

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of Stage 3 of the
Queenstown Lakes
Proposed District Plan

MINUTE 26 – LATE ARTHURS POINT FUTHER SUBMISSION

Introduction

1. Late afternoon on 25 June, Arthurs Point Partnership (“APP”) applied for leave to lodge a further submission in respect of the submission of Arthurs Point Land Trustee Limited (“APLT” - #31042). APP’s application was based on APP having only just appreciated the full ramifications of the relief sought by APLT in respect of a property neighbouring its own, after the filing of expert evidence.
2. The application acknowledged the imminent start of the Stage 3 hearing but suggested that the matter in issue was discrete and that there was still time for evidence exchange to occur if required, prior to APLT being heard on 29 July.
3. I asked the Hearing Administrator to forward on this application to counsel for APLT, Mr Leckie, and to counsel for the Council, Ms Scott, with a request that they might respond either in writing prior to commencement of the hearing on 29 June, or in person after the hearing had commenced.
4. Mr Leckie filed a detailed memorandum opposing APP’s application, testing it against the criteria in my Minute 2. In particular, Mr Leckie points to the delay in making application relative both to the closing of further submissions (on 17 February) and the deadline for rebuttal evidence (12 June).
5. Mr Leckie submits that APLT’s evidence was within the scope of its submission which “*fully and substantively outlined the relief sought by APLT*”. He recorded further that the APLT submission included tracked changes with the relief sought.
6. Mr Leckie contends that APLT is prejudiced by APP’s application, which will require it to expend costs and resources reviewing and potentially replying to evidence outside of the proposed timeframes. Mr Leckie notes that APLT’s relief is already opposed by the Arthurs Point Outstanding Natural Landscape Society Inc, so that

APP's intervention is not necessary to provide a counterview. He also observes that APLT's submission has been fully assessed by the Council's witnesses.

7. Lastly, Mr Leckie points to the disruption of the hearing arrangements by accepting a further submission one working day prior to the opening of the hearings, suggesting that it would "*set an unorderly and prejudicial precedent for the PDP process*".
8. Ms Scott advised her position verbally following the hearing commencement. She said that while she considered a number of the points made by Mr Leckie to be well founded, the Council's formal position was that it abided the outcome. Ms Scott also advised that she had been in contact with Ms Baker-Galloway, counsel for APP and passed on Ms Baker-Galloway's advice that she did not wish to be heard further on APP's application and would abide the outcome.
9. I recorded my decision not to grant APP's application verbally at the hearing. My reasons follow.

Discussion

10. To say that this application is late is an understatement. As Mr Leckie observed, it was filed one working day before the hearing commencement.
11. While I have been prepared to allow late submissions¹, thereby creating a process running in parallel with that previously directed, they were in relation to issues where there was no obvious counterparty that stood to be prejudiced by that fact. I found in the circumstances that a measure of disorder of the previous hearing arrangements was justified.
12. I do not find that to be the case in this instance. I find that Mr Leckie's criticism of the grounds for the application to be well justified. As he observes, the APLT submission is detailed, both as to the reasons for relief and the relief being sought. The summary of submissions likewise accurately captures the fact that APLT is seeking to facilitate a significant intensification of its site, compared to the notified provisions.
13. APP's application did not identify any respect in which the expert evidence filed for APLT came as 'news' to it.

¹ Refer Minutes 18 and 19

14. I accept also Mr Leckie's submission that his client's position would be prejudiced by allowing this late submission. In addition, as he observes, there is already a contradictor on the record and the expert evidence for the Council has thoroughly reviewed the submission, recommending its acceptance in some respects and its rejection in other respects.
15. We will hear the Council's evidence within the next few days. I note that the copy further submission enclosed with APP's application is generic in nature, not raising any specific issue. If APP's further submission were allowed in, we would hear the Council's evidence without knowing the detailed basis for that further submission, and therefore without the ability to meaningfully query the Council's witnesses on the issues of concern to APP.
16. Accepting APP's submission would disrupt the orderly running of the hearing to a degree I am not prepared to accept.
17. In summary for the reasons I have set out above, I do not grant APP a waiver in respect of late receipt of its proposed further submission.

Dated 30 June 2020



**Trevor Robinson
Chair
Stage 3 Hearing Panel**