

IN THE MATTER

of the Resource  
Management Act 1991

AND

IN THE MATTER

of the Queenstown Lakes  
Proposed District Plan:  
Stage 2

**DECISION ON APPLICATION FOR WAIVER OF TIME  
TO LODGE SUBMISSION**

**Introduction**

1. On 13 March 2018 the Council received a submission from Mr Guenther Raedler (Submission 2657), accompanied by an application for a waiver of time as the submission was lodged some 12 working days later.
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.

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

3. 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**

4. 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.
5. The most apposite guidance is provided in the Court's observation in *Omaha Park Ltd v Rodney DC*<sup>1</sup> that the Act "encourages participation (in an orderly way, certainly) in the decision-making process, with the general philosophy

---

<sup>1</sup> A46/08

that the possible inconvenience, delays and costs caused are hopefully outweighed by better informed decision-making and better environmental outcomes".<sup>2</sup>

6. Based on that guidance, I need to consider the interests of the submitter 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.
7. 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>3</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 submission.

### **Discussion**

8. The Council notified the summary of submissions under clause 7 of the First Schedule to the Act. This submission has been included in that summary. Thus, there would be no prejudice to the interests of other persons if I granted the waiver, and no delay to the hearing process.
9. The interests of the submitter 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 this submission to be heard.

### **Decision**

10. For those reasons under s.37 of the Act I waive the time for lodgement of Submission 2657.

13 April 2018



Denis Nugent  
Hearing Panel Chair

---

<sup>2</sup> Quoted with approval in *Royal Forest & Bird Protection Society Inc v Southland DC* [2015] NZEnvC 60  
<sup>3</sup> *Orr v Tauranga District Council*, A149/97 (EC)