

Queenstown Lakes District Council

Variation to Queenstown Lakes Proposed District Plan: Inclusionary Housing

Minute 2:

1. JOINT MEMORANDUM OF COUNSEL FOR SUBMITTERS

- 1.1 The Hearing Panel has received a Joint Memorandum of Counsel for Submitters (“Joint Memorandum”) dated 22 November 2023. It has been signed by a number of counsel appearing for submitters.
- 1.2 The Joint Memorandum requests the Chair of the Hearing Panel to make a direction requiring the Council to circulate to submitters the legal basis for the Variation. It also records counsel’s concerns about the legality of the Variation, raised in a number of submissions opposing the Variation. The Joint memorandum also notes that the submitters had expected to see an explanation for the basis of the Variation in the s42A report issued on 16 November 2023, given the question of legality was raised in submissions. While Mr David Mead, the author of the s42A report, addressed some aspects of the submissions raising this point in his report, the legal basis for the variation was not included in the s42A report. At paragraph 6.4 of the s42A report, Mr Mead signalled the Council’s intention to “present detailed legal analysis” as part of its opening submissions at the hearing..
- 1.3 Paragraph 6 of the Joint Memorandum also makes the point that expert evidence for the submitters opposing the Variation “will need to be developed with an understanding of the competing legal views on the legality of methods to implement objectives and policies”. Counsel submit it is appropriate and fair for submitters to understand the Council’s legal basis for the Variation in advance of being required to provide its expert evidence.
- 1.4 The Hearing panel also notes that Paragraph 3 of the Joint Memorandum of Counsel refers to the evidence from submitters being due no later than 20 December 2023. The parties should note that the stated date is incorrect. Minute 1 records the evidence date for submitters as being required to be lodged no later than **12 noon on 19 December 2023**. That deadline remains in place.

2. DIRECTIONS

- 2.1 The points raised in the Joint Memorandum concern hearing fairness and natural justice. As noted in the Joint Memorandum, this Variation is also of significant public interest.
- 2.2 The preliminary view of the Hearing Panel is that, prima facie, the request made in the Joint Memorandum is a reasonable one.
- 2.3 The Council is directed to respond to the Joint Memorandum **no later than 12 noon on Tuesday 28 November 2023**, in particular advising whether it agrees to providing its legal advice on the Variation and/ or the legal basis on the vires of the Variation and the reasons for that position. The response must include references to the Resource Management Act 1991, in particular section 32, as appropriate.

2.4 A further Minute will follow, once the Council's response has been received and considered by the Hearing Panel.

Jan Caunter, Chair

For the Hearing Panel

23 November 2023