

IN THE MATTER

of the Resource  
Management Act 1991

AND

IN THE MATTER

of the Queenstown Lakes  
Proposed District Plan

## **DECISION EXTENDING TIME FOR LODGEMENT OF FURTHER SUBMISSIONS**

### **Introduction**

1. In an email dated 17 May 2018, the Council has received a request from AirBnb ("the submitter") for an extension of time to lodge further submissions to 5pm on Friday 25 May 2018. The submitter advises that as inhouse counsel is on medical leave at present, it is unable to prepare and have lodged any further submissions prior to that date.
2. The renotification of further submissions has arisen from an error in the summary of submissions previously notified. This was explained in a memorandum from the Council to the Hearing Panel<sup>1</sup>. The error was largely non-substantive and the renotification did not involve the notification of submissions not previously notified.
3. I have been delegated the Council's power to extend the time for lodgement of submissions and further submissions on the proposed District Plan under s.37 of the Act.

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

4. Section 37 provides that the Council may waive and extend 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.

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<sup>1</sup> Memorandum of Counsel on Behalf of Queenstown Lakes District Council Advising the Panel of Errors in the Notified Summary of Submissions Document, 8 May 2018

### 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 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.

### Discussion

8. The renotification for further submissions by the Council was purely to ensure no party was disadvantaged by an error in the summary of submissions. All further submissions lodged as a result of this renotification would technically be late and require a waiver.
9. Counsel for the Council's memorandum noted "*any additional late further submissions can only support or oppose a primary submission, and so any such submissions filed will not expand the issues that section 42A authors are currently evaluating in preparation of their reports. Consequently, this extra step will not affect the current timetabling confirmed by the Chair in his Procedural Minute of Stage 2 hearings dated 1 May 2018.*"<sup>4</sup>
10. On that basis, an extra 5 working days for the submitter to lodge any additional further submissions beyond those it has already lodged will not affect the timing of the hearings. What the extra time will do is enable the submitter to be involved in a manner that ensures full public participation in the process. It may be that after considering the revised summary, the submitter finds that it

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<sup>2</sup> A46/08

<sup>3</sup> Quoted with approval in *Royal Forest & Bird Protection Society Inc v Southland DC* [2015] NZEnvC 60

<sup>4</sup> At paragraph 11

need not lodge any additional further submissions. Granting the extension will enable the submitter to make that evaluation with appropriate legal advice.

11. On balance, I consider it appropriate to grant an extension of time to AirBnb to enable it to lodge any additional further submissions as a result of the renotification of the summary of submissions.
12. To enable the administration staff to properly receive any further submissions, I consider 5pm to be too late in the day. Experience has shown that noon is a preferable time, but as we are dealing with a single submitter, I consider 3pm to be appropriate.
13. For those reasons, AirBnb is granted an extension of time until 3pm on Friday 25 May 2018 to lodge any additional further submissions arising from the renotification of the summary of submissions.

18 May 2018



Denis Nugent  
Hearing Panel Chair