

UPPER CLUTHA ENVIRONMENTAL SOCIETY (INC.)

SECOND MEMORANDUM IN REGARD TO THE EVIDENCE OF DI LUCAS

To: The Chairman, District Plan Hearing Panel.

Dear Sir,

Thank you for your very brief response to the Society's memorandum on the topic of Di Lucas's evidence received yesterday. I have now had the opportunity to consult other Society committee members who, like me, are concerned at the HP's refusing to hear Ms. Lucas's evidence on objectives and policies.

While I realise that the HP will be flat-out reading evidence at the moment, the Society would be grateful for a detailed written response to the issues raised in the previous memorandum and raised in this memorandum, below.

It has long been established in the ODP that, in that plan's structure, the assessment matters inform the objectives and policies. For instance in C108/2009 (Matukituki Trust) Judge McElrea held in relation to the ODP:

79] Complementing the Section 4 (District Wide) provisions are further objectives and policies set out in Section 5 (Rural Areas). These broader provisions are given more specificity in the Rural Rules which include detailed "resource consents - assessment matters" in section 5.4.2."

The same linkage between the objectives and policies and assessment matters appears in the Proposed District Plan, albeit with the introduction of an extra layer of complexity.

In light of this is the HP saying that Ms. Lucas cannot comment in her evidence at all on the objectives and policies or on the linkages between the objectives and policies and the assessment matters?

The Society has given more than two months notice that it will be giving further evidence on the objectives and policies at the Chapter 21 hearing. All other parties are aware of this fact and are able to comment on any evidence evinced by the Society. This is entirely reasonable. No other parties will be meaningfully prejudiced.

(I would be surprised if other parties did not wish to comment on the objectives and policies and their linkage to the assessment matters at the Chapter 21 hearing.)

The Society raised no objection to evidence presented by Council's witnesses to the Chapter 3 and 6 hearing that included references and details of the assessment matters. Indeed the impression given by that evidence (Barr and Read), and accepted by the HP, is that there is flexibility to comment on Chapter 21 when giving evidence on Chapter 6. It follows that there should be flexibility to comment on Chapter 6 when giving evidence on Chapter 21. In reality the Society believes it is *necessary* to comment on both chapters at the same time because of the linkage between them; they cannot be divorced from each other.

The sole logic given for the rigid stance taken by the Council is that:

"There will be a different combination of Panel members hearing the rural stream from that hearing your evidence next week".

Given the obvious linkage between the three chapters the Society has grave concerns with the appointment of different HP's to hear Chapters 3, 6 and 21. The Society remains of the opinion that Chapter 3-Strategic Development Chapter, Chapter 6-Landscapes and Chapter 21-Rural, should either have been heard at the same time or should be heard by a HP made-up of the same members.

The Society should not be disadvantaged by the fact that HP's have been appointed in a manner inconsistent with the structure of the District Plan. The HP appears to be acting illogically and unreasonably here.

The rigid approach being taken is more consistent a Court process rather than a quasi-judicial Council process which needs to be flexible to enable and encourage community input such that a District Plan results that satisfies community desires.

Julian Haworth
Secretary/Treasurer
Upper Clutha Environmental Society

5th March 2016