

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of the Queenstown Lakes
Proposed District Plan

AND

IN THE MATTER of Hearing Stream 12-
Upper Clutha Mapping

**MINUTE CONCERNING APPLICATION FOR VARIATION OF STREAM 12
HEARING DIRECTIONS (TIMING OF COUNCIL REBUTTAL) BY QLDC**

Background

1. We have received a request from counsel for the Council seeking a variation of the timetabling arrangements the subject of our seventh procedural minute dated 25 January 2017. Specifically, counsel seeks that the date currently fixed for receipt of rebuttal evidence from the Council, where not already varied consequential on acceptance of submitters' applications, be altered from 28 April 2017 to 5 May 2017.
2. Counsel has drawn our attention to the juxtaposition of timetabling requirements in relation to other hearing streams and those the subject of our 25 January directions, which effectively requires the same group of experts to prepare evidence on multiple topics at the same time.
3. Counsel also advises that consultation with submitter representatives indicates that large volumes of new information are expected to be submitted in support of rezoning proposals to be heard in this stream. While the Council's section 42A report and supporting evidence can be expected to address the material contained in submissions, it cannot of course address the kind of material which appears likely to be produced by submitters on 4 April.

4. The Council has sought to secure additional resources to service the combination of hearing streams over the coming period, but counsel advises that it has been unable to do so.
5. As we have observed in previously minutes, both the timetable and the need for commitment of resources to this hearing in discrete periods have been foreshadowed for many months. At an early point, we identified that it would be advantageous both to the Hearing Panel and to submitters, if the Council filed rebuttal evidence prior to the hearing, rather than, as has been the case for other hearing streams on the text of the Proposed District Plan, providing an evidential response to the evidence of submitters as part of its reply (after conclusion of the hearing). Given the nature and the number of applications in the Upper Clutha area, and the Council's role as counterparty on every application, that task is a substantial one.
6. The advice we have received as to the number and nature of the expert evidence submitters propose to adduce in support of their cases, and the amount of hearing time that will be required to produce that evidence, even on the basis that it is pre-read, has if anything reinforced that assessment.
7. It is also fair to say that we had not fully appreciated the competing demands on Council resources resulting from its participation in the other hearing streams proceeding in tandem with the Upper Clutha Mapping Hearing.
8. We have considered whether the Council's application is premature and that we should wait to see if the body of evidence produced by submitters is indeed as substantial as the Council anticipates will be the case. Given the indications we have ourselves received as to the scale of the case to be mounted by multiple submitters, we do not regard the Council as being alarmist, reacting to the informal communications it has received, or that there is much to be gained by deferring a decision on the Council's application. On the contrary, we think that if there is to be a delay in circulation of the Council's rebuttal evidence, it is desirable that all parties know that, and are able to plan around it.
9. Counsel's memorandum submits that the amended rebuttal date sought will not cause any undue prejudice to submitters due to the five working day gap between the proposed filing of rebuttal evidence on 5 May 2017 and the commencement of the hearing on Monday 15 May. We consider that that submission is somewhat understated. The reality is that submitters are not called upon to respond to the Council's rebuttal evidence on the first day of hearing. That rebuttal evidence will only require a response when the submitters

commence presentation of their cases, that is to say a further week later, on 22 May. Many submitters will have significantly longer than that, given that they will not be heard on the first day of hearing, but rather will be heard over the following four weeks of hearing.

10. We consider that we can therefore safely discount any potential for prejudice to submitters, which is why we have not sought their comment.
11. In previous minutes, we have identified the desirability of our having rebuttal evidence (including that of the Council) in hand, in order that we might understand the areas in contention when we undertake our site visits. The Council proposes that its rebuttal be filed three calendar days prior to site visits commencing
12. The only prejudice is therefore to the Hearing Panel itself, resulting from reduced time to read and assimilate the Council's rebuttal evidence before the site visits, in the first instance, and then before the commencement of the hearing. Counsel for the Council, however, helpfully proffers the suggestion that the Council will provide a summary table with its rebuttal evidence detailing any changes to its recommendations, which will assist the Panel in preparing for the site visits.
13. We consider that given the choice between the residual prejudice to the Hearing Panel and receiving less helpful and complete rebuttal evidence from the Council were the current 28 April filing date to be maintained, we prefer to take the benefit of better prepared and more complete rebuttal evidence from the Council.
14. We have considered whether we should direct that the rebuttal evidence of submitters should likewise be shifted back. As far as we are aware, none of the further submitters are in the position of having to respond to anything approaching the number of submissions that the Council will respond to. Nor, as far as we are aware, are those further submitters compromised by their involvement in other hearing streams to anything approaching the same extent as Council staff and witnesses.
15. We have therefore concluded that there is no case at the present time to enlarge the rebuttal date generally.
16. Counsel for the Council has requested that we issue a minute so that submitters clearly understand the amended deadline for the Council's rebuttal evidence.

17. While this minute will speak for itself, we think it would be helpful if we summarised in a further general procedural minute the position both as to evidence exchange requirements (given that we have now issued three minutes varying those requirements in different ways), and conduct of the hearing itself. Even in the time since release of the notice of hearing (on 21 March) there have been a number of further changes to the Hearing Schedule. A further minute will therefore follow shortly.

Directions

18. We will vary the evidence timetabling directions in our 25 January Minute to the effect that the rebuttal evidence for Council must be lodged on or before 1pm on 5 May 2017.

For the Upper Clutha Mapping Hearing Panel

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)

24 March 2017