may include a bond.

40.7.1.5 Alternative forms of contribution

- f. Alternative forms of contribution to that specified in 40.8.6.1 (such as sale of lots or units direct to a Community Housing provider or a low to moderate income household) should not result in a lesser contribution.
- g. Transfer of lots or units should involve an appropriate retention mechanism and be subject to eligibility criteria (as specified in Schedule 40.1).
- h. Alternative forms of contribution should only be considered where exceptional circumstances apply.

40.8 Schedule 40.1

Where a financial contribution is not provided, and an alternative solution proposed, then the requirements in 40.8.6.1 must be met by compliance with the following:

Retention Mechanism

- 40.8.1.1 The lot or floorspace being sold to an eligible buyer with a legally enforceable retention mechanism which is fair, transparent as to its intention and effect and registrable on the title of the property, including, but not limited to, a covenant supported by a memorandum of encumbrance registered on the certificate of title or consent notice under the RMA, that:

- i. limits ownership and re-sale (including a future residential unit in the case of a vacant site subdivision) to:
 - (i) a registered community housing provider, Kāinga Ora, a publicly owned redevelopment agency or a registered community housing provider, or
 - (ii) an occupier who is approved by the council as meeting the eligibility criteria below, and
- j. limits rent and resale to an eligible buyer based on a formula that ensures that the lot or dwelling remains affordable into the long term, including a future residential unit in the case of vacant site subdivision; and
- k. prevents circumvention of the retention mechanism and provides for monitoring of the terms of the retention mechanism covenant or consent notice and the process should those terms be breached including where occupiers have defaulted on the mortgage and lenders seek to recover their interests in the property, and
- l. is legally enforceable by the council in perpetuity through the means of an option to purchase in favour of the council at the price determined in accordance with (e), supported by a caveat.
- m. at the time of resale, requires the reseller to:
 - (i) apply the same formula used to determine the price of the original purchase;
 - (ii) allows the reseller to recover the cost of capital improvements made subsequent to purchase, approved by the council at a value determined by a registered valuer.

Eligibility

40.8.1.2 For the purposes of 40.10.8.1.1 an eligible buyer shall:

- n. Be a household with a total income of no more than 120% of the District's area median household income;
- o. Be a household whose members do not own or have a monetary interest in other real estate;
- p. Must not own or be a beneficiary of a business or trust that has adequate income and/or assets that enable you to enter into home ownership independently;
- q. Will live at the address and not let or sub let the unit to others; and
- r. Have at least one member who is a New Zealand resident or citizen.

Affordability

40.8.1.3 Affordability means households who have an income of no more than 120% of the district's median household income and spend no more than 35 per cent of their gross income on rent or mortgage repayments, where:

- a. median household income shall be determined by reference to Statistics New Zealand latest data, and as necessary, adjusted annually by the average wage inflation rate;
- b. in the case of purchase, normal bank lending criteria shall apply. Body Corporate or Resident Society fees may be included in the calculation of purchase costs;
- c. In the case of the sale of a vacant site only, the site is sold at a price such that the resulting dwelling plus the site will meet the criteria set out above.

Definitions

Community Affordable Housing

Means residential activity that maintains long term affordability for existing and future generations through the use of a retention mechanism, and whose cost to rent or own is within the reasonable means of low and moderate income households.