

**QLDC Council
31 January 2019****Report for Agenda Item: 8****Department: Corporate Services****Amendment to QLDC Standing Orders****Purpose**

To make amendments to Standing Orders in regards to speaking in public forum.

Recommendation

That Council:

1. **Note** the reasons for amending the Queenstown Lakes District Council Standing Orders and;
2. **Adopt** the proposed amendments to the Queenstown Lakes District Council Standing Orders.

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Reviewed and Authorised
by:



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Background

- 1 Council adopted a new set of Standing Orders on 15 December 2016 based on a Local Government New Zealand template for Territorial Local Authorities incorporating changes in legislation since 2003.
- 2 Standing Orders were subsequently amended by Council on 9 March 2017, clarifying restrictions to presenting at public forum as outlined in section 14.15 to *“the matter is subject to a hearing, including the hearing of submissions where the local authority, a committee, or hearings panel sits in a quasi-judicial capacity”*. This was to prevent speakers from raising for a second time, a topic already considered in a defined submission and hearing process, although it did not explicitly preclude them from speaking on this topic.

- 3 Despite the amendment, last year there were instances of people attempting to address the Council in relation to a hearing panel recommendation.
- 4 Enabling people to speak in public forum in relation to a hearing decision creates a potential risk to the decision making process. This could be perceived to be a further opportunity to influence the final decision that is not extended to all submitters. This could give rise to potential for challenge on the grounds that the Council was not acting in good faith and did not listen fairly to all sides.
- 5 Standing Orders do not confer an absolute right to speak at a public forum or take part actively in proceedings. It is an internal document to regulate Council affairs at a meeting. A member of the public can expect to have his/her request to speak properly considered, but ultimately the right to speak at public forum is at the discretion of the Chairperson. Therefore the Chairperson can use his/her discretion to decline a speaker on the grounds that the topic could present the Council with the risk of the decision-making process being challenged.

Recommendations

- 6 The following are the recommended amendments to standing orders to prevent public forum being used to speak on matters that are the subject of a hearing

Recommendation 1: amendment to section 14.15

Amend the section title and delete the final bullet point as follows;

Restrictions ***Discretionary restrictions***

The Chairperson has the discretion to decline to hear a speaker or to terminate a presentation at any time where:

- *a speaker is repeating views presented by an earlier speaker at the same public forum;*
- *the speaker is criticising elected members and/or staff;*
- *the speaker is being repetitious, disrespectful or offensive;*
- *the speaker has previously spoken on the same issue;*
- *the matter is subject to legal proceedings.;*
- ~~*the matter is subject to a hearing, including the hearing of submissions where the local authority, a committee, or hearings panel sits in a quasi-judicial capacity.*~~

Recommendation 2: addition of a new section 14.15A as follows

Mandatory restrictions

In order to preserve the integrity of the hearings process, the Chairperson must decline to hear a speaker or terminate a presentation at any time where the speaker wishes to discuss or is discussing a matter that is subject to a hearing, including the hearing of submissions where the local authority, committee or hearings panel sits in a quasi-judicial capacity.

Recommendation 3: amendment to section 15.2

Amend the section title and delete the final bullet point as follows;

Restrictions Discretionary restrictions

The Chairperson has the discretion to decline to hear a speaker or to terminate a presentation at any time where:

- *a speaker is repeating views presented by an earlier speaker at the same public forum;*
- *the speaker is criticising elected members and/or staff;*
- *the speaker is being repetitious, disrespectful or offensive;*
- *the speaker has previously spoken on the same issue;*
- *the matter is subject to legal proceedings.;*
- ~~*the matter is subject to a hearing, including the hearing of submissions where the local authority, a committee, or hearings panel sits in a quasi-judicial capacity.*~~

Recommendation 4: addition of a new section 15.2A as follows

Mandatory restrictions

In order to preserve the integrity of the hearings process, the Chairperson must decline to hear a speaker or terminate a presentation at any time where the speaker wishes to discuss or is discussing a matter that is subject to a hearing, including the hearing of submissions where the local authority, committee or hearings panel sits in a quasi-judicial capacity.

- 7 Pursuant to Standing Order 3.2, these amendments must be made by the Council and by a vote of not less than 75% of the members present.

Options

- 8 Option 1 Amend Standing Orders as proposed

Advantages:

- 9 Integrity of statutory hearings and submissions processed preserved
10 Clarity for presenters intending to speak at public forum

Disadvantages:

- 11 None identified

- 12 Option 2 Do not amend Standing Orders as proposed

Advantages:

- 13 None identified

Disadvantages:

14 Potential for some members of the public (but not all) to have an additional opportunity to influence a Council decision, giving rise to possible allegations that the Council has not acted in good faith not listened fairly to all sides

15 This report recommends **Option 1** for addressing the matter.

Significance and Engagement

16 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy. This is a minor update to existing processes.

Risk

17 This matter relates to the strategic risk SR3 Management Practice – working within legislation, as documented in the Council's risk register. The risk is classed as low. This matter relates to this risk because Standing Orders incorporate current legislation.

18 The recommended option considered above mitigates the risk as the proposed amendments to standing orders meet current legislation.

Financial Implications

19 There are no operational or capital expenditure requirements or other budget or cost implications resulting from the decision.

Council Policies, Strategies and Bylaws

20 The following Council policies, strategies and bylaws were considered:

- Councils must have Standing Orders and fulfil requirements under the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987.

21 The recommended option is consistent with the principles set out in the named policy/policies.

22 This matter is operational and is therefore not included in the Ten Year Plan/Annual Plan

Local Government Act 2002 Purpose Provisions

23 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by enabling democratic decision making.
- Can be implemented through current funding under the Ten Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and

- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

Consultation: Community Views and Preferences

24 There are no external persons who are affected by this matter.

Legal Considerations and Statutory Responsibilities

25 The proposed amendments to Standing Orders fulfil the requirements of the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987.

26 These recommended amendments have been drafted based on legal advice from Simpson Grierson, Wellington.

Attachments

A Extract from proposed Standing Orders