



SE254273

NO.  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

In the matter of the *Local Government Act*, R.S.B.C. 2015, c. 1 and the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241

BETWEEN:

WOODFIBRE LNG GENERAL PARTNER INC., AS GENERAL  
PARTNER ON BEHALF OF THE WOODFIBRE LNG LIMITED  
PARTNERSHIP

PETITIONER

AND:

DISTRICT OF SQUAMISH

RESPONDENT

**PETITION TO THE COURT**

**ON NOTICE TO:**

District of Squamish  
37955 Second Avenue  
P.O. Box 310  
Squamish, BC, V8B 0A3

**AND TO:**

The Attorney General of British Columbia  
P.O. Box 9290  
Victoria, BC, V6Z 2E1

The address of the Registry is 800 Smithe Street, Vancouver, British Columbia.

The Petitioner estimates that the hearing of the Petition will take 3 days.

This matter is an application for judicial review.

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21472 5254273

This matter is not an application for judicial review.

This proceeding is brought for the relief set out in Part 1 below, by

the person named as Petitioner in the style of proceedings above

If you intend to respond to this Petition, you or your lawyer must

- (a) file a Response to Petition in Form 67 in the above-named registry of this court within the time for Response to Petition described below, and
- (b) serve on the Petitioner
  - (i) 2 copies of the filed Response to Petition; and
  - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

**Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the Response to Petition within the time for response.**

#### **Time for Response to Petition**

A Response to Petition must be filed and served on the Petitioner,

- (a) if you were served with the Petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the Petition anywhere in the United States of America, within 35 days after that service
- (c) if you were served with the Petition anywhere else, within 49 days after that service, or
- (d) if the time for Response has been set by order of the court, within that time.

The ADDRESS FOR SERVICE of the Petitioner is c/o Lawson Lundell LLP, 1600 – 925 West Georgia Street, Vancouver, British Columbia V6C 3L2.

Fax number for delivery is: (604) 669-1620.

E-mail address for service (if any) of the Petitioner: [jdfrazer@lawsonlundell.com](mailto:jdfrazer@lawsonlundell.com) and [jmayfield@lawsonlundell.com](mailto:jmayfield@lawsonlundell.com)

The name and office address of the Petitioner's lawyer is: Lawson Lundell LLP, 1600 - 925 West Georgia Street, Vancouver, British Columbia, V6C 3L2 (Attention: James D. Fraser and Jane Mayfield).

CLAIM OF PETITIONER

**Part 1: ORDERS SOUGHT**

2. A declaration that the tax rate set under the District of Squamish (the “**District**”) 2025 Property Tax Rates Bylaw No., 3135, 2025 (the “**2025 Tax Rate Bylaw**”) in respect of Class 4 – Major Industry (“**Major Industry**”) is illegal, unreasonable, and/or enacted in bad faith;
3. An order setting aside or quashing the 2025 Tax Rate Bylaw on the basis that it is illegal, unreasonable, and/or was enacted in bad faith;
4. Alternatively, an order setting aside or quashing the Major Industry property tax rate in the 2025 Tax Rate Bylaw (the “**2025 Major Industry Rate**”) on the basis that it is illegal, unreasonable, and/or was enacted in bad faith;
5. Costs; and
6. Such further and other relief as this Honourable Court may deem just.

**Part 2: FACTUAL BASIS**

**A. Context**

*i. The Project*

7. Woodfibre Limited LNG Partnership (“**Woodfibre LNG**”) is the owner of the Woodfibre liquified natural gas project (the “**Project**”) in the District of Squamish (the “**District**”). The Project site is located seven kilometres southwest of Squamish, British Columbia, on the northwestern shoreline of Howe Sound at the former site of the Woodfibre pulp mill (the “**Project Site**”). The Project will include a natural gas liquefaction facility and a liquified natural gas (“**LNG**”) transfer facility for the export of the LNG product to global markets via marine vessels. It is currently expected to operate for at least 40 years and to produce up to 2.1 million tonnes of LNG per year.
8. Construction of the Project is anticipated to cost over US\$ 5.1 billion dollars. During operations, the Project is expected to create over 100 jobs based in Squamish and significantly contribute to local tax revenue.

9. The Project is currently under construction, which commenced in November 2023, and is scheduled to be operational by 2027. The construction phase is expected to take approximately three years. The Project will receive natural gas for liquification through a pipeline that is under construction as a separate project and owned by Fortis BC (the “**Eagle Mountain Project**”).

10. The Eagle Mountain Project is an approximately 47 km long natural gas pipeline that runs from north of the Coquitlam Watershed to the Project facility. It is not classified by BC Assessment as Major Industry with the Project. It is subject to separate environmental assessment and regulatory authorizations from those of the Project.

*ii. The Property and Zoning*

11. The Project Site includes 6 contiguous parcels of land owned by Woodfibre LNG, located in the District and legally known and described as:

- (a) PID 015-791-611; District Lot 6237; Group 1; Except Plan EPP86841; New Westminster District;
- (b) PID 015-822-061; District Lot 5899; Group 1; Except Part in Reference Plan 5238; New Westminster District;
- (c) PID 031-814-026; Lot A District Lots 2351 and 8295; Group 1; New Westminster District; Plan EPP86843;
- (d) PID 031-813-992; Lot 1 District Lots 2802 and 8294; Group 1; New Westminster District; Plan EPP86842;
- (e) PIN 90176029; District Lot 8318, Group 1; New Westminster District; and
- (f) PIN 90176030; Block A; District Lots 1337, 6670 and 8318; Group 1; New Westminster District

(collectively, the “**Woodfibre LNG Properties**”).

12. Woodfibre LNG also holds a water lot lease granted by the Province over a 66.4 hectare area adjacent to the Woodfibre LNG Properties, legally known and described as District Lot 8296 (the “**Foreshore Property**” and together with the Woodfibre LNG Properties, the “**Project Properties**”).

13. The Woodfibre LNG Properties are zoned I-3 General Industrial Zone (the “**I-3 Zone**”) under the District’s Zoning Bylaw No. 2220, 2011 (the “**Zoning Bylaw**”). The I-3 Zone permits Bulk Gas and Fuel Storage and Loading Facilities. The Woodfibre LNG Properties are also designated Intensive Industrial under the District’s Official Community Plan Bylaw No. 2500 (the “**OCP**”).

14. The Foreshore Property is designated Marine Gateway under the OCP. Marine Gateway applies to navigable and non-navigable marine and foreshore areas.

**iii. Major Project Approvals**

15. In or around 2012, Woodfibre LNG initiated the regulatory permitting process for the Project.

16. This process included assessments by the BC Environmental Assessment Office (“**EAO**”) pursuant to the *British Columbia Environmental Assessment Act*, 2002, by the Canada Impact Assessment Agency pursuant to the *Canadian Environmental Assessment Act*, 2012 (“**CEAA, 2012**”), and by the Squamish Nation (Skwxwíl7mesh Uxwumixw).

17. In 2015 and 2016, Woodfibre LNG received the following environmental assessment approvals to permit the construction and operation of a liquified natural gas facility at the Project Site:

- (a) A provincial Environmental Assessment Certificate from the EAO under the *British Columbia Environmental Assessment Act*;
- (b) A Federal Decision Statement from the federal government under the *CEAA, 2012*; and

- (c) An environmental assessment approval from Squamish Nation through the Squamish Nation Environmental Assessment Agreement in 2015.

**B. Overview of Dealings with the District**

18. The District, including the current Mayor and Council, have on numerous occasions voiced opposition to the Project and taken steps that have delayed and hindered construction of the Project, at considerable expense to Woodfibre LNG, the details of which are set out in the affidavit sworn by Micah Libin on June 4, 2025 in support of this petition (the “**Woodfibre Affidavit**”).

19. These steps included, most recently, the adoption of the 2025 Major Industry Rate, affecting only Woodfibre LNG, that will standing alone and if carried forward into future years adversely impact the Project while it remains under construction and is not generating any revenue, and that will likely be unsustainable for Woodfibre LNG once it enters into the operations phase. The 2025 Major Industry Rate is the subject of this Petition and the underlying facts are described in sections C to F below.

20. Prior to adoption of the 2025 Major Industry Rate, the District had:

- (a) Refused to issue a temporary use permit (“**TUP**”) for the use of the Floatel, despite approval from all other levels of government. Ultimately, Woodfibre LNG was ordered to begin housing workers on the Floatel by the EAO; and

Woodfibre Affidavit at paras. 17 – 25 and 29-42.

- (b) Delayed granting building permits for certain modular trailer structures required during the construction phase of the Project for over 600 days.

Woodfibre Affidavit at paras. 43-50.

21. This occurred despite: (i) the parties’ efforts to negotiate a Tax Agreement; and (ii) the parties entering into capacity funding agreements whereby Woodfibre LNG has committed to paying the District over \$4,725,000 as capacity payments, in addition to its share of District property taxes, to offset the cost of additional administrative services associated with issuing the permits and approvals for the Project (the “**Capacity Funding Agreements**”).

**C. The District's Adoption of Adverse Major Industry Tax Rate**

*i. The 2023 Tax Rate Bylaw*

22. No properties in Squamish, including any of the Woodfibre LNG Properties, were classified for property taxation under the *Assessment Act*, R.S.B.C. 1996, c. 20 and the *Prescribed Classes of Property Regulation*, B.C. Reg. 438/81 by the British Columbia Assessment Authority ("**BC Assessment**") as Major Industry for the 2023 property taxation year commencing January 1, 2023 and ending December 31, 2023 (the "**2023 Tax Year**").

23. On May 30, 2023, the District adopted its bylaw enacting property tax rates by property class for the 2023 Tax Year (the "**2023 Tax Rate Bylaw**"). The 2023 Tax Rate Bylaw set the Major Industry tax rate for municipal purposes at 28.902 per \$1,000 of Taxable Assessed Value (the "**2023 Major Industry Rate**").

*ii. The 2024 Tax Rate Bylaw*

24. No properties in Squamish, including any of the Woodfibre LNG Properties, were classified as Major Industry for the 2024 property taxation year (the "**2024 Tax Year**").

25. On October 17, 2023, the District held a special business meeting at which Council considered a draft 2024-2028 Five-Year Financial Plan and resolved to hold a public meeting on the budget.

26. On December 19, 2023, District Council adopted the 2024-2028 Year Five-Year Financial Plan Bylaw No. 3025, 2023 applicable to the 2024 through 2028 property taxation years (the "**2024 Five-Year Financial Plan**").

27. On April 16, 2024, the District held a council meeting at which Council considered, among other things:

- (a) The 2024-2028 Five Year-Financial Plan Bylaw No. 3024, 2023 (Spring) Amendment Bylaw No. 3038, 2024 (the "**2024 Five-Year Financial Plan Amendment**").

- (b) Tax Rate Bylaw No. 3039, 2024 applicable to the 2024 property taxation year (the “**2024 Tax Rate Bylaw**”).

28. The Agenda for the April 16, 2024 Council Meeting included the following motion as part of the in-camera portion of the meeting:

(ii) **WLNG Tax Rate**

THAT The District of Squamish endorse the *District of Squamish Readiness Strategy – WLNG / EMGP*, including:

- Capacity agreements executed by the CAO with WLNG and FortisBC to meet the resourcing needs of the District during construction phases.
- Deadline to conclude a revitalization tax exemption bylaw (“Tax Agreement”) by January 31, 2024 or increase Class 4 Major Industry tax rate in the 2024 tax rate bylaw.

29. The 2024 Tax Rate Bylaw included the following rates at Schedule A:

**DISTRICT OF SQUAMISH**  
**BYLAW NO. 3039**

**SCHEDULE A**

Property Class Tax Rates per \$1,000 of Taxable Assessed Value:

Classification	Column A	Column B	Column C
	General Municipal	Squamish-Lillooet Regional District	Regional Hospital
01 Residential	2.2919	.1552	.0292
02 Utilities	40.0000	.5432	.1022
04 Major Industry (Port)	27.5000	.5277	.0993
04 Major Industry (Port Improvement)	22.5000	.5277	.0993
04 Major Industry	125.0000	.5277	.0993
05 Light Industry	8.7551	.5277	.0993
06 Business & Other	5.8902	.3802	.0715
07 Forests-Managed	5.8902	.4656	.0876
08 Recreation & Non Profit	2.2919	.1552	.0292
09 Farm	2.2919	.1552	.0292

30. Under the 2024 Tax Rate Bylaw, tax rates for Major Industry (Port) and Major Industry (Port Improvement) (collectively, “**Major Industry (Port)**”) would apply to property that falls within the property taxation limits set by the *Ports Property Tax Act*, S.B.C. 2004, c. 7

and related regulations. Tax rates for Major Industry applies to property that does not fall within this regime.

31. District staff prepared Reports to Council recommending that Council give three readings to both the 2024 Five-Year Financial Plan (the “**2024 Financial Plan Report**”) and the 2024 Tax Rate Bylaw (the “**2024 Tax Rate Report**”).

32. In the 2024 Tax Rate Report, staff discussed the proposed property tax mil rate for Major Industry at 125.000 per \$1,000 of Taxable Assessed Value (the “**2024 Major Industry Rate**”), corresponding to a property tax rate ratio between Major Industry and Class 1 Residential (“**Residential**”) of 54.54:1, and an increase of 96.0973 mils from the 2023 Major Industry Rate. The report included the following comparison of the proposed tax rates to the BC average:

Property Class	Tax Rate		Ratio		% of Burden		% of Assessment	
	Squamish	BC Average*	Squamish	BC Average*	Squamish	BC Average*	Squamish	BC
1 Residential	2.2919	3.2442	1.00	1.00	60.2%	58.2%	82.7%	83.0%
2 Utilities	40.0000	31.7849	17.45	11.48	5.8%	2.6%	0.5%	0.2%
3 Supportive Hsg	-	3.3424	-	1.08	0.0%	0.0%	0.0%	0.0%
4 Port	27.5000		12.00	8.91	1.5%		0.2%	
4 Port Improvement	22.5000		9.82	-	0.2%		0.0%	
4 Major Industry	125.0000	28.9673	54.54	8.91	0.0%	8.2%	0.0%	0.9%
5 Light Industry	8.7551	17.2525	3.82	4.67	4.4%	3.8%	1.6%	2.4%
6 Business & Other	5.8902	9.6193	2.57	3.02	27.7%	26.6%	14.8%	13.4%
7 Forests-managed	5.8902	16.9119	2.57	4.83	0.1%	0.1%	0.0%	0.0%
8 Recreation/N.P.	2.2919	5.6235	1.00	1.87	0.2%	0.2%	0.3%	0.2%
9 Farm	2.2919	57.5471	1.00	22.56	0.0%	0.3%	0.0%	0.0%
Port Weighted Average Ratio is 11.65								

33. The 2024 Tax Rate Report contained the following discussion regarding Woodfibre LNG:

Class 4 – Major Industry

Elements of the District of Squamish Readiness Strategy – Woodfibre LNG (WLNG)/Eagle Mountain Gas Pipeline (EMGP) (“Readiness Strategy”) were released to the public as part of the April 16, 2024 Regular Council Agenda (Council – Staff In Camera Announcements) including the deadline to conclude a revitalization tax exemption bylaw (“Tax Agreement”) with WLNG by January 31, 2024, or increase Class 4 - Major Industry tax rate. District staff have attempted to work collaboratively with WLNG since 2015 to secure a ten year Tax Agreement that ensures certainty for the proponent, the District, and the community during plant construction, and subsequent years of operations. To date, no substantive progress on a Tax Agreement has occurred.

Aligned with the Readiness Strategy, the recommendation is to increase the Class 4 Major Industry tax rate to 125 to achieve adequate taxation from WLNG once the plant is classified to Class 4 – Major Industry.

34. At the April 16, 2024 Council Meeting, in discussing the 2024 Tax Rate Bylaw, the following discussions occurred between Council and staff with respect to the increase to the 2024 Major Industry Rate and Woodfibre LNG:

- (a) Staff noted that in prior years, the Major Industry Rate was set based on the Provincial average, but that it would now be set based on Squamish’s “Readiness Strategy”:

I want – what I want to point out is probably the biggest change that you’re seeing when you look at this chart from this year to the similar chart that you would have seen last year is that in prior years the major industry rate for the District of Squamish was set in accordance to – with – sorry – to equal the BC average. In this presentation and in the package that you’ve received, the major industry rate is set based on the – got to get this wording right.

What are you looking for?

Yeah, it’s the wording for –

Oh the readiness strategy?

Yes, sorry. My apologies. On the readiness strategy. This is sometimes what happens when you’re not directly involved in some of the policies and strategies, et cetera. You get your names mixed up, so I do apologize. That’s the significant – most significant change you are seeing year to year. And I should note that the – it says on my slide, the other ratios have not changed from last year.

- (b) A District councillor asked staff about the level of certainty that the Project Properties would be classified as Major Industry:

I appreciate the detail on the readiness strategy and increasing the major industry rate. As per direction, I’m just curious if staff can speak to what level of certainty we have that Woodfibre LNG will eventually be reclassified to Class 4 and when we think that that might happen based on works that are ongoing on the site.

Staff replied:

We have a great deal of certainty that it will be classified as Class 4 major industry. The question is – still remains on what – when, and that’s really about the speed at which they do the construction, and so BC Assessments is watching that, and they have been in continuous contact with staff on the project progress.

(c) A District councillor commented that:

With respect to increasing the major industry tax rate, I think it’s important for our community to note within this report our ongoing efforts to try and sit at the table with Woodfibre LNG to come to a 10-year tax agreement or negotiated settlement there, and that has not occurred to date. And so this is kind of the opportunity that we have to ensure that the project when it does get reclassified to major industry is paying its fair share of our tax burden. And so this is the option that we have is to increase the tax rate where that project will eventually sit, and I think that that is a fair approach here going forward.

35. The “Readiness Strategy” referred to at the April 16, 2024 meeting has not been made public, other than as referenced in the agenda and minutes for this meeting.

36. Council approved third reading of both the 2024 Five-Year Financial Plan Amendment and the 2024 Tax Rate Bylaw.

37. Council subsequently adopted the 2024 Five-Year Financial Plan Amendment and the 2024 Tax Rate Bylaw at the Council Meeting held on April 30, 2024, the same meeting at which Council rejected the TUP Application, as described in the Woodfibre Affidavit.

38. The 2024 Five-Year Financial Plan Amendment includes \$15,521,816 allocated to Protective Services in the 2024 Budget, and \$17,031,815 allocated to Protective Services in the 2025 Budget.

39. As none of the Woodfibre LNG Properties were classified as Major Industry for the 2024 taxation year, Woodfibre LNG did not pay property taxes at that rate. In total, Woodfibre LNG paid \$379,566.79 in property taxes with respect to the Woodfibre LNG Properties in 2024.

*iii. The 2025 Tax Rate Bylaw*

40. On October 29, 2024, the District held a special business meeting at which Council considered a draft 2025-2029 Five-Year Financial Plan and resolved to hold a budget open house.

41. District staff prepared a Report to Council dated October 29, 2024, discussing the draft financial plan. This report referred to the Capacity Funding Agreements, noting that Woodfibre LNG had agreed to provide special funding.

42. On December 10, 2024, District Council introduced the 2025-2029 Five-Year Financial Plan Bylaw No. 3137, 2024 (the “**2025 Five-Year Financial Plan**”).

43. On December 17, 2024, District Council adopted the 2025 Five-Year Financial Plan.

44. For the purposes of the 2025 property taxation year (the “**2025 Property Tax Year**”), BC Assessment classified certain of the Woodfibre LNG Properties, and no other properties in the District, as Major Industry (Port) and Major Industry for the first time.

45. On October 28, 2024, Woodfibre LNG’s Compliance Manager advised BC Assessment that construction of the LNG plant portion of the Project was 0.81% completed.

46. On February 18, 2025, Council held a special business meeting to consider the methodology to use in setting the 2025 mil rates and whether to increase the Class 4 tax revenue as a result of the reclassification of the Project Properties as Class 4.

47. District staff prepared a Report to Council for this meeting dated February 18, 2025 (the “**2025 Mill Rates Report**”). The report contains the following discussion on Woodfibre LNG:

Woodfibre LNG (WLNG)

At the April 16, 2024 Special Business Meeting, when District of Squamish 2024 Tax Rate Bylaw No. 3039, 2024 received first three readings, Council approved a Class 4 – MI tax rate of 125 in anticipation that sufficient construction for the WLNG plant would occur and trigger a reclass of folios to the Class 4 – MI tax class. In the 2025 Completed Roll,

the WLNG plant has four taxable folios (including class 4) with assessed values broken down as follows:

Property Class	W LNG Folios				Total
	5000042062000	5000042062300	9000052745000	5000042062400	
1 - Residential	-	-	8,400	2,677,000	2,685,400
2 - Utilities	926,000	-	-	-	926,000
4 - Major Ind	543,000	726,000	827,000	9,690,000	11,786,000
6 - Bus/Other	12,709,100	5,978,000	8,400	7,356,000	26,051,500
<b>TOTAL</b>	<b>14,178,100</b>	<b>6,704,000</b>	<b>843,800</b>	<b>19,723,000</b>	<b>41,448,900</b>

As noted above, the assessed [non-market change] due to the re-class of WLNG folios to the Class 4 – MI is \$11,786,000. Based on the 2024 approved mill rate of 125, taxation revenues from the WLNG class 4 will be approximately \$1.5M in 2025.

It is best practice that revenue associated with one business are not relied upon for ongoing operations, as this poses an increased risk of significant tax fluctuations to the other classes, should the business cease operations in the District. Rather, it is best practice that revenue from one business be held in reserve and utilized to fund one-time/temporary costs such as capital projects, special projects, temporary operational costs or offsetting existing debt.

During the 2024-2028 financial plan, Council endorsed adding four additional RCMP members to address community safety needs associated with the construction phase of the WLNG and Fortis Eagle Mountain Pipeline project to be funded by the additional taxation revenue received from WLNG Class 4 – MI. In the absence of WLNG Class 4 – MI revenue in 2024, the prorated 2024 RCMP member costs (\$400K) were funded by the protective services provision with the intent of replenishing the protective services provision in 2025. The 2025 budgeted amount for these four RCMP members is approximately \$1.05M. Therefore, the 2025 Class 4 -MI tax revenue is sufficient to cover the 2024 protective services provision loan and the additional RCMP members for 2025.

To note, it is expected that the WLNG project assessed value in Class 4 – MI revenue will continue to grow as the plan construction progresses. At this time, BC assessments cannot provide projections for the completed project and are still awaiting the final detail as-built drawings. In addition, given the size and complexity of this type of project, there are typically significant changes and multiple redesigns that occur throughout the construction timeline.

An amendment to the 2025-2029 financial plan is required to increase the tax revenue received from Class 4 – MI and transfer the revenue to reserve. This amendment is required so that the tax revenue requirement from operations is not impacted, the other tax classes are not impacted,

and the revenue earned from Class 4 – MI is moved to reserve (Protective Services Provision)...

48. At the February 18, 2025 Special Business Meeting, Council directed staff to amend the 2025 Five-Year Financial Plan in accordance with this report. In discussing the 2025 Tax Rate Bylaw, Council and staff commented as follows with respect to the increase to the Major Industry property tax rate as it relates to Woodfibre LNG:

- (a) With regards to the revenue from the 2025 Major Industry Rate being used to fund four additional RCMP officers, a District councillor commented that “the intent isn’t to have those RCMP members on for a short period of time”, and asked Staff “what is our intended plan for smoothing in that transition for those four members into our tax burden?” Staff replied:

So it’s part of the ’24 to ’28 financial plan as well as the ’25 to ’29 financial plan. It was intended to be temporarily funding those operations and smoothing in utilizing the WLNG taxation in year ’28 to ’29 to keep those members at that time. That was based on projections in 2024 on what the need of the community will be once the construction phase is over for the WLNG project.

- (b) A District councillor asked, and staff confirmed, whether:

we are consistent with our policy effectively using the taxation from Woodfibre, the property tax, to fund the four members, but recognizing that after construction we will need those members for general community protection and therefore it’s an operational expense. We are phasing in funding them from operational and the taxation that will have been funding them for the first four years or so, that will then start going into capital reserves at the end of four years; is that correct?

- (c) A District councillor commented on the increased revenue that would be generated from taxing Woodfibre LNG at the 2025 Major Industry Rate, stating:

I don’t know if exciting is the right word, but I do think it’s good that we are finally seeing some level of benefit from this project entering into our community. I think it has been a long time coming and a lot of expectation from our community that Woodfibre was going to generate some sort of revenue that we could at least see some benefit from, and so I think our community will be really excited to see that this is the first one-and-a-half

million dollars that is legitimately coming from taxation from this project into our budget.

- (d) A District councillor commented that:

I just want the community to know that we are working on it [generating revenue]. This is the first bit of being able to tax this project in a – in a reliable and consistent and fair way now that they have been appropriately re-classed by BC Assessment into the major industry component, and we are taxing them at a very high ratio of 125 which I believe is one of the highest in the province. And that's what's generating the \$1.5 million this year, and it is being used in order to phase in some much needed support for RCMP members in our community both to address the immediate needs that this project is likely going to develop and put strain on our RCMP members as well as to increase the amount of RCMP force in our community in order to address our growing population more broadly.

49. On April 22, 2025, council held a special business meeting to consider first, second, and third reading of:

- (a) District of Squamish 2025-2029 Five-Year Financial Plan Bylaw No. 3137, 2024 (Spring) Amendment Bylaw No. 3152, 2025 applicable to the 2025 through 2029 property taxation years (the **“2025 Five-Year Financial Plan Amendment”**); and
- (b) District of Squamish 2025 Property Tax Rates Bylaw No. 3135, 2025 applicable to the 2025 property taxation year.

50. The 2025 Tax Rate Bylaw contained the following rates at Schedule A:

**DISTRICT OF SQUAMISH**  
**BYLAW NO. 3151**

**SCHEDULE A**

Property Class Tax Rates per \$1,000 of Taxable Assessed Value.

Classification	Column A	Column B	Column C
	General Municipal	Squamish-Lillooet Regional District	Regional Hospital
01 Residential	2.5997	.1729	.0440
02 Utilities	40.0000	.6052	.1540
04 Major Industry (Port)	27.5000	.5879	.1496
04 Major Industry (Port Improvement)	22.5000	.5879	.1496
04 Major Industry	125.0000	.5879	1496
05 Light Industry	10 8071	.5879	1496
06 Business & Other	7 0254	.4236	.1078
07 Forests-Managed	23.1431	.5187	.1320
08 Recreation & Non Profit	2.7718	.1729	.0440
09 Farm	2.6369	.1729	.0440

51. District staff prepared Reports to Council in respect of both the 2025 Five-Year Financial Plan Amendment and the 2025 Tax Rate Bylaw. The Staff Report on the 2025 Five-Year Financial Plan Amendment again noted the reclassification of the Woodfibre LNG Properties to Major Industry and the resultant anticipated tax revenue of \$1.5 million.

52. At the April 22, 2025 Special Business Meeting, in discussing the 2025 Tax Rate Bylaw, Council and staff commented as follows with respect to the increase to the Major Industry property tax rate and Woodfibre LNG:

- (a) Staff commented that the recommended amendments to the District's operating budget "includes increased tax revenue of 1.5 million from Class 4 Major Industry, or WLNG".
- (b) A District councillor asked how the District will "manage a WLNG tax going forward". Staff replied:

Certainly we had the discussion – preliminary discussion at the February 18<sup>th</sup> meeting just to have the discussion around the not having WLNG pay for operations because it creates a dependency on the operations and that could be problematic should an industry

ever not exist and then now the – the community is there to hold – hold that base. We will certainly at the end of the – the couple of years that the – that is to be funding back the provision, we will absolutely bring that back and – and council can make the decision on where that should go.

53. At the conclusion of this meeting, Council granted first, second and third reading to both the 2025 Five-Year Financial Plan Amendment and the 2025 Tax Rate Bylaw.

54. On May 6, 2025, Council adopted the 2025 Five-Year Financial Plan Amendment and the 2025 Tax Rate Bylaw at its regular council meeting

55. The total property taxes Woodfibre LNG is required to pay to the District in 2025 for all of its Properties is \$1,855,182.53, attributable mostly to its Major Industry Properties.

#### **D. Efforts to Negotiate a Tax Agreement**

56. Since in or around 2015, Woodfibre LNG and the District have engaged in negotiations towards a long-term tax agreement.

57. The parties have made multiple efforts to reach a long-term tax agreement but have been unsuccessful in doing so. There has remained throughout these discussions, among other issues, a substantial gap between what the District has been requesting and what is fair market value.

58. The parties have recently renewed discussions related to a long-term tax agreement. Woodfibre LNG remains committed to advancing such negotiations in an effort to reach a tax agreement.

#### **E. Status of Project Construction**

59. As noted, the Project is expected to be operational in 2027. While BC Assessment has now classified certain of the non-port related Woodfibre LNG Properties as Major Industry and the port-related Properties as Major Industry (Port) based on the state of construction at the relevant assessment dates, the Project improvements are not complete, and the Project is generating no revenue. As of October 28, 2024, the improvements at the LNG plant were only 0.81% complete. As of May 2025, the Project's Marine Offloading Facility is complete. Current

construction includes work on foundations for the LNG processing equipment and modules that have started to arrive on site.

#### **F. Impact of the 2025 Major Industry Rate on Woodfibre LNG**

60. The property taxes the Project faces for 2025 and future property taxes imposed under Major Industry tax rates as high as the 2025 Major Industry Rate will adversely impact the Project while it remains under construction and is not generating any revenue. They also have a high potential to lead to a reduction in the long-term profitability of the Project over its lifetime and affect the Project's viability once it enters into the operations phase. So long as the Project faces inordinately high property taxes as a sustained cost for a longer period of time than would normally be the case, the expected net income and profits will be reduced.

### **Part 3:LEGAL BASIS**

#### **A. Municipal Property Tax Scheme**

61. Municipalities other than the City of Vancouver must collect property taxes for municipal purposes in accordance with an annual taxation scheme set out in various provisions of the *Assessment Act*, *Community Charter*, S.B.C. 2003, c. 26, and *Local Government Act*, R.S.B.C. 2015, c. 1. Municipal property tax revenue is established by applying tax rates adopted by municipalities to properties within the municipality based on the value, class and exemptions applicable to each property as determined by BC Assessment.

62. Concurrently with collecting property taxes for municipal purposes, municipalities must collect taxes on behalf of other local governments or public bodies with taxing authority on properties in the municipality, to be remitted to those third parties. As with municipal tax revenue, such third property tax revenue is established by the municipality adopting and applying separate rates on behalf of each third-party taxing authority to the properties in the municipality based on their value, class and exemptions.

##### ***i. Assessment Act Scheme Generally***

63. Under s. 18 of the *Assessment Act*, BC Assessment must determine the actual value of each property in a municipality on the Assessment Roll as at July 1 of each year. This

valuation is based on the physical condition that the property is in and its permitted uses on October 31 of that year.

64. Under s. 19, BC Assessment must determine the actual value of land and improvements in a municipality and must enter that value in the Assessment Roll. Subsection (3) prescribes the considerations that BC Assessment may take into account when determining value, while subsection (4) confirms that an industrial undertaking must be valued as the property of a going concern.

65. Under s. 3, BC Assessment must complete a new Assessment Role and deliver Notices of Assessment to each person named in the roll by December 31 of each year, identifying both the assessed valuation and classification of each property, for purposes of taxation during the following calendar year.

66. BC Assessment determines the classification of each property for the purpose of municipal setting of property tax rates in accordance with the *Prescribed Classes of Property Regulation*, which prescribes 9 different classes:

- (a) Class 1 – Residential
- (b) Class 2 – Utilities
- (c) Class 3 – Supportive Housing
- (d) Class 4 – Major Industry
- (e) Class 5 – Light Industry
- (f) Class 6 – Business
- (g) Class 7 – Managed Forest
- (h) Class 8 – Recreational Property / Non-Profit Organization
- (i) Class 9 - Farm

**ii. *Taxation of Major Industry under the Assessment Act***

67. Major Industry applies to land and improvements used in conjunction with the operation of industrial improvements as set out in s. 20(3) of the *Assessment Act*.

68. Section 20(1) defines “*industrial improvement*” as “an improvement that is part of a plant, whether or not the plant can be operated as a going concern or is temporarily or permanently unprofitable, if the plant is designed and built for the purpose of one or more” prescribed uses.

### I. Assessment of Existing Major Industry Plant

69. Section 20(1) defines “*cost of industrial improvement*” to mean the cost of replacing the existing industrial improvement with an improvement that has the same area and volume as the existing improvement, serves the same function as the existing industrial improvement was designed for or, if the existing industrial improvement is no longer used for that function, serves the same function that the existing industrial improvement now serves, and is constructed using current, generally accepted construction techniques and materials for the type of improvement being constructed.

70. Sections 20(3) and 20(4) of the *Assessment Act* require that land used in conjunction with the operation of industrial improvements be valued at actual (market) value determined in accordance with section 19 or section 20.3.

71. Sections 20(3), 20(4) and 20(5) of the *Assessment Act* require that industrial improvements be valued at their cost less depreciation based on prescribed costing manuals (Major Industrial Properties Manuals, or MIPS) establishing rates, formulas, rules or principles for the calculation of the cost of replacing an existing industrial improvements, and depreciated at rates prescribed by the *Depreciation of Industrial and Electrical Power Generating Facility Improvements Regulation*, B.C. Reg. 53/2016 (the “***Depreciation Regulation***”).

### II. Assessment of Partially Constructed Major Industry Plant

72. The definitions of “*industrial improvement*” and “*cost of industrial improvement*” in s. 20(1) of the *Assessment Act* and the definitions of “*chronological age*” and “*effective age*” in s. 1 of the *Depreciation Regulation* operate to limit the assessment of a plant that is under construction and not yet operational to the cost of any partly or fully built industrial improvements as they exist at October 31 of the year prior to the assessment and taxation year, and do not allow assessment as though the plant is notionally complete and operational.

### III. Closure Allowance

73. Section 9 of the *Depreciation Regulation* requires that industrial improvements that are part of a major industrial plant that is permanently closed be depreciated to 10% of the cost of the improvements.

*iii. Community Charter and Local Government Act*

74. Under s. 165 of the *Community Charter*, municipalities must establish a financial plan each year concerning their anticipated annual municipal financial requirements, adopted annually by bylaw, before the adopting an annual tax rate bylaw. Subsection (3) provides that the planning period for a financial plan is five years, being the year the financial plan comes into force and the following four years.

75. After adopting a five-year financial plan, municipalities must then impose property value taxes by May 15 of each year for municipal purposes and for third parties in accordance with s. 197(1) and (2) of the *Community Charter*, as follows:

- 197** (1) Each year, after adoption of the financial plan but before May 15, a council must, by bylaw, impose property value taxes for the year by establishing tax rates for
- (a) the municipal revenue proposed to be raised for the year from property value taxes, as provided in the financial plan, and
  - (b) the amounts to be collected for the year by means of rates established by the municipality to meet its taxing obligations in relation to another local government or other public body.
- (2) Unless otherwise permitted by this or another Act, a property value tax under subsection (1) must be imposed
- (a) on all land and improvements in the municipality, other than land and improvements that are exempt under this or another Act in relation to the tax, and
  - (b) on the basis of the assessed value of the land and improvements.

76. Section 197 governs the manner in which municipalities may establish rates for each property class:

- (3) For the purposes of subsection (1) (a), the bylaw may establish for each property class
- (a) a single rate for all revenue to be raised, or
  - (b) separate rates for revenue to be raised for different purposes but, in this case, the relationships between the different property class rates must be the same for all purposes.
- (3.1) In relation to tax rates established for the purposes of subsection (1) (a), before adopting the bylaw, the council must consider the tax rates

proposed for each property class in conjunction with the objectives and policies set out under section 165 (3.1) (b) [*property value tax distribution*] in its financial plan.

77. Section 199 of the *Community Charter* enables the Lieutenant Governor in Council to prescribe limits on tax rates and relationships between tax rates for each class, among other things. For property taxes imposed under s. 197(1)(b) of the *Community Charter*, s. 4 of the *Municipal Tax Regulation*, B.C. Reg. 426/2003 prescribes set ratios as between the various classes and Class 1 – Residential. This is different from the historic taxing regime under the former *Municipal Act*, which had regulated the relationship between Residential and Major Industry in all respects.

*Catalyst Paper Corporation v. North Cowichan (District)* (“*Catalyst SCC*”) at para. 26.

#### **B. Woodfibre LNG’s Standing**

78. As the registered owner of the Woodfibre LNG Properties, and the sole constituent in the District classified as Major Industry, Woodfibre LNG is a person interested in the 2025 Tax Rate Bylaw. As such, it has standing to challenge the 2025 Tax Rate Bylaw under both s. 623 of the *Local Government Act* and s. 2 of the *Judicial Review Procedure Act*.

*Benoit v. Strathcona (Regional District)*, 2019 BCSC 362 at para. 26.

#### **C. Standard of Review**

79. The standard of review under both s. 2 of the *Judicial Review Procedure Act* and s. 623 of the *Local Government Act* with respect to the substantive validity or legality of the 2025 Tax Rate Bylaw is reasonableness.

*1193652 B.C. Ltd. v. New Westminster (City)*, 2021 BCCA 176 (“*New Westminster*”) at paras. 56, 59-60;  
*Hammer Head Equities Inc. v. Rossland (City)*, 2023 BCSC 72 (“*Hammer Head*”) at paras. 161-162;  
*Pourabanec v. Kelowna (City)*, 2023 BCSC 1294 (“*Pourabanec*”) at para. 30;  
*O’Shea / Oceanmount Community Association v. Town of Gibsons*, 2020 BCSC 698 at para. 67.

80. A “reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision

maker”, including the evidence that was before the decision maker, the submissions of the parties, principles of statutory interpretation, and the impact of the decision on affected parties.

*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (“*Vavilov*”) at paras. 85, 105-106.

81. Where a municipal council relies on staff’s advice in adopting a resolution without releasing its own reasons justifying the resolution, reasonableness review must assess both the ultimate conclusion expressed in the resolution and the record, including staff’s reasoning process.

*Pourabanec* at para 38;  
*New Westminster* at para 61.

82. On questions of a municipality’s statutory authority, council cannot reasonably interpret its enabling legislation in a manner that enlarges its powers beyond what the Legislature intended. As a result, there may be only one reasonable interpretation.

*Vavilov* at paras. 68, 110;  
*New Westminster* at paras. 50, 58, 60.

83. Questions of bad faith in municipal decision making are not reviewed on a standard of reasonableness. As this Court has confirmed, municipalities owe a duty of good faith to those affected by their decisions. If a municipality has acted in bad faith, its resolution is subject to being set aside as void.

*Hammer Head* at paras. 168-175; 216.  
*Beedie (Keefer Street) Holdings Ltd. v. Vancouver City*, 2021 BCCA 160 (“*Beedie CA*”) at paras. 3, 83.

84. The BC Court of Appeal has described bad faith involving local governments as follows:

[153] The words bad faith have been used in municipal and administrative case law to cover a wide range of conduct in the exercise of legislatively delegated authority. Bad faith has been held to include dishonesty, fraud, bias, conflict of interest, discrimination, abuse of power, corruption, oppression, unfairness, and conduct that is unreasonable. The words have also been held to include conduct based on an improper motive, or undertaken for an improper, indirect or ulterior purpose. In all these senses, bad faith describes the exercise of delegated authority that is

illegal, and renders the consequential act void. And in all these senses bad faith must be proven by evidence of illegal conduct, adequate to support the finding of fact.

*MacMillan Boedel Limited v. Galiano Island Trust Committee*, 1995  
CanLII 4585 (B.C.C.A.) (“*MacMillan*”).

85. The standard of review of questions of procedural fairness is correctness, sometimes described simply as fairness. A reviewing court owes no deference to administrative decision-makers, including municipalities, where their decisions do not comply with the duty of fairness.

*Beedie CA* at paras. 3, 83;  
*R.N.L. Investments Ltd. v. British Columbia (Agricultural Land Commission)*, 2021  
BCCA 67 at para. 57.

**E. The 2025 Tax Rate Bylaw is Illegal, Unreasonable, and/or Adopted in Bad Faith**

86. For the following reasons, the 2025 Major Industry Rate, and therefore the 2025 Tax Rate Bylaw, is not justified in relation to the facts and law that constrained the District in adopting it. In particular, the 2025 Major Industry Rate is directly contrary to provisions of the *Community Charter* and *Assessment Act* and is both illegal and unreasonable.

*i. The 2025 Major Industry Rate Violates s. 197(3) of the Community Charter*

87. Under s. 197(3) of the *Community Charter*, the relationship between different property classes must be the same for all municipal or third-party purposes, unless an exception applies. As to municipal property taxes, the District can achieve this by either setting a single rate for each property class for all District purposes (under s. 197(3)(a)), or setting different rates for different municipal purposes while keeping the relationship between the classes the same for all purposes (under s. 197(3)(b)). As this Court has explained, s. 197(3)(b) therefore requires that the ratio between Major Industry and Residential be the same across all purposes.

*Catalyst Paper Corp. v. Campbell River (City)*, 2011 BCSC 38 at paras. 56-57.

88. This is true regardless of the level of municipal services that a taxpayer uses (or does not use). As the Supreme Court of Canada explained in *Catalyst SCC*:

[27] Nor does the *Community Charter* support the contention that property value taxes ought to be limited by the level of service

consumed. Section 197 authorizes the imposition of a tax, not a fee. The distinguishing feature between the two is that a tax need bear no relationship to the costs of the service being provided, while the opposite is true for a fee. The ratio of service consumption to the different property classes will differ depending on the service. In light of this, a requirement that municipalities impose property value taxes having in mind the level of services consumed would prevent municipalities from ever exercising their authority under s. 197(3)(b).

89. Here, the District has purported to adopt a single tax rate for each property class for all “general municipal” purposes, under s. 197(3)(a). Despite this, the District in fact set the 2025 Major Industry Rate at a level required to fund 100% of the additional policing cost of four additional RCMP officers hired in 2024 to provide security for both the Project and the Fortis Pipeline Eagle Mountain Project (the “**RCMP Cost**”). This is clear from:

- (a) The 2024 Five-Year Financial Plan budgeted for “protective services” under “Municipal – General Purposes”; and
- (b) The 2025 Mill Rates Report stated as follows with respect to the RCMP Cost and Major Industry:

During the 2024-2028 financial plan, Council endorsed adding four additional RCMP members to address community safety needs associated with the construction phase of the WLNG and Fortis Eagle Mountain Pipeline project to be funded by the additional taxation revenue received from WLNG Class 4 – MI. In the absence of WLNG Class 4 – MI revenue in 2024, the prorated 2024 RCMP member costs (\$400K) were funded by the protective services provision with the intent of replenishing the protective services provision in 2025. The 2025 budgeted amount for these four RCMP members is approximately \$1.05M. Therefore, the 2025 Class 4 -MI tax revenue is sufficient to cover the 2024 protective services provision loan and the additional RCMP members for 2025.

...

An amendment to the 2025-2029 financial plan is required to increase the tax revenue received from Class 4 – MI and transfer the revenue to reserve. This amendment is required so that the tax revenue requirement from operations is not impacted, the other tax classes are not impacted, and the revenue earned by Class 4 – MI is moved to reserve (Protective Services Provision). Staff are seeking

Council endorsement to incorporate the amendment into the 2025-2029 Financial Plan Spring Amendment.

[Emphasis added.]

90. Thus, the District specifically allocated 100% of the 2025 \$1.05 million RCMP Cost exclusively to the 2025 Major Industry Rate (which is applicable only to Woodfibre LNG as the only taxpayer in Major Industry) and 0% of this municipal policing cost to any other Class. No provision of the *Community Charter, Local Government Act*, or other legislation permits the District to allocate the entirety of any municipal cost including this cost to a single class, let alone a single taxpayer. By building this cost into the 2025 Major Industry Rate, the District in effect impermissibly set a ratio of 100:0 between Major Industry and Residential for this purpose, while purporting to set a different ratio of 54.54:1 between Major Industry and Residential for all other general municipal purposes.

91. To appropriately allocate the burden of the RCMP Cost across all classes in accordance with section 197, the District could have included the RCMP Cost in the general municipal purpose cost used to derive the corresponding tax rates and ratios between classes.

92. Alternatively the District could have separated the RCMP Cost from other municipal purpose costs and set tax rates for each category of municipal cost, so long as the ratios between rates for each class remained consistent.

93. The District did neither. Instead by allocating this Cost exclusively to Woodfibre LNG as the sole member of Major Industry instead of to all classes, the District:

- (a) Established an illegal Major Industry Rate;
- (b) Established illegal ratios between rates in all Classes;
- (c) Discriminated between Major Industry and other classes; and
- (d) Imposed an illegal service fee on Major Industry in place of a legal tax rate, contrary to s. 197(3) and *Catalyst SCC*.

94. As a result, the 2025 Major Industry Rate is both illegal and unreasonable.

**ii. *The 2025 Major Industry Rate Violates s. 197(1) of the Community Charter***

95. Section 197(1) of the *Community Charter* requires that a municipality establish tax rates based on the municipal revenue requirements, as provided in its financial plan, and the amounts necessary for the municipality to meet its taxing obligations to another local government or public body. Section 165(3) mandates a five-year planning period for a municipality’s financial plan. As a result, the District was required to set the 2025 Major Industry Rate based on the amounts necessary to meet its revenue requirements set out in the 2025n Five-Year Financial Plan.

96. The District did not do so. Instead, the District improperly set the 2025 Major Industry Rate based on a 10-year revenue target, rather than the revenue requirements set out in the 2025 Five-Year Financial Plan. This is contrary to the *Community Charter* scheme that requires planning and tax decisions to cover a five-year period. As a result, the 2025 Major Industry Rate is both illegal and unreasonable.

**iii. *The 2025 Major Industry Rate is an Illegal, Unreasonable, and Bad Faith Attempt to Coerce Woodfibre LNG into Signing a Tax Agreement***

97. In addition to impermissibly allocating 100% of the RCMP Cost to Woodfibre LNG and setting the 2025 Major Industry Rate based on a 10-year plan, the District also intentionally set the 2024 Major Industry Rate – carried forward into the 2025 Major Industry Rate – at a pejorative rate in order to coerce Woodfibre LNG into entering a tax agreement with the District. This is illegal, unreasonable, and clearly contrary to the District’s duty of good faith.

98. As noted, prior to 2024, Woodfibre LNG and the District had engaged in ongoing negotiations about a long-term tax agreement. On April 16, 2024, when District Council considered the 2024 Five-Year Financial Plan Amendment and the 2024 Tax Rate Bylaw, Council considered the following motion during the *in-camera* portion of that meeting with respect to the “WLNG Tax Rate” (i.e., Major Industry):

(ii) **WLNG Tax Rate**

THAT The District of Squamish endorse the *District of Squamish Readiness Strategy – WLNG / EMGP*, including:

- Capacity agreements executed by the CAO with WLNG and FortisBC to meet the resourcing needs of the District during construction phases.
- Deadline to conclude a revitalization tax exemption bylaw (“Tax Agreement”) by January 31, 2024 or increase Class 4 Major Industry tax rate in the 2024 tax rate bylaw.

99. The 2024 Tax Rate Report in respect of the 2024 Tax Rate Bylaw similarly stated as follows:

Class 4 – Major Industry

Elements of the District of Squamish Readiness Strategy – Woodfibre LNG (WLNG)/Eagle Mountain Gas Pipeline (EMGP) (“Readiness Strategy”) – were released to the public as part of the April 16, 2024 Regular Council Agenda (Council – Staff In Camera Announcements) including the deadline to conclude a revitalization tax exemption bylaw (“Tax Agreement”) with WLNG by January 31, 2024, or increase Class 4 – Major Industry tax rate. District staff have attempted to work collaboratively with WLNG since 2015 to secure a ten year Tax Agreement that ensures certainty for the proponent, the District, and the community during plant construction, and subsequent years of operations. To date, no substantive progress on a Tax Agreement has occurred. Aligned with the Readiness Strategy, the recommendation is to increase the Class 4 Major Industry tax rate to 125 to achieve adequate taxation from WLNG once the plant is classified to Class 4 – Major Industry.

[Emphasis added.]

100. During the public portion of the April 16, 2024 meeting, a District councillor likewise specifically directly linked the increase to the Major Industry tax rate to the lack of a tax agreement with Woodfibre LNG, stating:

With respect to increasing the major industry tax rate, I think it’s important for our community to note within this report our ongoing efforts to try and sit at the table with Woodfibre LNG to come to a 10-year tax agreement or negotiated settlement there, and that has not occurred to date. And so this is kind of the opportunity that we have to ensure that the project, when it does get reclassified to major industry, is paying its fair share of our tax burden. And so this is the option that we have is to increase the tax rate where that, uh, project will eventually sit, and I think that that is a fair approach here going forward.

101. Thus, one of the District's express purposes in increasing the Major Industry Rate was to punish Woodfibre LNG for not having concluded a tax agreement with the District. This is highly problematic for several reasons:

- (a) The purpose of a partnering or revitalization tax agreement is to benefit the taxpayer, not the municipality. This is clear from ss. 225 and 226 of the *Community Charter* which establish the District's statutory authority to confer a discretionary partnering or revitalization tax exemption on the Project for the Project's benefit, as an exception to the general prohibition under s.25 of the *Community Charter* against the District assisting a business through among other things, a tax exemption. For the District to adopt an unreasonably high tax rate as retribution for a taxpayer not signing a tax agreement intended to benefit the taxpayer is directly contrary to the Legislature's purpose in providing for such tax agreements.
- (b) The District's decision to impose a significantly higher tax rate on Major Industry to force Woodfibre LNG to conclude a tax agreement in the following year is inappropriately coercive, demonstrating a clearly improper purpose and a violation of the District's duty of good faith owed to Woodfibre LNG.
- (c) No provision of the *Community Charter* provides for a deadline of January 31 to conclude revitalization tax agreements. The pertinent deadline under s.225(7)(d) for partnering exemptions and under s.226(12) for revitalization exemptions is October 31 for the tax agreement to be effective the following year. The District appears to have imposed an arbitrary deadline in its in-camera "Readiness Strategy" for the parties to complete negotiations regarding a long-term tax exemption agreement that would have significant consequence to both parties. The District had no power to do so, let alone to use the passing of that deadline as a basis to punish Woodfibre LNG for not concluding the tax agreement to justify increasing the Major Industry tax rates.

102. By increasing the Major Industry Rate in an attempt to obtain a tax agreement, the District has acted similarly to the City of Campbell River when it increased the rate applicable to

managed forest land in an attempt to coerce a taxpayer to withdraw its land from private managed forest land. This Court held that this was in effect an attempt to regulate land use through coercive property taxation instead of through appropriate statutory land use provisions, and an improper purpose. In particular, the Court found that s. 197 of the *Community Charter* does not empower municipalities to effect changes in land use through property tax bylaws, noting that the power to regulate land use is found in other sections of the *Local Government Act*. The Court stated:

[63] For the following reasons, I have determined that the portions of the bylaws increasing TimberWest's property taxes are *ultra vires* because they are in conflict with provincial statutes that encourage a managed forest scheme, and were enacted for an improper purpose. It is apparent from a review of the evidence that the City raised TimberWest's property taxes for its private managed forest lands in an attempt to cause TimberWest to withdraw at least a portion of its lands from the managed forest land class and to convert them to a use desired by the City. In effect, the City was using taxation to effect a zoning objective, and thereby contravening s. 21 of the *Private Managed Forest Land Act*.

...

[98] Although s. 197 of the *Community Charter* empowers the City to use property tax bylaws to raise revenue, it does not expressly confer the power to effect changes in land use, nor can such power be necessarily or fairly implied since such powers are conferred elsewhere under the planning and land use provisions of the *Local Government Act*, R.S.B.C. 1996, c. 323.

[99] Even if taxation powers might be construed to confer a power to regulate, the power to regulate does not give a power to pass a bylaw which has the effect of restricting a forest management activity in contravention of s. 21 of the *Private Managed Forest Land Act*.

[100] In my view the attempt by the City to force TimberWest to remove land from its managed forest lands by passing taxing bylaws which make it uneconomical for TimberWest to manage its forest lands in accordance with the provisions of the *Private Managed Forest Land Act* is not a proper purpose, and the portions of the bylaw relating to raising taxes on TimberWest's managed forest lands are *ultra vires* the powers of the City.

*TimberWest Forest Corp. v. Campbell River (City)*, 2009 BCSC 1804 ("*TimberWest*").

103. Section 197 of the *Community Charter* similarly does not empower municipalities to use pejorative tax rates to coerce taxpayers into negotiating and concluding tax exemption agreements, an equivalently improper purpose.

*iv. The 2025 Major Industry Rate violates Sections 89 and 90 of the Community Charter*

104. Sections 89 and 90 of the *Community Charter* require that all municipal meetings, with some exceptions that do not apply here, be open to the public:

**89** (1) A meeting of a council must be open to the public, except as provided in this Division.

(2) A council must not vote on the reading or adoption of a bylaw when its meeting is closed to the public.

**90** (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

(a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;

(b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;

(c) labour relations or other employee relations;

(d) the security of the property of the municipality;

(e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;

(f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;

(g) litigation or potential litigation affecting the municipality;

(h) an administrative tribunal hearing or potential administrative tribunal hearing affecting the municipality, other than a hearing to be conducted by the council or a delegate of council;

- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*;
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public;
- (l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [*annual municipal report*];
- (m) a matter that, under another enactment, is such that the public may be excluded from the meeting;
- (n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);
- (o) the consideration of whether the authority under section 91 [*other persons attending closed meetings*] should be exercised in relation to a council meeting.

See also: *Timberwest* at para. 50.

105. The District's *Procedure Bylaw (3032)* expressly requires compliance with s. 90 of the *Community Charter* in relation to closed meetings:

- 7.1 Council meetings and Advisory Body meetings shall be open to the public, except where a motion is passed to close the meeting to the public in accordance with the *Community Charter*.
- 7.2 This section applies to all Council meetings and Advisory Body meetings as well as meetings of any other bodies referred to in the *Community Charter*.
- 7.3 Before closing a Council meeting or part of a Council meeting to the public, the requirements of Section 90 of the *Community Charter* must be met.

106. When a municipal government improperly acts with secrecy, this undermines the democratic legitimacy of a municipality's decision, and such decisions, even when *intra vires*, are less worthy of deference. Even if a municipality subsequently discloses the resolutions reached at closed meetings, this does not cure the fact that the requirement for an open meeting was not met.

*London (City) v. RSJ Holdings Inc.*, 2007 SCC 29 at para 38;  
*TimberWest* at paras 51, 61.

107. The requirement of transparency is further enhanced by those provisions of the *Community Charter* which require that the meetings relevant to s. 197 decision-making be open to the public and which ensure that the material which was before Council is also available to the public.

*Catalyst Paper Corp. v. Port Alberni (City)* 2009 BCSC 1751 at para 37.

108. Council discussed the Readiness Strategy entirely at a closed meeting on April 16, 2024. Council failed to publicly disclose the contents of the Readiness Strategy, other than that the Readiness Strategy included "Capacity agreements executed by the CAO with WLNG and FortisBC to meet the resourcing needs of the District during construction phases", and a "Deadline to conclude a revitalization tax exemption bylaw... by January 31, 2024 or increase Class 4 Major Industry tax rate in the 2024 tax rate bylaw". Council then debated the 2024 and 2025 Major Industry Rate at public meetings in 2024 and 2025, without debating or disclosing the true purpose of the 2024 and 2025 Major Industry Rate. Instead, at these meetings, Council debated the 2024 and 2025 Major Industry Rate based on matters entirely unrelated to the true purpose of the 2024 and 2025 Major Industry Rate.

109. In its 2024 Tax Rate Report, the District admits that a primary goal of the Readiness Strategy is to secure a ten-year Tax Agreement, and that as "no substantive progress on a Tax Agreement has occurred", the recommendation is to increase the Major Industry Rate "to achieve adequate taxation from WLNG". As a result, Council has improperly misled the public as to the true purpose behind adopting the 2024 and 2025 Major Industry Rate and Council adopted the 2024 and 2025 Major Industry Rate based on a secret, undisclosed 10-year revenue tax-agreement-driven goal, rather than the purposes stated in public meetings.

110. The content of the Readiness Strategy does not fall under any of the categories of topics which a municipality may discuss at a closed meeting, under s. 90 of the *Community Charter*. As a result, the District was required under both the *Community Charter* and its own *Procedure Bylaw* to discuss the full contents of the Readiness Strategy and its impact on the purpose of the 2025 Major Industry Rate at an open meeting, pursuant to s. 89 of the *Community Charter*, including identifying the District's true, albeit illegal, purpose in setting the 2025 Major Industry Rate as based on a 10-year revenue target that could have only been achieved through a tax agreement.

111. By failing to disclose the full contents of the Readiness Strategy as to the true purpose behind the 2025 Major Industry Rate at an open meeting, the District has improperly acted with secrecy. Its decision to implement the 2025 Tax Rate Bylaw should be afforded less deference as a result.

*v. The 2025 Major Industry Rate Violates Principles of Procedural Fairness.*

112. The approval of municipal bylaws must comply with the requirements of procedural fairness at common law.

*Catalyst SCC* at para 12.

113. Among other requirements, fairness requires the disclosure of such information and material as is necessary for the persons affected to have a context for their input, allowing their representations to be directed to the real issues under active consideration. In the municipal bylaw context, fairness requires sufficient notice so that members of the public will have a reasonable opportunity to absorb the information in sufficient time to prepare reasoned submissions. Fairness requires more than a hurried opportunity to express approval or disapproval of the proposed bylaw.

*Queen Elizabeth Annex (QEA) Parents' Society v. Vancouver School District No. 39*,  
2023 BCSC 2123 at para 23;  
*Pitt Polder Preservation Society v. Pitt Meadows (District)*, 2000 BCCA 415 at para 63.

114. Woodfibre LNG is the sole taxpayer classified as Major Industry, and is thus the sole taxpayer affected by the 2025 Major Industry Rate. As a result of the increase in rate, Woodfibre LNG is required to pay general municipal property taxes at a rate of 125 mil. As a

result, the 2025 Tax Rate Bylaw is likely to have significant, unique, and specific impacts on the interests of Woodfibre LNG and as such, Council's adoption of the 2025 Tax Rate Bylaw attracted a significant degree of procedural fairness.

*Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2. S.C.R. 817.

115. The Duty of procedural fairness required, at minimum, that Council:
- (a) Transparently explain the true rationale for setting the 2025 Major Industry Rate at an open meeting, rather than only in-camera;
  - (b) Specifically, disclose at an open meeting the contents of the Readiness Strategy and that the rationale for setting the 2025 Major Industry Rate was to generate the same revenue that otherwise would have been sought in a Tax Agreement: \$275 million over a period of ten years;
  - (c) Provide Woodfibre LNG with the opportunity to ask questions about the 2025 Tax Rate Bylaw and the purpose of the 2025 Major Industry Rate at an open meeting; and
  - (d) Provide Woodfibre LNG with an opportunity to make informed submissions about the 2025 Tax Rate Bylaw and the purpose of the 2025 Major Industry Rate, including in respect of its impact on the Petitioners' interests.
116. Council did none of these things and breached its duty of fairness as a result. This renders the 2025 Tax Rate Bylaw invalid.

**vi. *The 2025 Major Industry Rate is an Illegal and Unreasonable Attempt to Tax the Project as Though Fully Constructed***

117. Municipal property tax is the product of a tax rate and the taxable assessed value in the appropriate property class (by BC Assessment), less exemptions.

118. Taxable property value of a Major Industry plant, such as the Project, is the sum of the market value of the land and the prescribed cost, less depreciation, of the industrial improvements *existing at October 31 in the year before the assessment and taxation year*. A partially completed Major Industry plant, such as the LNG plant comprising the Project in the

2025 taxation year, is intended to be assessed and taxed not based on its cost and value once complete and operational, but at its cost and value as it actually exists at the assessment date. If the plant is permanently closed, the taxable value is depreciated to 90%.

119. On October 28, 2024 Woodfibre LNG's Compliance Manager advised BC Assessment that that the Plant was only 0.81% complete. The scheme of assessment and taxation of the Project contemplated that the Project would be taxed at a level commensurate with its 0.81% state of completion, as a non-operating plant.

120. Contrary to this scheme it is apparent that the District instead purported to tax the Project as though substantially if not entirely complete and operational by increasing the applicable Major Industry tax rate to offset the very low % completion of the Project.

121. In the 2025 Mill Rates Report, Staff discussed (i) the fact that the Project was not fully operational yet and that the timeline for completion was unknown, and (ii) the excessively high 2025 Major Industry Rate:

As noted above, the assessed [non-market change] due to the re-class of WLNG folios to the Class 4 – MI is \$11,786,000. Based on the 2024 approved mill rate of 125, taxation revenues from the WLNG class 4 will be approximately \$1.5M in 2025.

...

It is best practice that revenues associated with one business are not relied upon for ongoing operations, as this poses an increased risk of significant tax fluctuations to the other classes, should that business cease operations in the District. Rather, it is best practice that revenue from one business be held in reserve and utilized to fund one-time/temporary costs such as capital projects, special projects, temporary operational costs or offsetting existing debt.

...

To note, it is expected that the WLNG project assessed value in Class 4 – MI revenue will continue to grow as the plant construction progresses. At this time, BC assessments cannot provide projections for the completed project and are still awaiting the final details as-built drawings. In addition, given the size and complexity of this type of project, there are typically significant changes and multiple redesigns that occur throughout the construction timeline.

122. Thus, it is apparent that the District set the 2025 Major Industry Rate at a level intended to capture far more taxes from Woodfibre LNG during the construction (non-operational) phase of the Project than is intended by the legislative scheme of assessment and taxation. The District's imposition of this tax rate is a premature, illegal and unreasonable attempt by the District to tax the Project as though close to if not complete and operational before this was the case.

123. This, too, is similar to the City of Campbell River's improper conduct in *TimberWest*, which this Court found had the effect of restricting a managed forest activity, contrary to the *Private Managed Forest Land Act*.

*TimberWest* at paras 62-63, 99-100.

**vii. The 2025 Major Industry Rate is Unreasonable on its Face**

124. The 2025 Major Industry Rate is one of, if not, the highest rates imposed on major industry in the Province. As set out in the 2024 Five-Year Financial Plan Report, at the point when the District first established the anticipatory Major Industry Rate of 125 mils (to expressly extract pejorative property tax from Woodfibre LNG), the BC average for Major Industry was just 28.9673.

125. While municipalities are clearly allowed to set different tax rates for different property taxes (as s. 197(3) of the *Community Charter* and *Catalyst SCC* confirm) to achieve their reasonable political and administrative objectives of distributing property taxes between classes they do not have *carte blanche* in doing so. This Court can and should intervene where a municipality adopts a rate that no reasonable body informed by legitimate factors could have adopted.

*Catalyst SCC* at para. 24.

126. In particular, a taxation bylaw will be unreasonable where it "has stopped making sense as a form of the tax it purports to be." The Alberta Court of Queen's Bench summarized this as follows in *Elizabeth Metis*:

[97] In summary, the jurisprudence describes a standard of review whereby the impugned decision must be shown to transcend the spectrum of reasonable policy options available in view of the legitimate legislative

purpose in play. The decision must be so out of range vis-à-vis the power the municipality was purporting to exercise that it is only understandable as an attempt to achieve an improper purpose, an act of raw irrationality, or a bad faith taking. The standard is not so much one of examining the reasonableness of the taxing authority's policy choice, but asking whether the delegated legislator has remained within the object of the enabling statute: *Katz Group Canada Inc v Ontario (Health and Long-Term Care)*, 2013 SCC.64 at para 24. This is as deferential a standard as exists in judicial review.

*Canadian Natural Resources Limited v. Elizabeth Metis Settlement*, 2020 ABQB 210 (“*Elizabeth Metis*”) at paras. 93, 97.

127. The Court in *Elizabeth Metis* cited several examples where this was shown to be the case, including where a tax rate was increased 28-fold in a single year, where an iron ore tax made it uneconomical to carry on business, and where a regulatory fee was an attempt to drive a certain business segment out of the community.

*Elizabeth Metis* at paras. 94-96.

128. Here, the District increased the Major Industry from a rate of 28.902 to 125 in a single year (2024). The District did so expressly in anticipation of imposing this rate exclusively on the Project once it was reclassified to Major Industry in 2025. The District carried this rate forward into 2025 to exclusively apply to the Project as the sole member of the Major Industry class. The 2025 Major Industry Rate is nearly five times higher than the provincial average (and the 2023 Major Industry Rate set by the District), in circumstances where it is intended to affect a single taxpayer. This rate has imperilled the Project's viability, during a time when the District knows that the Project is under construction, not yet operational and earning no revenue and threatens the viability of the Project when it transitions and continues into the operational phase.

129. In absolute terms, the 2025 Major Industry Rate and the Major Industry to Residential ratio (and other inter-class ratios) are pejorative, intentionally coercive and unreasonable. In comparative terms, the 2025 Major Industry Rate and the Major Industry to Residential ratio are significantly higher than those at issue in *Catalyst SCC*, in which the District of North Cowichan had imposed Major Industry Rate of 43.3499 mils and a ratio of 20.3:1 between Major Industry and Residential.

*Catalyst SCC at para. 3*

***viii. The District Adopted the 2025 Major Industry Rate due to its Animus Towards the Project***

130. The District has repeatedly sought to delay, hinder, or even stop the Project from proceeding.

131. This was clear from Council's rejection of the TUP for reasons entirely unrelated to land-use regulation, and despite the Project having received approval from all three other governments involved.

*Woodfibre Affidavit at paras 17-25 and 29-42.*

132. This is also apparent from the 20-month delay in in issuing building permits for five modular trailer structures for the construction phase, consisting of four temporary office buildings and one lunchroom.

*Woodfibre Affidavit at paras 43-50.*

133. By intentionally setting a pejorative and punitive 2025 Major Industry Rate intended to single out and target Woodfibre LNG, the District has continued its attempts to coerce Woodfibre LNG to behave as the District wishes, whether by changing its land use or entering into a tax exemption agreement. This, too, is illegal, unreasonable, and an exercise of bad faith.

***ix. The District Failed to Consider the Impact of the 2025 Major Industry Rate on Woodfibre LNG***

134. Lastly, a reasonable decision maker must consider the consequences of the decision on the impacted party and demonstrate that those consequences are justified in light of the relevant facts and law.

*Vavilov at paras. 133-135.*

135. The District planned around and intended the pejoratively high 2025 Major Industry Rate to financially coerce Woodfibre LNG to behave as the District desired. Alternatively the District failed entirely to consider the impact of imposing such a significant property tax rate increase on Woodfibre LNG, as the sole taxpayer in of the 2025 Major Industry

Rate, particularly in light of the fact that the Project remains under construction until at least 2027 is not yet operational. Either course of action was unreasonable.

**Part 4: MATERIAL TO BE RELIED ON**

136. Affidavit of Micah Libin, made June 4, 2025

137. Such further and other material as counsel may advise and as this Honourable Court may permit.

Dated at the City of Vancouver, in the Province of British Columbia, this 6<sup>th</sup> day of June, 2025.

  
\_\_\_\_\_  
Lawson Lundell LLP  
Solicitors for the Petitioner

This Petition to the Court is filed by James D. Fraser and Jane Mayfield, of the law firm of Lawson Lundell LLP, whose place of business and address for delivery is 1600 – 925 West Georgia Street, Vancouver, British Columbia V6C 3L2.

**To be completed by the court only:**

Order made

in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this Petition

with the following variations and additional terms:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Signature of  Judge  Associate Judge

NO.  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

In the matter of the *Local Government Act*, R.S.B.C. 2015, c. 1 and the *Judicial Review  
Procedure Act*, R.S.B.C. 1996, c. 241

BETWEEN:

WOODFIBRE LNG GENERAL PARTNER INC., AS  
GENERAL PARTNER ON BEHALF OF THE  
WOODFIBRE LNG LIMITED PARTNERSHIP

PETITIONER

AND:

DISTRICT OF SQUAMISH

RESPONDENT

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**PETITION TO THE COURT**

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