

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of Stage 3 of the
Queenstown Lakes
Proposed District Plan

MINUTE 12 – RESUMPTION OF HEARING PROCESS

Introduction

1. In Minute 11, I sought the input of the parties regarding a proposed timetable for resumption of the hearing process. Thank you to those parties who responded to this invitation. I note that no party told us that resumption of the hearing process was inappropriate.
2. Accordingly, the purpose of this Minute is to confirm timetabling and other arrangements for resumption of the First Schedule process. It needs to be read in conjunction with Minute 6, dated 2 March 2020, which set out detailed requirements for the hearing process. I will not repeat the content of that Minute. Rather, this Minute will detail areas in which the directions made on 2 March will be varied. For the avoidance of doubt, the directions in Minute 6 apply unless varied by what follows.
3. I note that I am making directions on the assumption that Covid-19 related restrictions on free movement of people into Queenstown Lakes District, and around the district, will be progressively reduced, commencing with a move from Level 3 restrictions 11 May, or soon thereafter. If that assumption is not borne out, I may have to make further directions to address the position. Moreover, even if restrictions are progressively reduced, if any party is particularly affected by Covid 19-related restrictions or recommendations, I urge you to contact the Hearing Administrator, if necessary on a confidential basis, and I will endeavour to address the particular issues that arise.

Pre-circulation of Evidence

4. I confirm that evidence will be required to be pre-circulated, with different requirements for evidence on Wāhi Tūpuna matters (i.e. the text of Chapter 39 and the consequential variations notified with it, and mapping of Wāhi Tūpuna areas/sites) on the one hand, and of the balance of hearing issues on the other.
5. The concept floated in Minute 11 of Kā Rūnaka providing their evidence first on Wāhi Tūpuna matters, followed by all other submitters was not the subject of adverse comment by any party and I propose to make directions accordingly.
6. The logic of the draft timetable in relation to Wāhi Tūpuna evidence suggested in Minute 11 was to have the evidence in hand before the Panel undertook site visits. Having reflected on the position, I have determined that getting submitters' evidence on 12 June leaves too little time before the site visits commence on the week of 15 June for that evidence to be considered and the site visits tailored around the issues raised therein. Put simply, the Panel would not have time to read submitters' evidence. The unavailability of Panel members the following week means that site visits cannot be deferred a week to address that problem.
7. I therefore think it is preferable to approach the hearing on the basis that as regards Wāhi Tūpuna matters, the Panel will not undertake site visits prior to the hearing commencement. That has two consequences. First, it enables enlargement of the evidence deadlines, which we suspect will be helpful to a number of parties (and will, as regards these issues at least, respond to a request made by Wayfare Group Limited in its comments on the draft timetable). Secondly, it will mean that when submitters prepare their evidence, they will need to be alive to the fact that the Panel will not have seen and may not be familiar with the site-specific issues they raise. Accordingly, submitters should consider whether maps and photographs might be included with their evidence to assist the Panel members to better understand the evidence. If submitters have maps or other visual aids, please also liaise with the Hearing Administrator so they can be displayed at the hearing.
8. The enlarged time for pre-circulation of evidence in chief will leave even less time for rebuttal to be prepared and filed prior to the hearing commencement than would have been the case if the draft timetable had been adhered to. This is likely to be an issue principally for Kā Rūnaka, who support the notified provisions that a large number of submitters oppose, and for Council. Rather than fix a timeframe for rebuttal that is insufficient to allow the preparation of a proper response, the Hearing Panel will use the opportunity to ask questions of the witnesses from Kā Rūnaka

(in particular) as the means to draw out substantive responses on matters raised by submitters. Given this approach in lieu of providing for pre-circulation of rebuttal evidence, I would ask Kā Rūnaka to consider whether the time estimate previously advised will be sufficient.

9. I therefore direct that the evidence in chief of Kā Rūnaka (Submitter #3289 and further submitter #3430) on Wāhi Tūpuna matters should be filed on or before 29 May with all other submitters filing their evidence in chief on those matters on or before 19 June.
10. As regards the balance of hearing issues, Wayfare Group Limited sought provision for its evidence to be filed somewhat later than the proposed deadline, by reason of the unavailability of Mr Farrell until the end of May.
11. While I appreciate that Mr Farrell will have a pivotal role in the evidence Wayfare Group provides, I do not think it follows that any other evidence that submitter has should not be filed on the original deadline.
12. Ms Macdonald raised a more general concern regarding the ability of expert witnesses based out of Queenstown to prepare evidence requiring a site visit in the suggested timeframe, given the uncertainty around movement into and around the district in the second half of May. She suggested a four week delay in the deadline for submitters' evidence: i.e. to 26 June, suggesting that at least as regards the matters of interest to her client (the General Industrial Zone), there is sufficient time before the evidence is heard to accommodate that delay.
13. The difficulty with Ms Macdonald's suggestion is that while there is ample time between 26 June and when evidence on the General Industrial Zone will be heard, Ms Scott has to open the Council's case the following week. Both she and the Council witnesses on that topic are entitled to have adequate time to assess that evidence before they appear.
14. We would also be deprived of the advantage of having pre-circulated rebuttal evidence. Further, the lack of time between filing of that evidence and our hearing submissions and evidence on the topic would make it difficult for the Panel to fill in the evidential gap in the manner we propose in relation to Wāhi Tūpuna matters.
15. As already noted, I accept that there is uncertainty in the restrictions and recommendations arising from the response to Covid 19. I do not believe a four week delay will necessarily solve those problems- as the Prime Minister observes almost daily it seems, there is a risk restrictions may be eased and then have to be

re-imposed. At best the uncertainty may be reduced. I therefore consider it preferable to leave the door open to applications for special arrangements to be made on a witness by witness basis, depending on the situation at the time.

16. I therefore direct that with the exception of Mr Farrell's evidence for Wayfare Group Limited, submitters' evidence in chief on non-Wāhi Tūpuna matters should be filed on or before 29 May, with rebuttal evidence thereon (both Council and submitters) filed on or before 12 June. The evidence of Mr Farrell may be filed on or before 12 June. Any evidence (Council or submitters) seeking to rebut Mr Farrell's evidence should be filed on or before 22 June.
17. As previously, the Hearing Panel will undertake site visits in the week of 15 June, but (for the reasons set out above) excluding Wāhi Tūpuna matters. The Hearing Panel will undertake site visits of any Wāhi Tūpuna sites/ areas it needs to view to better understand the evidence and submissions after the conclusion of the hearing, probably in conjunction with its deliberations. It is also likely that the Panel will defer site visits to Walter Peak given the orders made above in relation to receipt of Mr Farrell's evidence.
18. As a result of the suspension of the First Schedule process, we have not yet received the input requested in Minute 7. If any party (including Council) wishes to make suggestions on sites relevant to the notified Design Guidelines that the Panel should view, they should provide a list of same in the form noted in Minute 7 on or before 5 June.

Hearing Arrangements

19. This is not Notice of Hearing. That will be formally issued by the Council in accordance with the requirements of the First Schedule of the Act not less than 10 working days prior to the hearing commencing.
20. The breadth of the Council's Section 42A Reports and supporting evidence means that the hearing will commence a day earlier than previously advised, on Monday 29 June. The Panel will sit all that week, if necessary, to complete hearing of the Council's opening.
21. Kā Rūnaka has requested that they have the opportunity for its representatives to briefly set the scene at a high level and explain the special relationship that Kāi Tahu holds in relation to the areas covered by the wāhi tūpuna provisions prior to the Council commencing its case in recognition of their mana whenua position as Treaty partner. I understand that Council has no objection. I will therefore invite

the representatives of Kā Rūnaka to speak on that basis at the commencement of the hearing. I emphasise that this is not an opportunity to present the case for Kā Rūnaka, but rather to inform the Panel and the parties to the high level background to the wāhi tūpuna provisions we will be considering.

22. Thereafter, the hearing will proceed in tranches:
- (i) Wāhi Tūpuna matters (including mapping issues) will be heard 7-9 July in Queenstown, 14-16 July in Wanaka and 21-23 July (if required) in Queenstown;
 - (ii) Submissions and further submissions on Chapter 20 (Settlement Zone) and associated variations; variations to Chapter 30 (Energy and Utilities) and related variation to Chapter 2 definitions; variations to Chapters 21-24 and 38 (firefighting standards); variation to Chapter 26 and associated mapping variation (Chalmers Cottage); variations to Chapters 7-9, 12-16 (glare); variations to Maps 31a, 32, and 37 (Frankton Road); variation to Chapter 2 (residential flat definition); variations to Chapters 7-9 (waste and recycling); variation to Chapter 38 (Open Space and Recreation Zone) and associated variations to maps and other chapters; Chapter 46 (Rural Visitor Zone) and the associated maps and variations to other chapters; variation to Chapter 20 (Cardrona Settlement Zone) and associated variations to maps and other chapters; variations to Chapter 27 (Peninsula Bay and Wyuna Station provisions); Attley Road and Brownston Road mapping variations; variation to Chapter 43 (Millbrook Rule 43.5.2)) will be heard 28-30 July in Queenstown and 4-6 August in Wanaka;
 - (iii) Submissions and further submissions on Chapter 18A (General Industrial Zone) and the associated maps and variations to other chapters, 100 Ballantyne Road mapping variation, Chapter 19A (Three Parks Commercial Zone) the associated maps and variations to other chapters, and the Residential Design Guide, Residential Design Guidelines Variations to Chapters 7-9, Business Mixed Use Design Guide and Business Mixed Use Design Guidelines Variations to Chapters 16 and 17 will be heard 11-13 August in Wanaka.
23. The Strategic s42A Report prepared by Mr Craig Barr does not fit neatly into any single one of these topics. If any party calls evidence seeking to contradict or supplement Mr Barr's report, we will hear that evidence in the third hearing (11-13

August) unless the subject matter of the evidence is limited to the matters listed in (i) or (ii) above, in which case it should be heard as part of the relevant hearing.

24. The allocation of Commissioners to each set of hearing topics will be as per Minute 6.
25. Because the makeup of the Hearing Panel on each set of issues will be different, if any party wishes to appear once only addressing matters within numbers (ii) and (iii) above, they will necessarily need to be heard 11-13 August in Wanaka.
26. For the same reason, it will not be possible for parties to combine their evidence on matters within number (i) above with matters on other hearing topics. Parties will need to make arrangements to appear on more than one occasion.
27. The allocation of time for the hearing is tentative until each submitter wishing to be heard is allocated a hearing slot. If necessary, additional hearing days will be scheduled.
28. To facilitate identification of whether this will be required, all parties need to advise the Hearing Administrator (dphearings@qldc.govt.nz) if they wish to appear, and in which hearing(s) they wish to appear. Such advice must be filed on or before 29 May. As previously, submitters who wish to take more than ten minutes per person making representations/giving evidence will need to advise how much time they need, and why.
29. Any party who has already provided information on the witnesses they propose to call and the amount of time those witnesses will require need not do so again (unless it has changed). However, for those parties who provided that information prior to suspension of the hearing process, if they have a preference as to the date on which they give evidence, they will need to communicate that to the Hearing Administrator prior to 29 May.
30. To assist parties monitoring progress of the hearing, an audio record of the hearing will be uploaded to the Council website.
31. I confirm previous advice that for those parties who wish to avail themselves of that facility, we will hear any party, their counsel and/or witnesses by zoom who gives notice accordingly to the Hearing Administrator not later than 5 working days before they are scheduled to appear. The Hearing Administrator will make contact with parties who give notice to advise the process for participating by zoom link.

32. In addition, if necessary because of lack of internet access or otherwise, we will hear parties by telephone. I emphasise, however, that this is a last resort. My experience of lengthy multi-party telephone conferences is that it is difficult for the participants to follow the thread of the discussion, which gives rise in turn to frustration on all sides.

Replies

33. In their advice as to evidence they would call, Kā Rūnaka asked for a right of reply. I do not propose to grant Kā Rūnaka, or any other submitter for that matter, a general right of reply. Rather, if any party, including Kā Rūnaka, feels that there are outstanding matters that they need to address further after the conclusion of their evidence, they can apply for the ability to present supplementary evidence and/ or submissions, and I will make appropriate directions at that point.
34. Parties should also not be surprised if the Panel acts on its own initiative, to raise issues on which we seek further written input on from submitters during or at the conclusion of a submitter's presentation (or potentially, after they have appeared, if a later submitter raises matters, the Panel feels they should properly have the opportunity to respond to).
35. If any party thinks that I have omitted any relevant points necessary to be addressed before the hearing, I give general leave to raise such issues by email to the Hearing Administrator.

Dated 5 May 2020



**Trevor Robinson
Chair
Stage 3 Hearing Panel**