

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of Stage 3 of the
Queenstown Lakes
Proposed District Plan

MINUTE 31 – ADDITIONAL VEINT EVIDENCE

Introduction

1. On Thursday 30 July, the Hearing Panel heard Ms Robb (Counsel) and Mr Vivian (expert planning witness) for the successor to submission #31008 that was originally lodged in the name of Mr Veint, the now former owner of Arcadia Station.
2. On the following Tuesday 4 August, Ms Robb lodged a Memorandum seeking leave to file supplementary evidence by Mr Vivian providing draft plan provisions for a bespoke Arcadia “Special Zone”, as an alternative to the amended Rural Visitor Zone provisions the subject of his evidence heard on 30 July.
3. In her application, Ms Robb argued that there was no issue as to scope to seek alternative relief given that the submission sought that Chapter 46 be declined until such time as matters outlined in the submission were addressed.
4. Ms Robb suggested also that her application could be accommodated without unreasonable prejudice to the Council or any other parties because the Council would be able to provide feedback on the proposed provisions in its right of reply. Ms Robb suggested that Mr Vivian could speak to his draft plan provisions when the submitter appeared in relation to its second submission (#31074) which is scheduled for hearing on 13 August.
5. I asked the Hearing Administrator to refer Ms Robb’s application to Counsel for the Council for feedback as to the Council’s position. Ms Scott filed a Memorandum opposing Ms Robb’s application on the grounds that:
 - (a) There is no scope to grant the alternative relief proposed to be the subject of Mr Vivian’s evidence;

- (b) It would be unfair to grant leave to file what would necessarily have to be very extensive evidence at such a late stage of the hearing process, given that the Council will be limited to a written reply thereafter. Ms Scott also drew attention to the potential that other parties might have wished to submit on the alternative relief sought and observed that it would provide the submitter with an opportunity that submitters on other subjects have not had;
 - (c) The concept of a bespoke zone is opposed on its merits. Ms Scott observes that it would not overcome the fundamental objection to the relief sought by the submitter, which is based on landscape evidence.
6. Having reflected on the application, I asked the Hearing Panel to advise Ms Robb that I did not grant her application and that my reasons would follow. This Minute provides those reasons.

Discussion:

- 7. When the submitter was heard on 30 July, the Panel had an extensive discussion both with Ms Robb and with Mr Vivian regarding the complex planning background to the submission. While possible alternatives to the relief sought by the submitter were canvassed, these tended to be collateral actions designed to alleviate the problem posed by a condition in the structure plan consent the submitter holds for the Arcadia Rural Visitor Zone under the Operative District Plan that requires registration of a covenant on the Arcadia Station land titles. My notes of that discussion, and indeed my recollection, do not suggest that the possibility of a bespoke special zone received more than passing reference.
- 8. I therefore regard this request as seeking a "second bite of the cherry", rather than responding to a request from the Hearing Panel.
- 9. On the scope for the foreshadowed alternative relief, the relief sought in the original submission is not entirely clear. If it is read as seeking rejection of the Plan Change and retention of the operative Rural Visitor Zone, an alternative bespoke special zone might be within scope, depending of course on the content of the zone provisions. Accordingly, I do not base my decision on Ms Robb's application on Ms Scott's first ground of opposition.
- 10. I consider, however, her second ground to be rather stronger. Because we did not discuss a bespoke special zone in any detail with Ms Robb and Mr Vivian, I have no idea what is in their minds as to the possible content of such a zone. I agree

with Ms Scott, however, that an entirely new zone would require significant evidential support. Among other things, a new Section 32AA evaluation would be required.

11. I have asked other parties to supply the Hearing Panel with revised plan provisions after completion of their appearance, but that was in circumstances where the issues had been well canvassed at the hearing and the nature of the additional documentation to be supplied was clear: either addressing a specific issue, or correcting drafting issues in a previously tabled version. This is not in that category.
12. I therefore agree with Ms Scott that the Council is prejudiced being limited to a written reply, albeit that the scale of that prejudice is difficult to establish at this point.
13. For similar reasons, while I accept there is the potential for prejudice to third parties, in particular the further submitter on the original submission, the scale of that prejudice is uncertain at this point.
14. I agree also that our hearing the submitter again on matters they had already addressed us on would operate unfairly to other submitters, who have not had that opportunity. The fact that the submitter is scheduled to be heard on a separate submission is not, in my view, an opportunity to relitigate matters that have already been heard.
15. I also find it difficult to understand how a bespoke special zone would advance the submitter's case materially, essentially for the reasons put forward by Ms Scott, and therefore what value the Hearing Panel would derive from additional evidence from Mr Vivian at this late stage.
16. In summary, for all of these reasons, I do not grant leave for the submitter to file supplementary evidence in relation to submission #31008.

Dated 7 August 2020

A handwritten signature in blue ink, consisting of a large, stylized 'T' followed by a horizontal line that ends in a small flourish.

**Trevor Robinson
Chair
Stage 3 Hearing Panel**