

BEFORE THE INDEPENDENT HEARINGS PANEL

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

**of the Inclusionary Housing Variation to the
Queenstown Lakes Proposed District Plan**

**INCLUSIONARY HOUSING VARIATION TO THE QUEENSTOWN LAKES
PROPOSED DISTRICT PLAN**

**PRIMARY STATEMENT OF EVIDENCE OF MARK BENJAMIN FOR QT LAKEVIEW
DEVELOPMENTS LIMITED (SUBMITTER OS128)**

PLANNING

19 DECEMBER 2023

1. SUMMARY

- 1.1. My full name is Mark Charles Benjamin. I am a Principal Planner with Mt Hobson Group (“MHG”). I have a Bachelor of Planning from the University of Auckland (2003) and am a full member of the New Zealand Planning Institute.
- 1.2. This evidence relates to the Inclusionary Housing Variation to the Queenstown Lakes District Proposed District Plan. This evidence relates primarily to the submission by QT Lakeview Developments Limited (QTL) which essentially sought to include clarification in the plan change that the provisions do not (and will not) apply to land within the Lakeview Subzone of the Operative District Plan.
- 1.3. In October 2019, QTL signed a development agreement with QLDC for development of the Lakeview land. Through this partnership, the Lakeview Precinct will become a vibrant and complementary extension of the existing town centre. The site will offer residential buildings, hotels, co-working and co-living spaces, hospitality and retail, and a hot pools attraction. Construction is to be phased over seven stages and is estimated to take more than ten years to complete.
- 1.4. In December 2022, the submitter was granted consent under the Covid-19 Fast Track legislation to develop the first stage of the development which consists of five interconnected buildings containing a mix of ground floor retail spaces and accommodation above in buildings ranging from six to twelve levels. Overall, some 79 co-living rooms and 224 apartments are consented on the land as part of the first stage of development.
- 1.5. The existing agreements entered into as part of the Lakeview development include a commitment from QLDC to provide the Queenstown Lakes Affordable Housing Trust with 5% of gross land proceeds therefore further contributions from the Lakeview area are not required.
- 1.6. In addition, the Lakeview subzone area has been specifically excluded from the Proposed District Plan and therefore this Plan Change should make it clear that the proposed provisions do not apply to the Lakeview subzone.
- 1.7. QTL therefore seeks that the plan change should be amended to confirm that it does not apply to the Lakeview subzone or that confirmation of the same be provided as part of the hearing process.

2. INTRODUCTION

- 2.1. My full name is Mark Charles Benjamin. I am a Principal Planner with Mt Hobson Group (“MHG”), an independent resource management consultancy based in Auckland. I hold the qualification of a Bachelor of Planning from the University of Auckland (2003). I am a full member of the New Zealand Planning Institute and an Associate Member of the Royal Town Planning Institute (UK).
- 2.2. I have been actively involved in policy and resource/development consent processes for 22 years whilst working for a range of Local Authorities and private planning consultancies in New Zealand and England. I have been employed by Mt Hobson Group since 2013.
- 2.3. MHG have been engaged by QTL in terms of planning matters for the land known as Lakeview and provided advice on this plan change. I prepared the submission on behalf of QTL.

3. CODE OF CONDUCT

- 3.1. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

4. SCOPE OF EVIDENCE

- 4.1. The scope of evidence is limited to the need to address a lack of clarity in the plan change documents regarding the exclusion of the Lakeview subzone area from the proposed plan change.
- 4.2. My evidence will be brief and presented in the following structure:
- (a) Describe the background to and nature of QTL’s main submission;
 - (b) Outline the reasons why the plan change provisions should not apply to the Lakeview subzone.

(c) Comment on planner's s42A report and statutory considerations.

(d) Conclusion

4.3. I have reviewed the Council's s42A Report prepared by Mr David Mead.

5. SUBMISSION BACKGROUND AND DETAILS

5.1. In October 2019, QTL signed a development agreement with QLDC for development of the Lakeview land. Through this partnership, the Lakeview Precinct will become a vibrant and complementary extension of the existing town centre. The site will offer residential buildings, hotels, co-working and co-living spaces, hospitality and retail, and a hot pools attraction. Construction is to be phased over seven stages and is estimated to take more than ten years to complete.

5.2. In December 2022, the submitter was granted consent under the Covid-19 Fast Track legislation to develop the first stage of the development which consists of five interconnected buildings containing a mix of ground floor retail spaces and accommodation above in buildings ranging from six to twelve levels. Overall, some 79 co-living rooms and 224 apartments are consented on the land as part of the first stage of development.

5.3. The existing agreements entered into as part of the Lakeview development include a commitment from QLDC to provide the Queenstown Lakes Affordable Housing Trust with 5% of gross land proceeds therefore further contributions from the Lakeview area are not required.

5.4. In addition, and more importantly in my view, the Proposed District Plan specifically does not apply to the Lakeview subzone. This was confirmed by QLDC when the Council resolved, at its meeting on 29th October 2015 to withdraw all provisions as they relate to the geographic area addressed by Plan Change 50 – Queenstown Town Centre (which created the Lakeview subzone).

5.5. Accordingly, QTL made a submission that the plan change should be declined or at a minimum, made explicitly clear that the provisions do not and will not apply to the Lakeview subzone.

6. RATIONALE TO CONFIRM EXCLUSION OF LAKEVIEW SUBZONE FROM PLAN CHANGE

- 6.1. There are two main reasons that it should be made clear that the plan change does not apply to the Lakeview land.
- 6.2. Firstly, as set out above, in October 2019, QTL signed a development agreement with QLDC for development of the Lakeview land. Through this partnership, the Lakeview Precinct will become a vibrant and complementary extension of the existing town centre. As part of this, the existing agreements entered into by QTL include a commitment from QLDC to provide the Queenstown Lakes Affordable Housing Trust with 5% of gross land proceeds.
- 6.3. Accordingly, the land could be considered as falling within the Exemptions allowed for by Proposed Rule 40.6.1(3)(d)¹ where previous agreements and affordable housing delivery with Council have satisfied objective 3.2.1.10 and 40.2.1 and their associated policies.
- 6.4. On that basis further contributions from the Lakeview area are not required and this should be made clear in the plan change.
- 6.5. Secondly, and more importantly in my view, the Proposed District Plan specifically does not apply to the Lakeview subzone. This was confirmed by QLDC when the Council resolved, at its meeting on 29th October 2015 to withdraw all provisions as they relate to the geographic area addressed by Plan Change 50 – Queenstown Town Centre. A copy of the public notice² is contained as Appendix 1.
- 6.6. As the Commissioners will be aware, Plan Change 50 was the plan change which introduced the Lakeview subzone into the District Plan.
- 6.7. In light of this withdrawal, the land is not subject to the provisions of the Proposed District Plan and accordingly that should be made clear within the plan change documents. The Lakeview area will in future become part of the Proposed District Plan and that is considered the appropriate time to revisit this aspect should that be necessary.

¹ As set out in the Recommended Revised Provisions attached to the Section 42A Report of David Mead for the Council.

² <https://www.qldc.govt.nz/media/iltbq2ks/public-notice-withdrawal-23-oct-2015.pdf> accessed 19th December 20223

7. COMMENT ON SECTION 42A REPORT AND STATUTORY CONSIDERATIONS

- 7.1. The only relevant comment I have to make on the Section 42a Report is that it is effectively silent on QTL's submission - with it simply being noted that QTL's submission should be rejected.
- 7.2. The s42A report makes no other specific reference to either the Lakeview subzone land, or to QTL's submission itself, and accordingly does not appear to have suitably addressed the submission or the reason for the recommendation to reject it.
- 7.3. In terms of statutory considerations of the proposed changes sought by the submitter, it is not considered that any further assessment is required (s32AA etc) as these matters seems to be primarily a clarification and confirmation issue.

8. CONCLUSION

- 8.1. In my opinion, the Inclusionary Housing Plan Change does not apply to the Lakeview subzone as it is not yet part of the geographical area covered by the Proposed District Plan.
- 8.2. Accordingly, this should be made clear within the plan change or confirmed by QLDC as part of the plan change process.
- 8.3. In addition, the land is already subject to specific agreements which are considered to meet the exemption allowances and as such this should also be made clear within the plan change.
- 8.4. No additional assessment (s32AA etc) is required as this matter appears primarily a clarification issue.



Mark Charles Benjamin MNZPI

19th December 2023

APPENDIX 1

**PUBLIC NOTICE REGARDING WITHDRAWL OF PLAN CHANGE 50 AREA
FROM PROPOSED DISTRICT PLAN**

Withdrawal of Provisions from the Proposed District Plan - Visitor Accommodation and the geographic area addressed by Plan Change 50 (Queenstown Town Centre Zone).

Pursuant to Clause 8D of the First Schedule of the Resource Management Act 1991, Council resolved at its meeting on 23 October 2015, to authorise the withdrawal of the following provisions relating to visitor accommodation, from the Proposed District Plan:

- Fourth paragraph of Section 7.1 Zone Purpose Low Density Residential Zone
- Policy 7.2.1.3
- Objective 7.2.8 and policies 7.2.8.1 and 7.2.8.2
- Rules 7.4.18, 7.4.21, 7.4.22
- Sixth paragraph of Section 8.1 Zone Purpose Medium Density Residential Zone
- Objective 8.2.9 and Policies 8.2.9.1, 8.2.9.2, 8.2.9.3
- Rules 8.4.17, 8.4.22, 8.4.23, 8.4.28
- Rules 9.4.8, 9.4.9, 9.4.10, 9.4.11, 9.4.12, 9.4.13, 9.6.2.2
- Policy 10.2.5.1
- Rules 10.4.7, 10.4.8, 10.4.9, 10.4.10, 10.4.20
- Policy 11.2.2.3, Rules 11.4.5, 11.4.6 and 11.4.7

At the same meeting the Council also authorised to withdraw (in part) the following provisions of the Proposed District Plan to remove reference to visitor accommodation:

- Rule 7.5.12
- Policy 8.2.1.1
- Rule 8.5.11
- Objective 9.2.1 and 9.2.2
- Policy 9.2.1.1
- Rule 9.4.6 and 9.5.10
- Policy 10.2.5.2
- Fifth paragraph of Section 11.1 Zone Purpose Large Lot Residential Zone
- Rule 11.2.2.4
- All Visitor Accommodation references in paragraphs 2 and 5 of 9.1 High Density Zone purpose

The reasons for the withdrawal are:

- Provides greater public certainty as to Council's position with regard to visitor accommodation.
- Removes the potential perceptions of inconsistency and uncertainty in Council's approach, compared to if the provisions were not withdrawn but Council made a corporate submission opposing the provisions.

- Allows for a more in-depth and robust study and analysis of issues and policy options, and for potential non-statutory consultation with key stakeholders.

Pursuant to Clause 8D of the First Schedule of the Resource Management Act 1991, Council resolved at its meeting on 29 October 2015, to authorise the withdrawal the following provisions from the Proposed District Plan:

- All provisions as they relate to the geographic area addressed by Plan Change 50 – Queenstown Town Centre zone.

The reasons for the withdrawal are:

- To avoid the cost and expense of unnecessarily duplicating the Plan Change 50 process as part of the Proposed District Plan process;
- Section 79 of the Resource Management Act states that it is not necessary to review district plan provisions that have been the subject of a plan change process within the last 10 years, such as the provisions of the Operative District Plan that apply to the Plan Change 50 area;
- To correct an error in the Proposed District Plan (Stage 1)'s mapping of the Plan Change 50 area as it relates to the block bounded by Man, Lake, Beach and Hay Streets;
- To make it clearer that the Plan Change 50 area remains subject to the Operative District Plan and not the Proposed District Plan (Stage 1) in all regards (including designations, historic heritage features and protected trees).