

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of the Queenstown Lakes
Proposed District Plan:
Stage 2

PROCEDURAL MINUTE FOR STAGE 2 HEARINGS

Introduction

1. At its meeting on 23 March 2018 the Queenstown Lakes District Council ("the Council") under section 34A of the Act appointed a Panel of Hearing Commissioners to hear the submissions and further submissions on Stage 2 of the District Plan and those submissions and further submissions transferred from Stage 1 to the Stage 2 hearings ("the Stage 2 submissions").
2. The appointed Hearing Commissioners are:
 - a) Denis Nugent (Chair), Planner, Wanaka
 - b) Sarah Dawson, Planner, Christchurch
 - c) Calum MacLeod, Deputy Mayor
 - d) Robert Nixon, Planner, Queenstown
 - e) Trevor Robinson, Barrister, Wellington
 - f) Quentin Smith, Councillor, Wanaka Ward and Wanaka Community Board Chair.
3. The Council also appointed Greg Hill to the Panel, but the final hearing times clashed with his other commitments. Consequently, a seventh Hearing Commissioner to replace him is to be appointed by the Council.
4. The purpose of this Minute is to set out the process that will be followed in hearing the Stage 2 submissions, the requirements as to evidence and legal submissions, and the lodgement timetable.
5. Reference to submissions and submitters in the Minute includes further submissions and further submitters.

Principles of Hearing Process

6. 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

7. 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.
8. Following appointment of the full Hearings Panel the Chair wrote to each of the Panel Members asking that they advise of any potential conflicts of interest in relation to any PDP matter.
9. 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.
10. 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. This has been prepared by the Chair. The Chair 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.

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

Hearing Times

12. This is not a notice of hearing. That will be formally issued by the Council in accordance with the timetable set out below.

13. Two hearing sessions will be held:

- a) Stream 14 commencing on 9 July 2018 will consider:

- i. the submissions transferred from Stage 1 relating to zoning in the Wakatipu Basin including zoning in Arrowtown and Lake Hayes Estate, and the location of urban growth boundaries and landscape classification lines in that area and on the Crown Terrace; and
- ii. submissions on the proposed Wakatipu Basin Zone and Wakatipu Basin Lifestyle Precinct (Chapter 24) and the zoning of land those zones are proposed to apply to.

- b) Stream 15 commencing on 3 September 2018 will consider:

- i. submissions on the Visitor Accommodation Variations;
- ii. submissions on Chapter 25 Earthworks;
- iii. submissions on Chapter 29 Transport;
- iv. submissions on Chapter 31 Signs; and
- v. submissions on the Open Space and Recreation Zones (Chapter 38) and the zoning of the land those zones are intended to apply to.

14. Three weeks hearing time has been set aside for Stream 14 and four weeks for Stream 15. To ensure all submitters have a fair opportunity to be heard within those timeframes we will allocate a base 10 minutes per submitter and

require all evidence to be lodged in advance of the hearing. An additional 5 minutes of hearing time will be allocated for each expert witness called.

15. We will also provide the opportunity for rebuttal evidence to be filed, reducing the need for witnesses to spend time at the hearing responding to the evidence lodged by other witnesses.
16. The pre-lodgement of evidence and rebuttal evidence will enable the Hearing Commissioners to pre-read the evidence and allow most of the allocated time to be used for questions from the Hearing Panel.
17. The details of evidence lodgement and the opportunities to extend the allocated times are set out below.

Timetables for Report Circulation and Evidence Lodgement

18. The basic principles of the evidence timetable are:
 - a) The Section 42A Reports will be provided to the Panel and submitters 28 working days prior to the hearing commencing;
 - b) Submitters' evidence needs to be lodged 10 working days after the release of the Section 42A Reports;
 - c) Rebuttal evidence needs to be lodged at least 5 working days prior to the hearing commencing.
19. Based on this, we direct that the following timetables apply:

20. Stream 14:

Section 42A Reports and other Council evidence provided to the Panel and Submitters	28 May 2018
Submitters' evidence to be lodged	11 June 2018
Rebuttal evidence lodged	27 June 2018

21. Stream 15:

Section 42A Reports and other Council evidence provided to the Panel and Submitters	23 July 2018
Submitters' evidence to be lodged	6 August 2018
Rebuttal evidence lodged	22 August 2018

22. We also request that any legal submissions to be presented, including any casebooks, be provided at least 2 working days prior to them being presented. This will enable the Panel to focus on the relevant legal issues. Our experience in the Stage 1 hearings has been that lengthy oral submissions are not particularly helpful to the Panel. We note that where legal submissions are not provided in written form the Panel cannot guarantee that it will accurately record legal points presented.
23. The Council's reply will be provided in writing after the conclusion of the hearings. The Stream 14 reply will be due on 10 August 2018, and the Stream 15 reply will be due on 12 October 2018.

Site Visits

24. To better understand the submissions relating to specific sites, the Hearing Panel will undertake site visits prior to the hearing. These may include visits to land the subject of submissions where the submitter has not sought to be heard. Where it is necessary for the Panel to access private land, a Council officer assisting the Panel (not a reporting officer) will contact the relevant submitter/landowner to arrange access.
25. The site visits are not an opportunity for an informal hearing and the Panel will not enter into discussion about the merits or otherwise of the relevant submission.
26. After hearing the parties, the Panel may conclude a further site visit is necessary in any particular case. The same arrangements as above would apply.

Presentation at Hearings

27. The following procedures at the hearings will ensure an orderly and efficient use of the Hearing Panel's time and avoiding unnecessary repetition:
 - a) The time allocated for the Council opening will be agreed with the Panel Chair but will be subject to the same requirements as to pre-lodgement and presentation of legal submissions and evidence summaries as apply to submitters;
 - b) As noted above, each submitter wishing to be heard will be allocated 10 minutes plus 5 minutes for each expert witness called;

- c) Confirmation of hearing time requirements will be sought prior to the date for lodging submitters' evidence;
 - d) Where more than one submitter is represented by the same counsel and/or consultant, all of those submitters will be heard at one time;
 - e) Requests may be made to the Hearing Panel Chair for additional time. Such requests will not be unreasonably refused but will require justification;
 - f) Counsel and witnesses should limit the material presented at the hearing to a single side of an A4 sheet. Given the substantive evidence or submissions will have been pre-read, a brief summary of the most salient points is all that is required at the hearing;
 - g) Any graphics accompanying evidence should have been included with the pre-lodged material.
28. We add a note of clarification for further submitters. Further submitters are still submitters. Accordingly, their evidence in chief should be filed by the times listed above for submitters' evidence to be filed. The content of that evidence will, however, reflect the extent to which the further submitter is able to anticipate the case brought on the primary submission that they support or oppose. If the primary submission in question is quite detailed, there may be quite a lot a further submitter might usefully contribute by way of evidence. Other submissions are relatively sparse in terms of detail of what is proposed, and why, in which case, there may be little or nothing a further submitter could usefully contribute by way of evidence in chief.
29. Further submitters have the ability to file rebuttal evidence within the time specified for that purpose above. Such rebuttal evidence should cover the matters that the further submitter was not able to anticipate would be raised by the primary submitter. We expect further submitters to take a realistic and common sense view when applying these considerations. We do not intend to undertake a forensic analysis on a point by point basis as to what further submitters might or might not have been able to reasonably foresee the primary submitter would say in evidence.
30. The previous paragraph also applies to primary submitters who file rebuttal evidence in respect of evidence in chief filed by those who lodged further submissions on their submission. Such rebuttal evidence should focus on

matters raised in the evidence in chief of the further submitter that could not be reasonably anticipated from the further submission.

Document Naming

31. All documents lodged are to be named in accordance with the following standard file naming convention:
- Snnnn-aaaaaaaaaa-T00-bbbbbbbbbbbb-ccccccccc.pdf
- i. Capital letters and dashes to be included where shown;
 - ii. nnnn = submitter number using leading zeroes;
 - iii. aaaaaaaaaa = submitter name to a maximum of 10 letters and spaces;
 - iv. 00 = Hearing Stream number – 14 or 15;
 - v. bbbbbbbbbbbb = author's name in format surname initial;
 - vi. cccccccccc = document type – i.e. evidence, legal submissions, application, memorandum, appendix
32. 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.
33. Two examples may help understanding of this (the submitter numbers, names etc are purely for illustrative purposes):
- i. S0089-Fast Food L-T14-HumphreyT-Legal Submissions.pdf
 - ii. C0765-S0089-Fast Food L-T14-HumphreyT-Legal Submissions.pdf

34. The use of this file naming convention will make it easier to manage the documents being lodged and to make it simpler to find the documents on the Hearings website.

Hearing Transcripts and Other Material

35. Full recordings will be made of each hearing. These will be available on the Council website within two working days of being recorded.
36. All submissions and evidence lodged in advance of the hearings will be available on the Council website within two working days of receipt.
37. 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.
38. The page on the Council's website where all this information will be available is: <http://www.qldc.govt.nz/proposed-district-plan-hearings>

On the Day

39. 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:
- The Chair 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 5 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;
 - After you have presented your case the Hearing Panel may then ask questions of you and/or your witnesses.
40. 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 the Chair 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.

The Chair will decide whether clarification should be provided, and if so, what process should then be followed.

What You Should Do

41. 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>
42. 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.
43. You will need to prepare a written statement that explains your submission to the Hearing Panel. Your written statement cannot go outside of the scope of your original submission. 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). Keep the written statement 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. Your submission and evidence must relate solely to the topic being heard at the hearing and not matters to be heard at later hearings. Bring 10 (ten) copies of the written statement with you on the day, being 5 for the Panel and at least one each for Council reporting officers and any interested submitters present. Note that where this statement exceeds one side of an A4 sheet of paper, it will need to be pre-lodged in accordance with the timetable set out near the commencement of this Minute.

Speaking With Other Submitters

44. As the hearing involves many submitters, you may choose to make your submission along with other submitters speaking about the same topic as you. If you wish to do this, please contact the respective submitter and Hope Marson at the council for scheduling purposes.

Presenting in Te Reo or New Zealand Sign Language

45. 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?

46. Following the receipt of the Council's written reply and close of hearings, the Hearing Panel will enter into deliberations. This will be done in-committee (i.e. in private). The Hearing Panel will then make recommendations to the Council on amendments to the PDP as a result of submissions, further submissions and the hearings. The Council will consider the recommended amendments and make its decisions subsequently.
47. All submitters and further submitters will be notified of the release of the decisions. If you are not satisfied with the Council's decision on your submission, you can appeal all or part of the decision to the Environment Court.

Key Contacts

48. The primary point of contact for all matters relating to the hearings is Hope Marson, email dphearings@qldc.govt.nz.
49. 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.
50. The key location for up-to-date information on the hearings is the District Plan Hearings page on the Council website:
<https://www.qldc.govt.nz/planning/district-plan/proposed-district-plan-stage-2/>

For the Hearing Panel



Denis Nugent (Chair)
1 May 2018