

## **QUEENSTOWN LAKES DISTRICT COUNCIL**

### **Proposed District Plan**

#### **MINUTE AND DIRECTIONS OF HEARING COMMISSIONERS**

##### **on Procedures for Hearing of Submissions**

### **Introduction**

At its meetings on 29 October, 26 November and 17 December 2015 the Queenstown Lakes District Council (the Council) under section 34A of the Resource Management Act 1991 appointed a Panel of Hearing Commissioners to hear the submissions and further submissions on the Proposed District Plan (“PDP”), and to make recommendations to the Council on those submissions and further submissions.

The appointed Hearing Commissioners are:

Denis Nugent (Chair) – Planner, Wanaka	Alexa Forbes*, Councillor, Wakatipu Ward
Brad Coombs, Landscape Architect, Tauranga	Cath Gilmour, Councillor, Wakatipu Ward
Yvette Couch-Lewis, Cultural Adviser, Christchurch	Simon Stammers-Smith*, Councillor, Wakatipu Ward
David McMahon – Planner, Wellington	Scott Stevens*, Councillor, Arrowtown Ward
Ian Munro – Urban Designer, Auckland	Lyal Cocks, Deputy Mayor, Wanaka Ward
Bob Nixon – Planner, Christchurch	Ella Lawton, Councillor, Wanaka Ward
Trevor Robinson – Barrister, Wellington	Calum MacLeod, Councillor, Wanaka Ward
Paul Rodgers – Solicitor, Christchurch	
Mark St Clair – Planner, Wellington	
Jane Taylor – Barrister, Queenstown	

\* These Councillors will be confirmed as Panel Members once they achieve their Making Good Decisions Certificate.

It is proposed that, generally, the Hearing Commissioners will sit as Panels of three, comprising the Chair, an elected representative, and a professional commissioner. For some hearings this number may be increased, and in other instances may be decreased, depending upon the nature of the topic.

Reference to submissions and submitters in this Minute and Directions includes further submissions and further submitters.

## **Principles of Hearing Process**

The Hearings Panel will establish and conduct a hearings process that:

- is appropriate and fair: the Hearings Panel will at all times act in a fair and transparent manner;
- 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;
- 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
- 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**

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.

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.

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.

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.

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

All parties to each day's proceedings will be entitled to bring to the Chair's attention any potential 'interest' situation.

### **Hearing Timetable and Structure**

Hearings will be held grouped by topic. For submissions on the Plan text, each topic will be a single chapter or a group of chapters. For submissions seeking changes to the planning maps, the Hearing Panel will hear these grouped into geographic areas. Attached in Appendix A is a table listing the topics.

This means that if you have submitted on multiple provisions, you may need to attend multiple hearings if you wish to speak to all of your submissions. The Hearing Panel acknowledges that this potentially increases your time commitments but considers that this approach will be more efficient given the complexity of issues it must consider. As explained above, generally the Hearing Panel for each topic will consist of three hearing commissioners and the membership of the Panel will vary from topic to topic. While there will be some overlap of hearing commissioners hearing different topics, this approach means that matters put to the Panel hearing the residential chapters, for instance, will not necessarily be heard by all hearing commissioners on the Panel hearing the changes to residential zones on the maps.

Where this separation into topic areas means that a submitter may be required to repeat essentially the same submissions and evidence in more than one hearing session, the Hearing Panel will allow this to be presented in person at the first relevant hearing, and then have the material tabled at the remaining relevant hearings. The submitter or submitter's representatives and any witnesses should be available to answer questions from the relevant Panel for those later hearings if requested by the Hearing Panel.

Where a submitter or their representative is unable to attend the hearing for a particular topic, material in support of their submission may be tabled provided it is received by the Committee Secretary 5 working days prior to the hearings on the topic commencing. Once the hearings for a topic is completed, the Panel will not accept additional material on that topic, other than in exceptional circumstances which will require approval of the Panel Chair.

Hearing Reports<sup>1</sup> will be produced by Council staff for each topic area. Where the staff are recommending modifications to the proposed plan as a result of the submissions they will include an evaluation in accordance with s.32AA of the Act in the Hearing Report. The Hearing Reports will be placed on the Council website

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<sup>1</sup> Produced under s.42A of the Act.

at least 10 working days prior to the hearings for that topic commencing and all relevant parties advised of their availability.

#### Hearing Submissions on PDP Text

To enable a reasonable estimate of the time required to hear the submissions, and to ensure an efficient process, the Hearing Panel has allowed each submitter on a particular topic 10 minutes of hearing time subject to the following:

- a) Additional time can be requested provided such request is made, with reasons supporting the request and the amount of time required, no later than 8 working days prior to the topic commencing; and
- b) Where more than one submitter is represented by the same counsel or consultant, all of those submitters will be heard at one time (i.e. adding their time allocations together); and
- c) Each expert witness may only present one brief of evidence per topic. Where that witness is appearing in respect of multiple submitters, that evidence may be subdivided into appropriate sections so as to enable the submitters' cases to be presented adequately.

The Chair of the Hearing Panel has been delegated the powers to make procedural decisions such as dealing with requests for additional time. Such requests will generally be granted subject to:

- a) Hearing time being efficiently used;
- b) Unnecessary repetition being avoided; and
- c) The conditions set out below.

If additional time is sought and approved, all evidence will need to be lodged with the Council 5 working days prior to the hearings for the topic commencing. The Hearing Panel also requests that a synopsis of any legal submissions to be made be lodged along with copies of any cases cited no less than 5 working days prior to the hearings for the topic commencing. Where evidence is lodged in advance it will read in advance by the panel and the relevant witness will have a maximum of 10 minutes to summarise their evidence. Where legal submissions have been lodged in advance, they will also be pre-read and should be summarised and not read at the hearing.

Note that in calculating the time required, allowance should be made for questioning by the Panel. Ten minutes will be sufficient for hearing 1 to 2 pages of written material.

The Council staff responsible for the relevant Hearing Report will be able to provide a written reply to the submissions heard within 5 working days of the completion of the set of hearings on the relevant topic. Any comments made by Council staff will be strictly in reply to matters and evidence raised by submitters. These written replies will be available on the Council website within 5 working days of the completion of the relevant hearings.

#### Timeframes in Relation to Hearings on Plan Text

Notice of hearing sent to submitters	15 working days prior to commencement of hearings on topic stream
Hearing time allocation opens (including requests for additional time)	Opens 15 working days prior to commencement of hearings on topic stream
Council's Hearing Report available	10 working days prior to commencement of hearings on topic stream
Requests for additional hearing time closes	8 working days prior to commencement of hearings on topic stream
Last day for lodgement of evidence and legal synopsis for pre-reading	5 working days prior to commencement of hearings on topic stream
Closing of hearing time allocation	5 working days prior to commencement of hearings on topic stream

#### Hearing Submissions on Designations

The Hearing Panel will treat these in a manner similar to the process for hearing Notices of Requirement outside the First Schedule process. Consequently, these hearings will be arranged by designation and will occur outside of the series of hearings on topics or by area at times convenient to the relevant hearing commissioners, the requiring authority, and any submitters, as far as practicable.

#### Hearing Submissions on PDP Maps (other than Designations)

These will be heard in groupings by geographic area to enable the same Panel to consider changes sought in a particular area in an integrated manner.

It is the Hearing Panel's intention to pre-read all evidence for these topics in advance of the hearings. The Panel also requests that a synopsis of legal submissions and cases cited be provided for reading prior to the hearing. To enable the pre-reading to be undertaken in a timely fashion, all such material is to be provided 10 working days (two weeks) in advance of the allocated date for the commencement of hearings for the particular area.

The Council's Hearing Reports will be made available on the Council website four weeks (20 working days) in advance of the scheduled hearing, and all relevant parties advised of their availability. This will ensure that all relevant parties wishing to prepare evidence can do so in the knowledge of the issues addressed in the Hearing Reports.

#### Timeframes in Relation to Hearings on Maps

Notice of hearing sent to submitters	25 working days prior to commencement of hearings on topic stream
Hearing time allocation opens (including requests for additional time)	Opens 25 working days prior to commencement of hearings on topic stream
Council's Hearing Report available	20 working days prior to commencement of hearings on topic stream
Requests for additional hearing time closes	15 working days prior to commencement of hearings on topic stream
Last day for lodgement of legal submissions and evidence	10 working days prior to commencement of hearings on topic stream
Closing of hearing time allocation	10 working days prior to commencement of hearings on topic stream

#### Commencement of Hearings

This is scheduled for 7 March 2016 at 2pm. At this time the Council's solicitor will present submissions lead evidence on the overall strategy of the PDP (the theme of the first topic). This date differs from that discussed informally with professional representatives. It has been chosen to ensure Commissioner availability and to provide adequate time for the Council staff to provide full and adequate Hearing Reports on the first topic a clear 10 working days prior to the hearings commencing.

It is expected that an indicative schedule outlining the order of topics and when the hearings on those topics are likely to be held will accompany the first notice of hearing and be placed on the Council website at the same time, on the following page: <http://www.qldc.govt.nz/proposed-district-plan-hearings>.

### Hearing Process

The Hearing Panel wants to give each submitter sufficient opportunity to explain the basis of their submission, but it needs to do this in an efficient manner. In addition, the Panel recognises that submitters may have commitments that limit their availability to attend the hearings. To this end the notice of hearing will include a link to a form where a hearing time (within those available) and location (Queenstown or Wanaka) can be requested. This same form will be used to request additional time. All requests for specific times and additional time will be promptly responded to. It is anticipated that all requests will generally be responded to within 1 working day.

### **Hearing Reports**

The Council staff are preparing Hearing Reports under section 42A of the Act for each topic area. These reports analyse the submissions and further submissions received and includes recommendations from the report writer. The Hearing Panel will consider the staff recommendations, but those recommendations have no greater status than the submissions made to the Hearing Panel. As the Hearing Reports become available they will be available on the Council website at this page: <http://www.qldc.govt.nz/proposed-district-plan-hearings>

### **Submissions and Evidence**

#### Legal Submissions

Legal submissions should be provided in writing so as to ensure that an accurate record of the submissions is provided to the Hearing Panel. Where a synopsis of legal submissions has been provided in advance, these will have been pre-read and an oral summary can be presented. Copies of cases cited should also be provided.

#### Expert Evidence

Expert evidence should be prepared and presented in the same manner as expert evidence presented to the Environment Court (i.e. in accordance with Part 7 of the Environment Court Practice Note 2014).

Evidence supporting a submission seeking to modify the provisions of the proposed plan should contain an evaluation sufficient to satisfy the requirements of s.32AA of the Act.

### **Hearing Transcripts**

Full recordings will be made of each hearing. These will be available on the Council website within two working days of being recorded.

All submissions and evidence lodged in advance of the hearings will be available on the Council website within two working days of receipt.

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.

The page on the Council's website where all this information will be available is: <http://www.qldc.govt.nz/proposed-district-plan-hearings>

### **Caucusing and Conferencing**

The Hearing Panel is not timetabling formal sessions for caucusing or conferencing between expert witnesses. However, the Hearing Panel requests that all parties (the reporting officers and submitters) calling expert witnesses liaise amongst themselves in order to facilitate their respective experts conferencing on matters relevant to their specific areas of expertise prior to the preparation of their reports or evidence (including any applicable district plan provisions). The aim of such conferencing should be to identify areas of agreement and disagreement which can then be noted in the reports and evidence. The Hearing Panel will attempt to focus on the issues of contention during the hearing and in their deliberations thereafter and so the assistance of the parties to clearly identify areas of expert agreement and disagreement in this manner would be greatly appreciated.

### **On the Day**

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 welcome and introduce other panel members and Council staff;



- On the first day of hearing a topic, the staff member(s) responsible for the Hearing Report will be asked to briefly summarise their report;
- The Hearings Panel will ask questions of the author/s of the Hearing Report;
- The submitters will present their cases including any expert witnesses. This must be restricted to the topic being considered at that specific hearing;
- The Hearing Panel may then ask questions of submitters or their witnesses;
- After all submissions have been heard on a specific chapter, the Council officers will prepare a written reply which will be filed with the Hearing Panel Secretary within 5 working days, and a copy will be provided to each submitter who was heard for that topic.

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**

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>

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.

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 15 (fifteen) copies of the written statement with you on the day.

At the hearing you will be asked to read out your written statement and answer any questions from the hearing panel. If you have any witnesses, they will likewise be asked to read out their statements (unless their evidence has been provided in advance) and answer any questions from the Hearing Panel.

### **Speaking With Other Submitters**

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 Julia Chalmers at the council for scheduling purposes.

### **Presenting in Te Reo or New Zealand Sign Language**

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?**

Following the 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 in-committee.

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**

The primary point of contact for all matters relating to the hearings is Julia Chalmers, phone 03 441 0499 or 03 443 0024, email [dphearings@qldc.govt.nz](mailto:dphearings@qldc.govt.nz).

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](mailto:dphearings@qldc.govt.nz).

The key location for up-to-date information on the hearings is the District Plan Hearings page on the Council website:

<http://www.qldc.govt.nz/proposed-district-plan-hearings>

For the Hearing Panel

A handwritten signature in blue ink, appearing to read 'Nugent', written in a cursive style.

Denis Nugent  
Hearing Panel Chair  
25 January 2016

## **Appendix A – Hearing Topics**

### District Plan Text Hearings

#### Topic

Overall District Plan Strategy – Chapters 1, 3, 4, 5 & 6 in two parts:

Chapters 1 & 5 along with Goal 3.2.7 will be heard first

Chapters 3, 4 & 6 will be heard second

Town Centre & Business Zones – Chapters 12, 13, 14, 15, 16 & 17 (incl Airport Mixed Use)

Rural & Rural Residential Provisions – Chapters 21, 22, 23, 33 & 34

Historic Heritage & Protected Trees – Chapters 26 & 32

Residential Zones – Chapters 7 to 11 incl

Subdivision Provisions – Chapter 27

District-wide Provisions – Chapters 28, 30, 35 & 36

Special Zones – Chapters 41, 42 & 43, Definitions – Chapter 2

Submissions on Whole Plan

### Submissions on Maps

#### Topic

Wanaka Urban Area

Slopehill Road, Speargrass Flat, Dalefield, Littles Road

Wanaka Edge (ie extension to urban area, or immediately adjoining Wanaka)

Queenstown Urban incl Queenstown Hill

Remaining Upper Clutha, Makarora, Matukituki and Cardrona

Arthurs Point, Kingston

Frankton Flats, Ferry Hill, Tuckers Beach

East & north of Lake Hayes

Glenorchy, Bobs Cove

Arrowtown

Morven Ferry, Crown Terrace

West of Lake Wakatipu, Coronet & Remarkable Ski Fields, Gibbston Valley,  
Queenstown Park

South of Kawarau River (Kelvin Heights, Jacks Point, Coneburn Industrial)

Ladies Mile, Lake Hayes Estate & Shotover Country

Maps General (combined with whole of plan)