

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of the Queenstown Lakes
Proposed District Plan

FOURTH PROCEDURAL MINUTE

Introduction

1. From the experience gained while hearing the submissions on Chapters 1, 3, 4, 5 and 6 of the Proposed District Plan (PDP), the Hearing Panel considers it important to clarify certain procedural matters, to make explicit what the Panel considered implicit in the Procedure Minute issued on 26 January last, and to set out additional procedural requirements.

Availability of s.42A Reports

2. The Council has undertaken to make its s.42A Reports available 15 working days prior to the commencement of each hearing stream. Thus they will be released at the same time the notice of hearing is issued. No other changes to the pre-hearing timetable set out in our Procedure Minute of 26 January 2016 is envisaged.
3. The additional time available for submitters to consider the s.42A material prior to the lodgement of their evidence means the Panel will be less inclined to grant leave for the late lodgement/circulation of evidence.

Evidence

4. When evidence is to be pre-lodged, it is all evidence that is to be pre-lodged. It is only legal submissions that are exempt from this requirement, and we request that a synopsis of those be pre-lodged.
5. The Panel wishes to make it clear that the exemption for legal submissions applies to legal submissions to be presented by legal counsel. The characterisation of essentially factual material (i.e. non-expert evidence) as 'submissions' which are then read out by a representative of the submitter, does not bring it within the exemption granted for legal submissions.

Objectives, Policies and Rules

6. It was apparent that many of those appearing before the Hearing Panel failed to understand the difference between an objective and a policy.
7. An objective is a goal or desired outcome. Under the Resource Management Act an objective should express an environmental outcome. An objective cannot, therefore, commence with a verb. Verbs used in objectives should be in the passive: e.g. "Outstanding natural landscapes are protected", "Tourism developments in rural areas that [achieve some specified performance standard] are enabled".
8. A policy is a course of action to be followed to implement an objective. Policies should indicate or enunciate what is to be done.
9. Where counsel or witnesses propose objectives and/or policies, or propose changes to those in the PDP, the objectives and/or policies should be framed in accordance with the above explanations.
10. Where new policies are proposed, such policies should be demonstrably implementing one or more objectives, which the evidence should identify. Similarly, when a new rule is proposed, or a rule amended, a clear explanation should be provided showing how that rule implements one or more policies, including identifying the relevant policies.

Summary of Evidence

11. In our Procedure Minute of 26 January we provided that where evidence was lodged in advance, witnesses would have 10 minutes at the hearing to present a summary of that evidence. We are replacing that by providing that where evidence was lodged in advance, the witness may present a summary at the hearing comprising no more than two (2) sides of an A4 sheet of paper, typed in Times Roman 12 pt font, or Arial 11 pt font (or equivalent) at a minimum of 1.5-line spacing.

Legal Submissions

12. These should focus on the law rather than summarising evidence or being used as an opportunity to present additional evidence.
13. If they are not presented in written form the Panel cannot guarantee that it will accurately record legal points presented.

Jurisdiction for Relief Sought

14. Some submitters have purported to rely on the submissions of other parties to provide scope for the relief they propose in evidence. The Hearing Panel has not reached any concluded view on whether this is permissible [note QLDC submissions in closing that its not- if that is what they say] but directs that any party proposing relief not within the scope afforded by their own submission or further submission identify what submission(s) they are relying on to provide scope for the proposed relief. Such identification should refer to the relevant submission points as per the number system in the Summary of Submissions.

Requesting Hearing Time

15. When calculating hearing time, sufficient time needs to be allowed for questions from the Panel. As a guide: -
- a) counsel presenting legal submissions should allow an amount of time equivalent to the time required to deliver the legal submissions for questioning;
 - b) 20-30 minutes of questioning per expert witness (who's evidence will be read in advance) can be expected on average.

Presentation at Hearing

16. Care needs to be taken, particularly by legal counsel, that the presentation of their legal submissions does not consume most of the time allocated, thereby minimising the time available for the witness(es) to provide their summary and answer any questions. This is particularly important where a witness appears for multiple submitters who are represented by different legal counsel.

Document Naming

17. All documents lodged are to be named in accordance with the following standard file naming convention:

Snnnn-aaaaaaaaa-Too-bbbbbbbbbbb-cccccccc.pdf

- i. Capital letters and dashes to be included where shown;
- ii. nnnn = submitter number using leading zeroes;
- iii. aaaaaaaaa = submitter name to a maximum of 10 letters and spaces;
- iv. oo = Hearing Stream number with leading zeroes;

v. bbbbbbbbbb = author's name in format surname initial;

vi. cccccccccc = document type – i.e. evidence, legal submissions, application, memorandum, appendix

18. Where the document is lodged on behalf of more than one submitter (or further submitter) the following rules apply:

- a. The submitter number shown is to be the lowest number and submitter name is to match that number;
- b. All full list of relevant submission numbers and submitter names is to be provided on the document cover sheet, in numerical order;
- c. A copy of the document is to be provided for each additional submission number with the only change to the document name to be the add "Cnnnn-" to the beginning of the original document file name, where nnnn is the relevant submission number.

19. Two examples may help understanding of this (the submitter numbers, names etc are purely for illustrative purposes):

i. S0089-Fast Food L-T02-HumphreyT-Legal Submissions.pdf

ii. C765-S0089-Fast Food L-T02-HumphreyT-Legal Submissions.pdf

20. The use of this file naming convention will make it easier to manage the documents being lodged and to make it simpler to find the documents on the Hearings website.

For the Hearings Panel



Denis Nugent (Chair)

8 April 2016