

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of the Queenstown Lakes
Proposed District Plan

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

1. On 17th February 2017, the Council received by email a purported further submission lodged in the name of Phillip Alexander John Smith opposing Submission #149. This email was copied to the address for service for Submission #149.
2. The period for lodging further submissions expired on 18 December 2015. Thus, the purported further submission has been lodged some 14 months late. The reason given within the purported further submission for this late lodgement was as follows:

The significance of the issue was not at all apparent from the original submission 149, being a "one liner". This issue only came to light for the submitter at a public meeting on the future of Sticky Forest in Wanaka on 14 February 2017. This is the reason for the lateness of this submission.
3. No application to waive the time for lodgement was included with the purported further submission, but I presume from the explanation quoted above that such a waiver is sought.
4. By a Minute dated 18 February 2017 I provided the opportunity to Submitter 149, M Beresford, to lodge submissions in respect of this purported further submission. On 22 February 2017, I received thorough submissions from Ms Steven QC, counsel for Mr Beresford.
5. I have been delegated the Council's powers under s.39B of the Act to make decisions on such procedural matters as waiving the time for lodgement of submissions. Section 37 provides that the Council may extend or 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.

Interests of Person Directly Affected

- 6. Mr Beresford is the person that would be most directly affected by waiving the time to file this further submission. As Ms Steven QC notes, the timetable for filing evidence in respect of his submission has been set. She advises that expert evidence is presently being prepared. For those experts to have to revise that in the light of a late further submission could affect their ability to properly consider the additional matters raised, potentially prejudicing Mr Beresford's position.

Interests of the Community in Achieving Adequate Assessment

- 7. The further submission process is intended to enable adequate assessment of submissions by allowing a limited range of participants to support or oppose submissions. Mr Smith does not claim to represent a relevant aspect of the public interest. He claims to have an interest greater than the general public due to being a nearby landowner.
- 8. Given the more limited opportunity to lodge further submissions by clause 8 of the First Schedule following its amendment in 2009, it is doubtful that the limited ability of Mr Smith to participate would enhance the assessment of the effects of the proposal. In addition, Ms Steven QC makes the valid point that Mr Smith's grounds do not relate to effects on his property, but rather reflect public interest concerns. Thus he may not have standing to lodge this further submission in any event.

Avoiding Unreasonable Delay

- 9. Although the notice for hearing has not been issued for the Upper Clutha Mapping hearings, a schedule for hearing submitters has been issued, along with a timetable for the lodgement of s.42A reports and evidence. I note in this respect that the Council officers and consultants preparing s.42A reports were to have their drafts completed by 24 February last.
- 10. To allow the addition of a late further submission at this stage would potentially delay the hearing process.

Other Matters

- 11. Mr Smith asserts that the submission lodged by Mr Beresford was a "one liner" and therefore it was not apparent what the effects of allowing it would be. I disagree

with this assertion. The submission was professionally prepared, clearly states what is sought, and includes a map showing the land affected.

12. I have also examined the Summary of Submissions published by the Council. This lists the submission under both the Rural Zone and Planning Map 18, and states:

Rezone from Rural to Low Density Residential the land on planning map 18 located to the west of Peninsula Bay area, legally described as Section 2 Blk XIV SECT 5 Lower Wanaka SD (CT OT18C/473) – 50.6742ha.

13. In addition, the Council prepared an online tool which enable persons to see which pieces of land in the district were subject to rezoning requests. This land was clearly shown on that tool.
14. It is apparent to me that if any person had been concerned as to the zoning future of the relevant piece of land, and consulted the summary of submissions and the online tool, that person would have been alerted to submission 149 and could have consulted the original submission.
15. Finally, Ms Steven QC correctly notes that for time to be waived for a further submission filed so late, some 14 months in this instance, exceptional circumstances should exist. There is no evidence on any exceptional circumstances in this case.

Decision

16. For the reasons set out above I refuse to waive the time for Mr Smith to lodge a further submission in opposition to submission 149.

Dated 26 February 2017



Denis Nugent

Hearing Panel Chair