

OTAGO REGIONAL COUNCIL

HEARING OF RESOURCE CONSENT APPLICATION BY THE QUEENSTOWN LAKES DISTRICT COUNCIL

MINUTE #3 OF THE HEARING COMMISSIONERS

1. The hearing for the application lodged by the Queenstown Lakes District Council (**the Applicant**) to discharge untreated wastewater to various receiving environments via overflows from wastewater infrastructure throughout the Queenstown Lakes District is set down to commence at 9 am on Monday 4 November 2019. We previously issued Minute #1 regarding preparation of evidence and presentations at the hearing and Minute #2 regarding the order of business.
2. On 25 October 2019 the Otago Regional Council (**ORC**) forwarded to us a letter from the Applicant requesting that the hearing be delayed¹ by one day – a copy of the Applicant’s letter is attached to this Minute. The primary reason given for this request is because the Applicant’s expert planner, Mr Collins, is unable to attend the hearing on Monday 4 November and, as such, he will not have the benefit of hearing the questions that we have of the ORC’s reporting officers. The Applicant considers that Mr Collins’s absence will mean that he will be less able to assist us, if we have similar questions of him.
3. We have carefully considered this request, but decline to agree to it because it would require a significant rearrangement of the indicative hearing timetable (i.e. all those who are scheduled to appear on Tuesday 5 November would need to be moved to another day). We understand the hearing administrators have expended a considerable amount of effort contacting all the parties who wish to be heard so as to allocate them suitable times to speak. We are advised that a number of the parties who are due to appear on Tuesday 5 November are from outside the Queenstown Lakes District and have already made travel and accommodation arrangements. We consider that delaying the start of the hearing by one day at this stage will result in significant implications to these parties.
4. We acknowledge the Applicant’s concerns regarding the need for Mr Collins to be present during our preliminary questioning of the ORC’s reporting officers. Accordingly, we have made arrangements for the sound recording for that part of the hearing to be made available to Mr Collins² so that he can listen to our questions and the responses of the ORC’s reporting officers prior to appearing in front of us on Tuesday morning. We understand the sound recording for that part of the hearing will be made available to Mr Collins around lunchtime on Monday 4 November.
5. If any party wishes to seek further clarification in relation to this Minute or the hearing process please contact Ms Kayla Mahon of the ORC in the first instance, email: kayla.mahon@orc.govt.nz or phone 0800 474 082.

DATED 30 October 2019



Dr Rob Lieffering
On behalf of the Commissioners

¹ The letter uses the word ‘adjourned’.

² This will either be by way of email (if the file size is not too large) or uploaded to file sharing site.

25 October 2019

By Email: kayla.mahon@orc.govt.nz; Karen.bagnall@orc.govt.nz

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Attention: The Hearing Commissioners

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QLDC Network discharges consent application – application for one day adjournment

- 1 We thank the hearing co-ordinators for sending us through the draft hearing schedule and advising that you will not be pre-circulating your preliminary questions for the Council officers. The hearing co-ordinators have advised that the Chair of the Hearing Commissioners panel directed that:

the preliminary questions for the reporting officers relate to the key issues raised in their section 42A RMA report and the reasons behind their recommendation. These are questions that we would otherwise have asked of the officers towards the end of the hearing when they are given an opportunity to speak to their report and answers questions from the panel - however in this case we want to ask some preliminary questions at the front-end.
- 2 You may recall that QLDC had previously advised that its former planner, Fiona Blight, has very recently left Beca and could no longer give independent expert planning evidence for QLDC in relation to this resource consent application. Accordingly, QLDC has engaged and briefed a new planner (Andrew Collins from Harrison Grierson). You may also recall that Mr Collins has a prior commitment that he is unable to reschedule, which means that he is unable to attend the hearing on Monday 4 November.
- 3 If you have preliminary questions that will aid your understanding of the application, the submissions and the officers' report, then we support your proposal to seek answers to those questions at the commencement of the hearing. In our view this sensible approach is also likely to assist the submitters to understand the proposal. However, one unfortunate effect of this change in procedure is that Mr Collins will not have the benefit of hearing the questions of the ORC planners and will be less able to assist you if you have similar questions of him.
- 4 As you will be aware, since QLDC made its initial request to commence the hearing on Tuesday 5 November, we have received a negative recommendation from the Council officers in terms of the substantive consenting outcome.
- 5 This is obviously a matter of serious concern for QLDC, which cannot stop the infrequent discharges that inevitably occur from its wastewater network. If you follow the staff recommendation and this resource consent application is declined, then not only are QLDC's wastewater network discharges left without proper management under the RMA, but QLDC remains liable to ongoing and expensive enforcement action and prosecution by the Regional Council.
- 6 In that context, we are concerned to ensure that QLDC is able to best present its case in order to demonstrate that the recommendation of the Council officers ought not be followed by you. Mr

Collins' evidence is key to QLDC's case and his role is to fully consider all of the evidence and make a planning recommendation in the framework of the RMA. Mr Collins, and QLDC, will be disadvantaged if he is only able to hear your questions of ORC staff and QLDC witnesses second-hand. Natural justice is best served by Mr Collins being able to hear your initial questions, and hear your questions of the QLDC team of witnesses.

- 7 We appreciate that ORC does not yet have a full list of the submitters wishing to attend the hearing, although this is expected to be complete this afternoon. However, we note that the draft hearing schedule concludes on Thursday morning and allows for over two hours of additional time slots on Tuesday. It seems that the hearing could be commenced on Tuesday 5 November and still comfortably completed by the end of the week.
- 8 For the reasons above, we again seek a one day adjournment of the hearing so that the hearing commences on Tuesday 5 November 2019. We would appreciate it if you could give this letter your earliest consideration.

Kind regards

Yours faithfully
Meredith Connell



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