

## Queenstown Lakes District Council

### Variation to Queenstown Lakes Proposed District Plan: Inclusionary Housing

#### Minute 1:

#### Hearing Panel Directions: General hearing process and management directions

#### 1. INTRODUCTION

1.1 The purpose of these directions is to:

- (a) Introduce the Independent Hearing Panel (Hearing Panel);
- (b) Explain how the hearing process will be managed to ensure clarity and certainty for all parties during the hearing;
- (c) Ensure a fair and efficient hearings process.

Other directions will be issued by the Hearing Panel, both in the lead-up to the hearing and during the hearing, as required.

#### 2. HEARING PANEL

2.1 The Hearing Panel appointed by the Queenstown Lakes District Council (the Council ) is required to make recommendations as to whether or not to accept the submissions received on the Inclusionary Housing Variation and any proposed amendments to its provisions. The Council is then required to decide whether to accept or reject the Hearing Panel's recommendations.

2.2 Jan Caunter has been appointed as a commissioner, and Chair, of the Hearing Panel. The other Hearing Panel members are Jane Taylor, Ken Fletcher and Lee Beattie.

2.3 A short biography of each hearing panel member can be found at the Council's website for the Hearing: <https://www.qldc.govt.nz/your-council/district-plan/proposed-district-plan/hearings/inclusionary-housing> ("Website").

#### 3. BACKGROUND

3.1 The Inclusionary Housing Variation seeks to insert a new Objective and Policies into Chapter 3: Strategic Directions, and a new Chapter 40: Inclusionary Housing to the Proposed District Plan (PDP). It was publicly notified for submissions on 13 October 2022. In total, 181 submissions and 24 further submissions were received on the Variation.

3.2 In this Minute, the term 'submitter' includes further submitter, and the term 'submission' includes further submission.

#### 4. HEARING DATE AND TIMEFRAMES

4.1 The hearing will commence on **Tuesday 27 February 2024**. The venue(s) and times of the hearing will be advised in further directions to follow.

4.2 Timeframes and deadlines stated in these directions are intended to balance competing considerations arising from:

- (a) Ensuring that submitters who wish to be heard have a fair hearing; and
- (b) Conducting an efficient hearing process.

4.3 Failure to meet stated or directed timeframes and deadlines without good reason may result in late material not being considered by the Hearing Panel or exclusion from expert conferencing (should that occur), or hearing sessions.

## **5. HEARING ADMINISTRATOR AND WEBSITE**

5.1 All correspondence, notices, evidence and documents for the Hearing Panel must be communicated via the Hearing Administrator Lynley Scott (Email: [DP.Hearings@qldc.govt.nz](mailto:DP.Hearings@qldc.govt.nz), phone number 03 443 0121).

5.2 No person should communicate directly with the Hearing Panel or any member of the Hearing Panel except during a hearing session.

5.3 Every communication to the Hearing Panel must state in its heading or opening paragraph:

- (a) The name of the submitter who or on whose behalf the communication is from;
- (b) The submission number (if known); and
- (c) The relevant Hearing Topic name.

5.4 Expert and lay evidence may be sent to the Hearing Administrator in pdf (Acrobat) or doc (Word) format.

5.5 Following the confirmation of the hearing details, the Hearing Administrator will assist the Hearing Panel by arranging days and times for all submitters who wish to be heard to be present at the hearing. While the Hearing Panel and the Hearing Administrator will endeavour to accommodate all requests, submitters should be aware that it will not always be possible to accommodate preferred days and times.

5.6 The Hearing Administrator will be present throughout the hearing and is able to assist parties with administrative queries.

5.7 All relevant information for the hearing will be posted as received by the Hearing Administrator, or can be found at, the Website: [www.qldc.govt.nz/your-council/district-plan/proposed-district-plan/hearings](http://www.qldc.govt.nz/your-council/district-plan/proposed-district-plan/hearings).

## **6. SECTION 42A REPORT**

6.1 The Council will prepare a s42a report, including any supporting reports/ evidence by the Council's expert advisors, and provide it to the Hearing Administrator by 12noon on **16 November 2023**.

6.2 The s42A report and its supporting reports/ evidence must comply with the [Environment Court Practice Note 2023](#) (in particular, section 8 Evidence and section 9 Code of Conduct for Expert Witnesses) and the authors/ technical experts must provide their qualifications and experience in their reports/ evidence by way of attachments.

## **7. SUBMITTER EVIDENCE**

7.1 The purpose of pre-circulation of evidence is to ensure all parties, and the Hearing Panel, understand the issues that are to be presented prior to the hearing session commencing. It will also enable a much more efficient hearing process.

### Expert evidence

- 7.2 Any submitter may file expert evidence to support their case. Such evidence must be provided to the Hearing Administrator by 12noon on **19 December 2023**. This evidence must be uploaded by the Hearing Administrator and be publicly available on the Council website by 12noon on **21 December 2023**.
- 7.3 All expert evidence, and conduct by the experts throughout this hearing process, must comply with the [Environment Court Practice Note 2023](#) (in particular, section 8 Evidence and section 9 Code of Conduct for Expert Witnesses).
- 7.4 All expert evidence must, as relevant:
- (a) Identify the key matters in dispute and focus on those;
  - (b) Identify the key reasons for the difference of opinion with other experts (including any issues regarding methodologies etc);
  - (c) In the case of expert planning witnesses, must provide clear and concise District Plan provisions for the Hearing Panel that would address the expert's concerns (in strike through/ underscore), with succinct reasoning for those provisions, including an appropriate s32AA analysis and discussion of any changes considered necessary;
  - (d) If issues are accepted and agreed among experts, this should be stated in the evidence, with reference to any joint witness statement.
- 7.5 The Hearing Panel strongly encourages experts to consult with each other to ensure clarity of issues and concise statements of evidence focused on the key issues remaining in dispute.

### Lay evidence

- 7.6 Any submitter who intends to present written lay (non-expert) evidence and any associated material at the hearing (as opposed to simply speaking to their submission at the hearing) is to provide their written lay evidence to the Hearing Administrator by **12noon on 19 December 2023**. This evidence must be uploaded by the Hearings Administrator and be publicly available on the Council website by **12noon 21 December 2023**.
- 7.7 Written lay evidence should identify and address the key issues of concern, identify and address any relevant matters identified in the s42A report and in s32AA of the RMA ([Resource Management Act 1991 No 69 \(as at 13 April 2023\), Public Act Contents – New Zealand Legislation](#)). Where appropriate, the lay evidence should provide specific District Plan drafting (i.e. proposed or alternative rules, assessment matters etc) for the Hearing Panel to consider.

### Scope of evidence

- 7.8 Please note that written evidence cannot go outside the scope of the original submission. If a further submission was lodged, evidence cannot go outside the scope of the primary submission supported or opposed (i.e. the relief sought must be somewhere between the relief sought by the primary submission and the Variation as notified).

## 8. REBUTTAL EVIDENCE

- 8.1 The s42A report authors, and any expert advisors on behalf of the Council, must provide any written rebuttal evidence to the Hearing Administrator by **12noon on 12 February 2024**. This evidence must be uploaded by the Hearing Administrator and be publicly available on the Council website **by 12noon on 14 February 2024**. This evidence must only respond to evidence filed by submitters and must not introduce new evidence. Any rebuttal evidence must comply with the [Environment Court Practice Note 2023](#) (in particular, section 8 Evidence and section 9 Code of Conduct for Expert Witnesses).
- 8.2 To avoid doubt, no further rebuttal evidence in response to any rebuttal by the s42A report authors or experts is permitted. Submitters and experts for submitters may raise any remaining issues during their presentation to the Hearing Panel but new material, not previously circulated in accordance with these directions, will not be accepted. This is to ensure fairness to all parties.

## 9. LATE OR SUPPLEMENTARY EVIDENCE

- 9.1 Late or supplementary evidence will only be accepted at a hearing session:
- (a) Where circumstances make it necessary for such evidence to be provided; and
  - (b) With the leave of the Hearing Panel.

## 10. EXPERT WITNESS CONFERENCING

- 10.1 The Hearing Panel may at any time prior to or during the hearings, direct that a conference of experts be held. Expert conferencing will normally only be directed where one or more specific issues which are the subject of expert evidence require separate conferencing.
- 10.2 If expert conferencing is to proceed, the Hearing Panel will issue further directions addressing the requirements of conferencing prior to the expert conferencing commencing. At this stage, allowing for public holidays and the Hearing Panel's preference to have expert conferencing completed before the lodgement of any rebuttal evidence from the Council, it is anticipated that any expert conferencing will occur in the period **31 January – 2 February 2024**.
- 10.3 Participation in expert conferencing (including any communication related to any conference) is limited to the experts. Submitters (who are not relevant experts) and lawyers are not entitled to participate in this process.

## 11. LEGAL SUBMISSIONS

- 11.1 The Council is directed to provide its opening legal submissions, case book and any other representations including PowerPoint slides, in electronic form to the Hearing Administrator by **12 noon on Monday 26 February 2024**.
- 11.2 All legal submissions for submitters, including any case book and any other representations including PowerPoint slides, must be provided electronically to the Hearing Administrator by **12 noon on the day prior to the submitter presenting at the hearing**.

## 12. TE REO AND SIGN LANGUAGE

12.1 Any submitter, counsel or witness may speak in te Reo or utilise NZ Sign Language at the hearing. To enable time to engage the assistance of an interpreter, notice of any party wishing to speak in te Reo Māori or utilise NZ Sign Language must be provided to the Hearing Administrator by **12 noon on 22 January 2024**.

## 13. PREPARING FOR AND ATTENDING THE HEARING

13.1 The order of the hearing will be:

- (a) Any procedural matters;
- (b) The Council (any legal submissions and the s42A report author(s) and any expert witnesses);
- (c) Submitters in support and opposition of the Variation; and
- (d) The Council's Right of Reply.

13.2 Attendance via video cannot be accommodated within the venue and the hearing will not be live-streamed. Attendance is only available in person at the venues to be advised in directions to follow.

13.3 It is recommended that parties presenting arrive at least 30 minutes before they are scheduled to speak.

13.4 To ensure the hearing runs fairly and efficiently, and all submitters have a reasonable understanding of when their submission will be heard, presentations by submitters will be subject to time restrictions. A daily agenda of presentations will be prepared by the Hearing Administrator and placed on the Council Website. Unless otherwise directed by the Hearing Panel, the hearing will be managed in accordance with the daily agenda.

13.5 The Hearing Panel will have read all submissions and further submissions, pre-circulated evidence, pre-circulated legal submissions and other relevant pre-circulated documents. Lay submitters will not be permitted to present and read their original submissions. It is of greatest assistance to the Hearing Panel if submitters and witnesses succinctly focus on their key issues and proposed District Plan provision changes, and the reasons for those changes.

13.6 Legal submissions should be presented at the hearing in summary form only. Counsel will not be permitted to read the full text of pre-circulated legal submissions at the hearing.

13.7 A default time of **fifteen (15) minutes** will be allocated to each submitter in the absence of any specific request for additional time (see below). Requests for additional time will not be unreasonably refused. The ultimate decision as to how much time is allotted to each submitter will be made by the Hearing Panel.

13.8 If not addressed during the first discussion/correspondence with the Hearing Administrator, submitters with experts and lawyers, or who consider they need additional time, may within 5 days of first being contacted by the Hearing Administrator request in writing a longer period of time. Any request for a longer time period must include clear reasons why the additional time is required. The Hearing Administrator will arrange times with submitters in conjunction with the Hearing Panel.

13.9 The Hearing Panel's expectation is that all submitters will ensure the timely delivery of their presentations during the hearing. As the allocated time will include questions, it is important that submitters leave time to answer questions from the Hearing Panel.

13.10 The hearings will be digitally recorded. The recordings will be available on the Council website within two working days of being recorded. Unless requested in writing to the Hearing Administrator in advance of the hearing commencing, and approved by the Hearing Panel, no submitter or person attending the hearing shall take a private recording of it.

13.11 There is no cross examination at Council hearings. Submitters are requested not to interrupt other submitters presenting their cases or the staff members reporting on their reports. If any person requires clarification of any presentation, that may be requested via the Chair at the hearing. Such requests must 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.

#### **14. RIGHT OF REPLY**

14.1 The Council's right of reply will be provided in writing and submitted to the Hearing Administrator within the time set by the Hearing Panel at the end of the 'in person' hearings.

14.2 Following receipt of the right of reply, the Hearing Panel will confirm that it has all of the information it requires, before finally closing the hearing.

#### **15. AMENDMENTS TO HEARING DIRECTIONS**

15.1 Any submitter may seek, in writing to the Hearing Administrator, amendments to these directions from the Hearing Panel. Any such notice must provide the reasons for seeking the amendments and clearly state what change is sought.

15.2 The Hearing Panel may amend any of the directions by issuing further Directions to the submitters. All Directions will be posted to the Website by the Hearing Administrator.

Jan Caunter, Jane Taylor, Ken Fletcher, Lee Beatie

Independent Hearing Commissioners

Date 1 November 2023