

QUEENSTOWN LAKES DISTRICT COUNCIL
Proposed District Plan

SECOND MINUTE OF HEARING COMMISSIONERS
Clarifying Hearing Timetabling Issues

Introduction

1. Following the circulation of our Procedure Minute on 29 January 2016 several queries have been made by practitioners and submitters. This Minute is intended to clarify those matters. As in our previous Minute, reference to submissions and submitters includes further submissions and further submitters.

Procedural Hearing

2. At the informal discussion Commissioner Nugent had with practitioners in January mention was made of a potential procedural hearing to deal with submissions the Council considered may be out of scope.
3. This will not occur as a separate hearing. Rather, it is expected that the Council will identify those submissions it considers out of scope in the s.42A Reports and set out its reasons. The submitters will therefore have the opportunity when their submission is heard to make submissions as to why he or she considers the submission to be in scope.
4. The Hearing Panel expects counsel for the Council to outline the legal basis it considers appropriate for determining whether a submission is out of scope at the Council opening on 7 March (see below).

Environment Court Sitting in Queenstown

5. A query was made regarding how the Hearing Panel proposed to deal with the potential difficulties practitioners would have attending the Environment Court during its scheduled hearing in April and our proposed hearings.
6. We will attempt to avoid conducting hearings on the Proposed District Plan at the same time the Environment Court is sitting in the District. To this end:
 - a) we have made arrangements with the Environment Court Registry to be advised well in advance of when it proposes sitting in the District;

b) we have rescheduled the proposed Business Zones Hearing Topic (Chapters 12, 13, 14, 15, 16 & 17) so they will not be heard in April when the Environment Court is expected to sit in Queenstown to hear PC50.

7. It is now expected that the Business Zones Hearing Topic will be heard toward the end of the series of topic hearings on Plan text.

Council Opening on 7 March 2016

8. A query has been raised as to whether submitters would be able to make submissions at this hearing.

9. The intention of the Hearing Panel is to give the Council the opportunity on 7 March to present such submissions and evidence as it deems appropriate to set the background to the proposed Plan and the matters dealt with in the ensuing hearing of submissions: namely Chapters 1 and 3 to 6 inclusive. Submitters will be able to respond to any matters raised by the Council that is relevant to their submission later in the hearing when they present on the relevant aspect(s) of their submission. It is not proposed that submitters will be heard on 7 March. We intend to commence hearing submitters on 8 March.

Clarification of Evidence Lodgement Requirements

10. It has been suggested that the Procedure Minute contained ambiguities concerning the lodgement and presentation of evidence at the hearings.

11. To clarify, with respect to the hearings on the Plan text –

a) If additional time beyond the 10 minutes allocated per submitter is sought and approved, then: –

(i) All evidence needs to be lodged at least 5 working days prior to the commencement of the hearing for the relevant topic;

(ii) We also request that a synopsis of legal submissions be lodged at the same time, including any legal authorities relied upon;

(iii) All evidence and legal synopses lodged prior to the hearings will be available on the Council website within 2 working days of receipt;

(iv) The Panel will pre-read all pre-lodged evidence and legal synopses;

(v) At the hearing the pre-lodged evidence will be taken as read unless indicated otherwise by the Panel. The witnesses may present a summary

of their evidence and any comments on other relevant evidence that has also been lodged – to a maximum of 10 minutes;

(vi) Legal submissions may be presented orally; with the understanding the Panel will have read the synopsis lodged.

b) Where additional time has not been sought, or was not approved, a submitter is not required to pre-lodge their evidence. They may present their evidence at the hearing making use of the 10 minutes allotted (approximately sufficient time for 1 – 2 pages of written materials).

12. The situation for the hearings concerning amendments sought to the Planning Maps will be similar, although the pre-lodgement period is longer.

Clarification of Hearing Text and Mapping Submissions

13. The Hearing Panel proposes to hear submissions on the notified text of the Proposed District Plan first, and then deal with amendments sought to the maps. This will mean that where a submitter seeks to amend the provisions of a zone, and also seeks to amend the extent of that zone, the submitter will be heard in two different topic hearings.

14. The Panel is aware that several submissions seek to include new zones or subzones that would apply to specific properties or areas. In those instances, the Hearing Panel will hear those parts of the submission dealing with both the proposed new zone/subzone and the changes sought to the maps to apply the zone/subzone within the mapping streams.

15. Where submitters consider the Hearing Panel would be better served by hearing submissions related to geographically separated pieces of land that have a similar theme or topic, such as the ski areas, by a Panel constituted of the same members, those submitters are requested to make their suggestion in writing to the Panel through Ms Chalmers.

16. Finally on this topic, the Hearing Panel proposes to hear submissions seeking to amend landscape lines, urban growth boundaries and zone boundaries as part of the hearings on map amendments.

Recently Notified Summary of Submissions

17. The Council recently notified a summary of submissions relating to 11 submissions which the Council had not included in whole or in part in the summary notified on 3 December 2015. The period for lodging further submissions on those submissions included in this notice ends on 12 February next. The Hearing Panel

is also aware of at least two additional submissions which will need to be summarised and notified due to the time for lodgement being waived.

18. It is expected that the notification of these additional submissions and the receipt of any further submissions in relation to them will not disrupt the timetabling requirements we set out in our Procedure Minute of 25 January 2015. If any submitter (or further submitter) considers the timing of these later notifications will affect their ability to meet those timetabling directions, they should contact the Panel through Ms Chalmers.

Hearing Submissions on Definitions

19. It is expected that submitters seeking amendments to the definitions in the Proposed District Plan, or the inclusion of additional definitions, will present submissions and evidence on these in the context of their submissions on the relevant chapter. That is the approach preferred by the Hearing Panel as it will enable the Panel to consider the relevant terms in the context of the rules which apply them.
20. The Panel accepts that this may lead to receiving submissions and evidence on particular terms in more than one hearing topic. Where there is potential for that to lead to inconsistencies the Panel may hold a separate hearing to deal with the relevant submission points.
21. In any event, the Panel will timetable a hearing at the end of those dealing with the Plan text to hear any submissions relating to definitions not otherwise heard.

Unavailability of Counsel or Witnesses

22. Clarification has been sought as to how the Panel will address issues regarding counsel or expert witness unavailability due to pre-arranged holidays conflicting with the hearing schedule.
23. The Panel expects to have an outline of the hearing schedule for the hearings on the Plan text available by the time the formal notice of hearing is issued for the initial set of hearings. While this schedule will be indicative and may change for reasons such as the Environment Court sitting in the District, or a particular topic taking more hearing days than expected, we will not be altering it to accommodate counsel or witness availability. The option of briefing out or tabling submissions and evidence is available in those circumstances where counsel or witnesses are unavailable for all of the available hearing days on any particular topic.

For the Hearing Panel

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

Denis Nugent
Chair
5 February 2016