
MINUTE 5 OF THE EXPERT PANEL

Additional Subdivision-Related Consents

Ayrburn Screen Hub
FTAA-2508-1093

(27 November 2025)

[1] As part of the applicant's response to our 11 November request for information received on 18 November, it advised that following further consultation with Queenstown Lakes District Council, it had identified a need for two additional consents:

- (a) A variation to condition 15(b) of its existing subdivision consent RM240982, a copy of which is contained in Appendix 41 to its AEE;
- (b) A consent to breach of Rule 27.7.32.2 of the Proposed District Plan that it described as consequential on the two s127 variations it had sought- that to condition 15(d) contained in its original application together with the condition 15(b) variation it had added, as above.

[2] The applicant set out its reasons for believing these additions were within scope in the covering memorandum its counsel Mr Goldsmith provided, but noted also that the variation-related sought were not critical to its application. Although inconvenient, additional consents could be sought later.

[3] The Expert Panel requests that as part of its comment on the applications, Queenstown Lakes District Council address certain issues the Panel has identified arising from the changes the applicant has proposed to its applications:

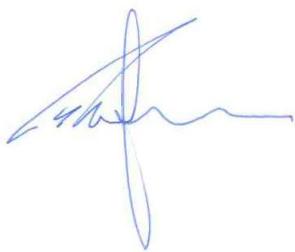
- (a) First, because it is relevant to the section of the Resource Management Act the consent variation conditions are considered under, can the District Council please advise what stage implementation of the subdivision consent has reached. In particular, while implicit in advice the Panel has received from the applicant, can the District Council please confirm that the survey plan for the subdivision has not yet issued (or otherwise) and, assuming it has not issued, advise when it is anticipated that this will occur;
- (b) Can the District Council please advise whether it concurs with the applicant's view that these changes are in scope, and if not, its reasons for holding a contrary view;
- (c) Can the District Council please advise its view as to whether the second 'consequential' consent is in fact required. The reason the applicant gave for consent potentially being required was because the effect of the variations sought would be to breach an additional rule (27.7.32.2) that had not been considered in the original grant of consent. The Panel would not have thought that this was sufficient on its own to require a fresh consent¹, and that, applying the Court of Appeal's decision in *Te Runanga o Ngati Awa v Bay of Plenty Regional Council* [2022] NZCA 598, the correct question is whether the variations to conditions sought materially alter the nature and/or scale of the consented activity. If not, a new consent is not required and the two consent condition variations should be considered under s127;
- (d) Lastly, if the correct interpretation of the situation is that the variations sought would materially alter the nature and/or scale of the activity, the Expert Panel would have thought that the correct response is for it to consider whether the subdivision the subject

¹ Noting the confirmation in *Marlborough District Council v Zindia* [2019] NZHC 2765 that resource consents authorise activities, not breaches of rules.

of RM240982 should be re-approved including the changes sought: i.e. all aspects of the subdivision would need to be considered afresh and, if appropriate, a new subdivision consent issued. On that reasoning, the variation applications would be subsumed within the consideration of the new consent and would not be granted (or declined) separately. Can the District Council please advise whether it agrees with that analysis, or if not, its reasons for holding a contrary view. Further, if it does agree with that analysis, does the District Council have any comment on aspects of the subdivision other than the two identified variations?

[4] When the Expert Panel has Queenstown Lakes District Council's answers to these questions, it will consider whether to seek comments from other parties. In the meantime, it is open for any party making comment to address any aspect of the subdivision-related consents now sought as part of its comments, provided they are received within the statutory deadline (17 December 2025).

[5] While ideally, the Expert Panel would have canvassed the matters addressed above with the applicant in the first instance, the necessity to issue invitations to comment on 19 November means that it is more efficient to obtain the views of the District Council first. The applicant will have the opportunity to expand on the reasons for the changes it has made to the consents sought as part of its response to the District Council's comments.

A handwritten signature in blue ink, appearing to read 'Trevor Robinson'.

Trevor Robinson
Expert Panel Chair