

IN THE MATTER of the Resource  
Management Act 1991

AND

IN THE MATTER of the Queenstown Lakes  
Proposed District Plan -  
Stage 2

### **DECISION ON LATE SUBMISSIONS**

#### **Introduction**

1. The Council has received 26 submissions on Stage 2 of the Proposed District Plan after the end of the submission period on 23 February 2018.
2. I have been delegated the Council's power to waive the time for submissions on the proposed District Plan under s.37 of the Act.
3. The relevant submissions and the date they were received, are as follows:

<b>Submission Number</b>	<b>Submitter</b>	<b>Date Received</b>
2447	McGuinness Pa Limited	6 March 2018 <sup>1</sup>
2585	B Giddens Trust	25 February 2018
2586	C Dagg	26 February 2018
2588	Kate Craighbrown	26 February 2018
2589	Kim Fam	25 February 2018
2590	LTK Limited	27 February 2018
2591	M & C Burgess	27 February 2018
2592	MajorDomo Limited	27 February 2018
2593	McBride Street Queenstown Limited	25 February 2018
2594	Queenstown Water Taxis Limited	27 February 2018
2595	Ron & Christine Sasse	25 February 2018
2596	Heather Moore & Szigetvey Trustee Services	26 February 2018
2597	Sally Currie	25 February 2018
2598	NZSIR Luxury Rental Homes Limited (Sotheby's)	27 February 2018

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<sup>1</sup> While the submission was originally received in time, an amended version to replace the original was filed late.

2599	Teece Irrevocable Trust No. 3	8 March 2018
2600	Touch of Spice Limited	27 February 2018
2601	Well Smart Investments Group	27 February 2018
2602	Wendy Johnston	27 February 2018
2603	Wendy McGuinness	6 March 2018
2604	Turi Edmonds	19 March 2018
2605	Millbrook Country Club Limited	27 February 2018
2606	John Martin	26 February 2018
2607	Goldcrest Farming Limited	26 February 2018
2608	Scott Carran	26 February 2018
2609	K T Dunlop & S A Green	8 March 2018
2610	Simon Botherway	12 March 2018

#### **Powers in Relation to Waiving and Extending Time Limits**

4. Section 37 provides that the Council may waive time limits, subject to the requirements of s.37A. Section 37A requires that I take into account:
- a) The interests of any person who, in my opinion, may be directly affected by the extension or waiver;
  - b) The interests of the community in achieving adequate assessment of the effects of the proposed district plan;
  - c) The Council's duty under s.21 to avoid unreasonable delay.

#### **Principles to Guide Use of the Powers under s.37**

5. As there are no rights of appeal in respect of decisions under s.37 there is little case law to guide the decision-making process. The best analogy is the power of the Environment Court to grant waivers under s.281.
6. The most apposite guidance is provided in the Court's observation in *Omaha Park Ltd v Rodney DC*<sup>2</sup> that the Act "encourages participation (in an orderly way, certainly) in the decision-making process, with the general philosophy that the possible inconvenience, delays and costs caused are hopefully

outweighed by better informed decision-making and better environmental outcomes".<sup>3</sup>

7. Based on that guidance, I need to consider the interests of the submitters along with the interests of the community in achieving an adequate assessment of the PDP, giving weight to the encouragement given to public participation in the process, while taking account of the timing of hearings and providing recommendations to the Council for decision-making.
8. The question of whether a waiver should be granted is purely a procedural one. This extends to the question of "undue prejudice" under s.281<sup>4</sup>, and, I conclude, it would similarly extend to the "interests" question under s.37A(1)(a). In other words, the question is whether anyone would be prejudiced by the lateness of the submission, not by the substance of the relief sought in the submissions.

### **Discussion**

9. The Council has yet to notify the summary of submissions under clause 7 of the First Schedule to the Act. Any waiver granted now which enabled these submissions to be included in that summary would ensure that there was no prejudice to the interests of other participants in the Stage 2 process.
10. Even if a summary of these submissions was notified separately, the Stage 2 process is at such a stage that no delays to the process would ensue, and other participants would not be prejudiced.
11. The interests of these submitters would be better served by granting the waiver and the interests of the community would be better served by enabling a fuller assessment of the Stage 2 provisions by allowing these submissions to be heard.

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<sup>3</sup> Quoted with approval in *Royal Forest & Bird Protection Society Inc v Southland DC* [2015] NZEnvC 60  
<sup>4</sup> *Orr v Tauranga District Council*, A149/97 (EC)

**Decision**

12. For those reasons, under s.37 of the Act I waive the time for lodgement for the submissions listed in paragraph 3 above. I note that, as a consequence, those submissions should not be described as "late", nor marked as "late".

2 April 2018



Denis Nugent  
Hearing Panel Chair