

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of the Queenstown Lakes
Proposed District Plan

MINUTE CONCERNING SUBMISSIONS SEEKING REZONING
TO AN ODP ZONE

1. This Minute is in response to a Memorandum of Counsel for Lake Wakatipu Station Ltd dated 29 May 2017. Lake Wakatipu Station Ltd, along with Review Seventeen Limited, (Submitter 478) has sought that an area of land at Halfway Bay be rezoned from Rural to Rural Visitor. The memorandum seeks clarification as to whether the rezoning request will be heard as part of Stream 13. This query has arisen as the Council's s.42A report suggests that, as the submitter seeks to have an Operative District Plan zoning, namely the Rural Visitor Zone, applied to the land, the reporting consultant can only consider in principle whether it be rezoned.
2. Mr Todd's memorandum has also quoted Commissioner Robinson's comment at the opening of the Stream 12 hearing, that this Stage of the PDP may be the sole opportunity a submitter has to seek a rezoning as there is no guarantee the Council would renotify the zoning of the land in question in Stage 2 or any subsequent stage.
3. As I see it, both the Council reporting officers and the experts and counsel advising submitters are not approaching the issue in the correct manner. If a piece of land is included in Stage 1 of the PDP because it has a Stage 1 PDP zoning applied to it, any person is entitled to lodge a submission seeking the rezoning of that land. There is nothing in law that says the zoning sought must be one of the zones notified at Stage 1. Further, I do not understand that the opening legal submissions for Council in the Stream 12 hearing that Commissioner Robinson was responding to, took issue with this.
4. However, if a submitter seeks to zone the land using a set of provisions that are not one of the Stage 1 zones, that submitter would need to show how those provisions fit within the overall strategic directions chapters of the PDP. If the provisions do not give effect to and implement the strategic directions chapters, it would likely be difficult to conclude that they were the most appropriate way to achieve the objectives in those chapters.

5. Where a submitter has chosen to identify an ODP zoning, such as the Rural Visitor Zone, as the set of provisions as being appropriate, that test of giving effect to and implementing the strategic directions chapters remains relevant. In addition, there are two matters that submitters need to consider in seeking the implementation of an ODP zone. First, there is no evidence that those ODP zones will become part of the PDP. Second, the Hearing Panel would need to understand the entire objective, policy and rule framework proposed so the Panel can understand what actual and potential effects on the environment the rezoning would have and whether that was consistent with the overall objectives and policies of the PDP. I can foresee difficulties in this regard if a submitter seeks to rely on ODP provisions unaltered, as the entire structure of the PDP is different.
6. This approach means that is open to submitters to seek to apply a zone that is not in those presently part of Stage 1 of the PDP, but they must provide a solution that fits within the PDP. It also means that it is not open to the Council to say that the submission cannot be considered because an ODP zone is sought, at least not at the s.42A report stage. If a submitter fails to file evidence showing how the provisions sought fit within the PDP and relies solely on ODP zone provisions, then the Council is fully entitled to adduce rebuttal evidence identifying aspects of those provisions that do not give effect to and implement the PDP higher order objectives and policies.
7. In short, in answer to Mr Todd's question, yes, we will hear the request to rezone his client's land in Stream 13, subject to the expectations outlined above.

For the Hearing Panel

A handwritten signature in blue ink, appearing to read 'Nugent', is written over a light blue circular stamp.

Denis Nugent (Chair)

29 May 2017