

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Stage 3 of the
Queenstown Lakes
Proposed District Plan

MINUTE 16 – WAIVER OF EVIDENCE DEADLINE (2)

Introduction

1. In Minute 12, I directed that most submitters' evidence in chief be filed on or before 29 May. This needed to be read in conjunction with the earlier direction (in Minute 6) that filing deadlines expired at 1pm on the appointed day to give Council staff time to load evidence on the Council's website that day, in order that it might be accessible to all interested parties as soon as possible after filing.
2. This latter point seems to have escaped some submitters who filed evidence through the course of the afternoon of 29 May.
3. In the event, it does not appear that there was any prejudice to any party from the late arrival of the evidence and I grant a general waiver for evidence received before 5pm on 29 May.
4. This leaves some evidence requiring specific consideration as follows:

Telcos

5. The evidence of Spark Trading New Zealand Limited and Vodafone New Zealand Limited (#3032) was among that filed later on Friday afternoon. This has since been followed up by substitute copy of the Joint Brief of Evidence of Messrs McCarrison and Clune, received Sunday afternoon. The covering email stated that it corrected an error, but did not identify what the error was that has been corrected, and in light of the length of the evidence I have not sought to identify it myself. Nevertheless, given that the replacement evidence was received less than one working day late, I grant these submitters a waiver in that respect.

Corbridge

6. The evidence for Corbridge Estates Limited Partnership (#31021) was attached to an email from Ms Irving addressed to the Hearing Administrator Friday morning. It was not received for reasons that are not apparent to me. I understand that Ms Irving observed that it had not been loaded on the Council website and resent it Tuesday afternoon, 2 June. Whatever the cause of the failure in transmission, it was promptly rectified and I waive late receipt of the evidence accordingly.

Gibbston Valley Station:

7. This was another submitter (#31037) who filed evidence late on Friday afternoon, but on this occasion minus the planning evidence of Mr Giddens which followed on Tuesday afternoon. Mr Gardner-Hopkins, representing the submitter, sought leave on the basis that the witness had been unavailable (and off grid), he personally had been preoccupied by a High Court fixture, the delay was brief only and was unlikely to prejudice the Council in its preparation of rebuttal evidence. Mr Gardner-Hopkins identified that there were no further submitters.
8. I agree that this is a suitable case for leave, essentially on the grounds Mr Gardner-Hopkins advances.

Malaghans Investments Limited

9. This submitter (#31022) provided its landscape and visual evidence late morning on 3 June. Its planning evidence, from Mr Farrell, is yet to come. Mr Gardner-Hopkins has made application for a waiver in respect of the late evidence of Mr Milne, and seeks leave to file Mr Farrell's evidence on or before 12 June.
10. Mr Gardner-Hopkins' application records that Mr Milne required client input to finalise his evidence and the submitters representatives were off grid onsite until 2 June.
11. As regards Mr Farrell's evidence, Mr Gardner-Hopkins observes that the same situation applies as with his evidence for Wayfare Group Limited, (the subject of Minute 12) and requests the same relief, namely that Mr Farrell's evidence might be filed by 12 June, with rebuttal evidence by 22 June. Mr Gardner-Hopkins notes that the only further submitters on this submission were in support and so no issue of prejudice arises in that quarter. I need therefore only consider the Council's position.

12. I appreciate the difficulties collating evidence for a remote site such as that in issue. I am, accordingly, sympathetic to the application in respect of Mr Milne's evidence, provided any prejudice to the Council can be addressed.
13. Mr Milne's evidence is two working days late (but 5 actual days). I consider that given the amount of other evidence the Council has to rebut, it is appropriate to give the Council extra time to rebut Mr Milne's evidence, should it wish to avail itself of that option. For the reasons set out in Minute 15, I think it is more efficient if as much as possible of the second tranche of Council rebuttal evidence be filed on the same day. Accordingly, I direct that the Council can have until 1pm on 19 June to rebut Mr Milne's evidence.
14. As regards Mr Farrell, the position is a little different to that which I considered in Minute 12. There, it was uncertain when Mr Farrell would even be available to commence his evidence and so I provided some leeway on that account. Mr Farrell also had a set of bespoke zone provisions to draft and justify for a complex high value environment. Lastly Wayfare Group Ltd had identified that Mr Farrell was off-grid, and sought to address the position pro-actively, rather than retrospectively (as here).
15. From Mr Gardner-Hopkins' comments, I assume that Mr Farrell is now back on deck. As a result of the directions given in Minute 14, he no longer has a substantial brief to write for Wayfare Group Limited and it does not appear that his brief for this submitter should be as long or complex.
16. I therefore direct that Mr Farrell's evidence may be filed on 5 June, with rebuttal evidence similarly due 19 June. If this revised deadline cannot be met, Mr Gardner-Hopkins can make a fresh application explaining why my reasoning is unsound.

Directions

17. For the reasons set out above, I make the following directions:

- a) Late receipt of submitters' evidence in chief received between 1 pm and 5pm on 29 May is the subject of a general waiver;
- b) Late receipt of the Joint Brief of Evidence of Messrs McCarrison and Clune for Spark Trading New Zealand Ltd and Vodafone New Zealand Ltd (submitter #3032) is waived;
- c) Late receipt of the evidence in chief for Corbridge Estates Limited Partnership is waived;
- d) Late receipt of the evidence in chief of Mr Giddens for Gibbston Valley Station Ltd (#31037) is waived;
- e) Late receipt of the evidence of Mr Milne for Malaghans Investments Ltd (#31022) is waived and I give leave for the evidence in chief of Mr Farrell for the same submitter to be filed on or before 1 pm on 5 June;
- f) Rebuttal evidence in respect of the evidence for Malaghans Investments Ltd (#31022) as per (e) above may be filed on or before 1pm on 19 June.

Dated 3 June 2020



**Trevor Robinson
Chair
Stage 3 Hearing Panel**