

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Stage 3 of the
Queenstown Lakes
Proposed District Plan

MINUTE 6 – HEARING DIRECTIONS

Introduction

1. At its meeting on 27 June 2019, Queenstown Lakes District Council (“*Council*”) appointed a Panel of Hearing Commissioners under Section 34A of the Act to hear submissions and further submissions on Stage 3 of the review of the Operative District Plan and make recommendations. On 30 January 2020, Council appointed a further Commissioner to the Panel.
2. The Hearing Panel comprises:
 - (a) Trevor Robinson (Chair) - Barrister based in Wellington;
 - (b) Sarah Dawson – Planner based in Christchurch;
 - (c) Greg Hill – Planner based in Auckland;
 - (d) Ian Munro – Planner and Urban Designer based in Auckland;
 - (e) Juliane Chetham – Scientist and expert in mātauranga Māori based in Northland;
 - (f) Councillor Quentin Smith;
 - (g) Councillor Calum MacLeod
3. The terms of my appointment as Chair included the delegated power to make procedural directions about the conduct of the hearing process. I have issued this Minute pursuant to that delegation.
4. The purpose of this Minute is to outline a process that will be followed in hearing the submissions on Stage 3 of the Proposed District Plan (including Stage 3B). It includes specific directions as to when and how evidence and legal submissions will need to be lodged and seeks to provide guidance on what submitters can expect when they appear at the hearing.

Principles of Hearing Process

5. The Hearings Panel will establish and conduct a hearings process that:
 - (a) Is appropriate and fair: the Hearings Panel will at all times act in a fair and transparent manner;
 - (b) Avoids unnecessary formality: the Hearings Panel will be inclusive and acknowledge the broad range of interests of submitters and facilitate a process that provides all parties, whether presenting oral or written submissions and evidence, the opportunity to be heard;
 - (c) Is efficient: the Hearings Panel will conduct an efficient process which minimises time and costs to all parties participating in the hearings. The Hearings Panel will provide all submitters with an adequate opportunity to be heard, while, at the same time, avoiding unnecessary repetition and presentation of irrelevant material; and
 - (d) Recognises tikanga Maori: the Hearings Panel will receive evidence written or spoken in Maori when requested to do so by the submitter with sufficient notice.

Register of Interests

6. A fundamental pre-requisite to a fair and transparent hearings process is an obligation on all Panel members to bring an independent view and open mind to the role of hearings commissioner, free of any 'conflicts of interest' that could result in bias and/or predetermination.
7. Following appointment of the full Hearings Panel, I wrote to each of the Panel Members asking that they advise of any potential conflicts of interest in relation to any PDP matter.
8. In addition, the Hearings Panel have agreed that where a Panel member has previously advocated a particular position, or appeared in the past as a witness for a former client who may hold a property interest and/or lodged a submission on a PDP provision, or holds a property interest which may result in a potential conflict of interest and/or a perceived bias, he or she will disclose such positions or potential conflicts to the Chair prior to the commencement of the hearings.
9. The vehicle for recording the above interests will be a "Register of Interests" which records the ongoing involvements and/or interests held by Panel Members and I have prepared. I will decide on a course of action, which may result in the Panel Member being requested to stand aside from the relevant hearing session/s, and

from the deliberations and recommendation-making arising from the hearing session/s if appropriate. If any issue arises in respect of my own involvements and interests, I will ask the other Panel members to determine the appropriate course of action.

10. The Register will be maintained for the full term of the hearings process and be available for public inspection.

Hearing Schedule

11. This is not a 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 on 5 May 2019.
12. As previously advised, the Hearing Panel plans to sit 9am until 5pm three days a week, generally Tuesday through Thursday, but with some exceptions.
13. Arrangements for the hearing need to accommodate the wide range of matters notified. Commissioners Munro and Chetham have been appointed because of their particular expertise in urban design and mātauranga Māori respectively. To optimise their involvement, it is intended that the hearing will be compartmentalised as follows:
 - (a) A core group of Commissioners Robinson, Dawson and Hill will sit on all matters;
 - (b) The first week (5-7 May, with Friday 8 May as a reserve day) will be occupied by the Council's representatives opening the case in support of the Plan changes and variations notified. All Commissioners will hear the Council's opening;
 - (c) Submissions and further submissions on the Wāhi Tūpuna provisions (Chapter 39) and the associated maps and variations to other chapters including Chapter 25 (earthworks) will be heard in the period 12-14 May (in Wanaka) and 19-21 May (in Queenstown), with Commissioners Chetham and Smith joining the core group. 25-27 May (in Queenstown) will be reserve days for completion of hearing of submissions on these matters;
 - (d) Submissions and further submissions relating to 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 in the week 3 June to 5 June in Wanaka, with Commissioners Munro, Smith and MacLeod joining the core group;

- (e) To the extent not heard in the week 3 June to 5 June, the submissions on the balance of matters the subject of notification (variously 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 by the core group of Commissioners, joined by Commissioner MacLeod in the weeks 9 June to 11 June (in Queenstown) and 16 June to 18 June (in Queenstown).
14. The fact that Commissioners Chetham and Munro will be joining the Panel for specific weeks of hearing means that it will not be possible to accommodate submitters who seek to be heard on the matters allocated to those weeks at other times. I also note that the two weeks allocated to Wāhi Tūpuna provisions (and the reserve week of 25-27 May) will be solely dedicated to those matters and the associated variations notified with Chapter 39, because Commissioner MacLeod will not be present and will need to hear evidence and submissions on any other matters. It follows that submitters with an interest in multiple issues may have to appear more than once. If any submitter is unclear as what is intended to be heard when, they should discuss their position with the Hearing Administrator.
15. I should record though that 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.

16. To ensure that all submitters have a fair opportunity to be heard, however, the default allocation of time will be ten minutes per submitter. Submitters who consider that this will be insufficient will need to make a request for additional time to be allocated, with reasons. If those reasons include the fact that the submitter will be calling expert evidence, the number of expert witnesses, their names and expertise will need to be advised to the Hearing Administrator. For those submitters seeking extra time on the basis that they will be represented by counsel presenting legal submissions, that too will need to be advised to the Hearing Administrator.
17. As per my first minute, where submitters are presenting a similar position on a particular issue, I would encourage at least coordination as between submitters, and ideally their nominating a representative to present representations that are common to the group. I emphasise that the hearing is not a number game. The Hearing Panel will be much more interested in the cogency of the reasons for a particular amendment to the Proposed Plan provisions than the number of people who appear to make the same point.

Pre-circulation of Expert Evidence and Legal Submissions

18. As foreshadowed in my first Minute, all expert evidence will need to be pre-circulated in order that the Hearing Panel can pre-read it and hearing time be devoted principally to questions the Commissioners may have of the expert witnesses.
19. Expert evidence briefs shall have a succinct executive summary at the front wherever practicable (it is accepted that some expert briefs of evidence do not lend themselves to succinct summary).
20. The hearing timetable provides the opportunity also for rebuttal evidence to be filed, to further promote an efficient hearing process.
21. The following deadlines are fixed for pre-circulation of material, as follows:
 - (a) Council is directed to lodge the Section 42A Report and any accompanying Council evidence in chief on or before 18 March 2020;
 - (b) Submitters and Further Submitters are directed to lodge any expert evidence in chief they are calling in support of their submissions/further submissions on or before 6 April 2020;
 - (c) All parties are directed to lodge any expert rebuttal evidence they are intending to call on or before 22 April 2020.

22. For non-expert submitters who wish to provide more extensive representations/evidence than is provided for below (2 A4 pages or equivalent), their written material should be lodged with the Hearing Administrator at the same time as expert evidence.
23. For those parties (including Council) represented by counsel, counsel is requested to lodge their written submissions not later than 1pm of the Friday prior to the week during which they will appear in order that the Commissioners can pre-read those submissions and hearing time be devoted to any questions the Commissioners may have arising from such pre-reading. Oral submissions by counsel should reflect the fact that the Panel has read counsel's written submissions. In particular, counsel will not be permitted to read large sections of their written submissions aloud. Counsel are requested to lodge electronic copies of any cases on which they will rely at the same time as they lodge their legal submissions.
24. The Council is directed to file a written reply within ten working days of the conclusion of the hearing.
25. In each case, the deadline expires at 1pm on the appointed day. Evidence needs to be emailed to the Hearing Administrator Katherine Robertson c/o dphearings@qldc.govt.nz before that time. Late evidence will require leave from the Chair before it will be accepted.
26. For the avoidance of doubt, the purpose of rebuttal evidence is to explain why the witness disagrees with the evidence of another witness. It is not an opportunity to agree with another witness's evidence, or to provide additional reasons why the evidence of another witness may be well founded. I also note for the purposes of clarification that further submitters are under the same obligations as regards evidence pre-circulation as primary submitters. Accordingly, if a further submitter opposes a position recommended in the Section 42A Report and/or Council evidence, they should provide any evidential material they wish to rely on within the deadline for evidence in chief (i.e. 6 April). Similarly, if a further submitter can reasonably anticipate what the submitter whom they support or opposed is going to advance by way of evidence in chief (e.g. if the primary submission that has been filed is reasonably detailed), they should provide any evidential comment on the submission by way of evidence in chief, rather than waiting and filing detailed rebuttal. Rebuttal evidence should typically be succinct and only be addressing the matters that could not reasonably have been anticipated prior to reading other submitter's evidence in chief. I do not, however, intend to undertake a forensic

analysis on a point by point basis as to what a submitter might or might not have been able to reasonably foresee the primary submitter would say. I expect the parties to take a reasonable common sense view in this regard.

Site Visits

27. The Hearing Panel intends to undertake site visits prior to the hearing in order to better understand the site-specific context for the submissions that have been lodged. While the primary focus of site visits will be on locations where submitters have sought to be heard, site visits may include visits to land the subject of other submissions. In either case, where it is necessary for the Hearing Panel to access private land, a Council Officer assisting the Panel (not one of the authors of the Section 42A Report or a Council witness) will contact the relevant submitter/land owner to arrange access.
28. For most submissions, the locations for site visits will be reasonably obvious. That is not the case for the Design Guideline chapters and I will circulate a separate Minute on that issue, inviting submitters' input on possible locations of relevance.
29. The Hearing Panel will determine after having heard submitters whether further site visits are necessary. If so, the same arrangements, as above, would apply.
30. It is noted that site visits are not an opportunity for an informal discussion of issues on site. The Hearing Panel will not enter into discussions on site about the merits of submissions, but they may ask the submitter/landowner to point out particular features on the site that are the subject of submission.

Presenting at the Hearing

31. The Hearing Administrator will be in touch by email with all submitters who have requested to be heard before 6 April, seeking confirmation of their hearing time requirements. If submitters have particular preferences as to the date and/or time when they are heard, the Hearing Administrator will endeavour to accommodate those preferences on a 'first come, first served' basis.
32. As above, the default is that each submitter will be allocated ten minutes hearing time in the absence of a request, with reasons, for additional time. Requests for additional time will not be unreasonably refused, but will require justification. The ultimate decision as to how much time is allotted to each submitter will be mine, as chair.

33. The Hearing Administrator will compile and upload on the Council website the hearing schedule with indicative times for each party's appearance.
34. Material presented at the hearing by any party should be limited to two A4 sheets (1.5 spacing and 11 point minimum) of paper. As above, if a lay submitter wishes to present more material than can be contained on two A4 pages, they must lodge it with the Hearing Administrator in accordance with the directions for pre-circulation of evidence above, in order that the Panel can pre-read it.
35. The purpose of having a page limit is to focus the presentations the Hearing Panel hears on key issues which each party wishes to draw to the Panel's attention, and to maximise the amount of time the Panel has to discuss the issues with the submitter. Accordingly, the same limitation will be placed on counsel and any expert witnesses who appear at the hearing: i.e. any oral presentation shall be limited to the equivalent of two A4 sheets of paper. Any graphics accompanying expert evidence should be an annexure to that evidence and be pre-lodged in accordance with my directions as above.
36. For expert witnesses who have included an executive summary in their pre-circulated evidence, it is not expected that those witnesses will read their executive summary. The Hearing Panel will already have read it.

Document Naming Conventions

37. All documents lodged by submitters are to be named in accordance with the following standard file naming convention:

Snnnn-aaaaaaaaa-Too-bbbbbbbbbb-cccccccc.pdf

- i) Capital letters and dashes to be included where shown;
- ii) nnnn = submitter number i.e either 3xxx or 31yyy;
- iii) aaaaaaaaa = submitter name to a maximum of 10 letters and spaces;
- iv) Too – Hearing Stream number:
 - Stream 16 – Wāhi Tūpuna;
 - Stream 17 – Industrial Zone, 100 Ballantyne Road mapping, Residential and Business Mixed Use Design Guides and associated variations;
 - Stream 18 – Other matters;
- v) bbbbbbbbbb = author's name in format surname initial;

vi) cccccccccc = document type – i.e. evidence, rebuttal, legal submissions, application, memorandum, appendix

38. Where the document is lodged on behalf of more than one submitter (or further submitter) the following rules apply:
- (a) The submitter number shown is to be the lowest number and submitter name is to match that number;
 - (b) All full list of relevant submission numbers and submitter names is to be provided on the document cover sheet, in numerical order;
 - (c) A copy of the document is to be provided for each additional submission number with the only change to the document name to be the add “Cnnnn-“ to the beginning of the original document file name, where nnnn is the relevant submission number.
39. Where the document is lodged by a party who is both a submitter and a submitter
40. Where the document is relevant to more than one hearing stream (i.e. Streams 16 and 18 or Streams 17 and 18) insert 16 or 17, as relevant.
41. Two examples may help understanding of this (the submitter numbers, names etc are purely for illustrative purposes):
- (i) S3128-Tussock Cr-T16-ToddG-Legal Submissions.pdf
 - (ii) C3129-S3128-Tussock Cr-T16-ToddG-Legal Submissions.pdf

Hearing Records

42. Full recordings will be made of each hearing. These will be available as audio files on the Council website within two working days of being recorded.
43. All submissions and evidence lodged in advance of the hearings will be available on the Council website within two working days of receipt.
44. Other submissions and evidence presented, and material tabled, will also be available on the Council website within two working days of the hearing at which they are received (and more quickly if possible).
45. The page on the Council’s website where all this information will be available is:
- www.qldc.govt.nz/your-council/district-plan/proposed-district-plan/hearings

On the Day

46. You will be allocated a time to appear in front of the Hearing Panel. It is recommended you arrive at least 30 minutes before you are due to speak. On the day the following will happen:
- I will invite you to come forward to the table set aside for submitters and ask you to present your case;
 - Prior to presenting your case, you should provide at least 6 copies of any written summaries and other material, including those of any witnesses, to the Hearings Administrator who will hand them to the Panel members and retain a copy for Council records;
 - The Hearing Panel may ask questions of you and/or your witnesses either during or after presentation of your case. If you would prefer not to be interrupted, then tell me that before you start.
47. There is no cross-examination at Council hearings. Therefore, you must not interrupt other submitters presenting their cases, or the staff members reporting on their reports. If you feel that any aspect of a submitter or staff member presentation requires clarification, you may ask me whether that point might be clarified. Such requests should be made following the conclusion of the Hearing Panel's questions of the submitter/staff member. I will decide whether clarification should be provided, and if so, what process should then be followed.

What You Should Do

48. If you are unsure of how the hearing process works, you should consult the guide prepared by the Ministry for the Environment, available at this address:
- <http://www.mfe.govt.nz/publications/rma/everyday-guide-rma-appearing-council-plan-or-plan-change-hearing>
49. Alternatively, you could talk to the Council staff prior to the hearing. You will need to consider whether you bring along expert witnesses (for example landscape architects or planners), a lawyer or other support people to help you present your point of view. If you do so, however you will need to ensure that any written material they have is pre-circulated in accordance with my directions above.
50. It is usually best to put your thoughts in the form of a written statement, both to help you focus on the key issues and to help the Panel who will otherwise have to take

notes of what you say rather than being able to concentrate on listening to you. If you don't have the capability to produce a typed version, a readable handwritten statement is fine. Any written statement you prepare that explains your submission to the Hearing Panel, however, cannot go outside of the scope of your original submission. In other words, you cannot ask for changes to the Proposed District Plan that were not sought either generally or specifically in your submission (or are not somewhere between what you sought in your submission and the Proposed Plan as notified). If you have lodged a further submission, you cannot go outside the scope of the primary submission you supported or opposed (i.e. the relief you seek must be somewhere between the relief sought by the primary submission and the Proposed Plan as notified).

51. Keep what you say to the Panel simple and focus on the key point(s) you want to make. Tell the Hearing Panel exactly what changes you want made to the Proposed District Plan, and why those changes are appropriate. Your submission and evidence must relate solely to the topic being heard at the hearing. It should not address matters to be heard at a later hearing, or seek to relitigate matters previously considered in Stage 1 or 2 of the Proposed District Plan process. Note that where your written statement exceeds two A4 pages, it will need to be pre-lodged in accordance with the timetable set out above.

Presenting in Te Reo or New Zealand Sign Language

52. You, your experts or support people may speak in te reo Maori or New Zealand sign language at the hearing. You must inform the Council of the intention to use te reo Maori or New Zealand sign language at least five working days prior to the hearing so that an interpreter can be arranged.

What happens after the Hearings Conclude

53. Following conclusion of the hearing of submitters, Council staff have the opportunity to lodge a written reply. The Council's reply will be available to submitters on the Council website, but except in extraordinary circumstances, that will mark the end of the Council hearing process from the submitters' perspective.
54. The Hearing Panel will enter into deliberations following receipt of the Council reply. That will be done in private. The Hearing Panel will then formulate its recommendations to the Council on any amendments to the Proposed District Plan provisions to respond to submissions and further submissions.

55. The Council will make final decisions on the recommended amendments and publicly notify those decisions to all parties. At that point, submitters and further submitters have the ability to appeal the Council's decisions on their submissions/further submissions to the Environment Court. The Council's public notification of its decision will include details as to the appeal process.

Key Contacts

56. The primary point of contact for all matters relating to the hearings is Katherine Robertson email dphearings@qldc.govt.nz.

If any aspect of this Minute is unclear, email Katherine at that address]. If she cannot answer your query, she will pass it on to me to address.

57. If you are providing expert evidence in advance of the hearing, you can send it in pdf (Acrobat) or doc (Word) format to dphearings@qldc.govt.nz.

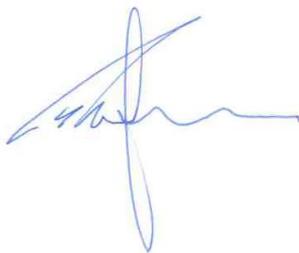
58. The key location for up-to-date information on the hearings is the District Plan Hearings page on the Council website:

www.qldc.govt.nz/your-council/district-plan/proposed-district-plan/hearings

59. More general information about the Proposed District Plan process is available at:

www.qldc.govt.nz/your-council/district-plan/proposed-district-plan

Dated 2 March 2020

A handwritten signature in blue ink, appearing to read 'T. Robinson', with a large, stylized flourish extending upwards and to the left.

Trevor Robinson

Chair

Stage 3 Hearing Panel