

**IN THE MATTER**

of the Resource  
Management Act 1991

AND

**IN THE MATTER**

of Stage 3 of the  
Queenstown Lakes  
Proposed District Plan

## **MINUTE 4 – LATE ROCK SUPPLIES NZ LIMITED SUBMISSION**

### **Introduction**

1. Stage 3 of the Proposed District Plan was publicly notified on 19 September 2019 with submissions closing 19 November 2019. The summary of those submissions (along with that of the submissions relating to Stage 3B of the Proposed District Plan which was notified subsequently) was notified on 30 January 2020. Time for filing of further submissions was extended by a day with the result that the further submission period closed on 18 February 2020.
2. On the same day that further submissions closed, Rock Supplies NZ Limited lodged a submission seeking rezoning of its land at 2677 Gibbston Highway as Industrial, together with consequential relief that I will discuss below. This submission was followed the following day by an application for waiver pursuant to section 37 of the Act.
3. I have delegated authority from the Council to consider such applications.
4. In my earlier Minutes 2 and 3, I discussed both the powers relating to waiving and extending time limits and the considerations bearing upon the exercise of those powers. I do not, therefore, need to repeat those matters.
5. I record, however, that for the same reasons as in relation to the Blennerhasset submission discussed in Minute 3, I find that section 37A(2) is not a bar to my granting this application and, accordingly, it has to be considered on the basis of the more general factors discussed in my Minute 2.

### **Reasons for Application:**

6. Counsel for Rock Supplies NZ Limited advises that her client had not contemplated that land not included within the review of the Industrial Zone might be rezoned Industrial. However, having reviewed the summary of submissions, it had identified that a number of submitters, including landowners adjacent to its property, had sought rezoning of their land. Counsel submitted that granting the waiver sought would not unreasonably prejudice other parties given that the section 42A Reports are yet to be finalised and the evidence deadline is not underway.
7. Counsel also emphasised the site-specific nature of the submission and the fact that the subject site lies between other landowners seeking the same rezoning outcome. It was suggested that, accordingly, acceptance of this submission would enable a more comprehensive assessment of the proposed rezoning of the group of properties concerned.

### **Discussion**

8. The Rock Supplies NZ submission shares certain characteristics with the Blennerhasset submission, the waiver of which I granted in Minute 3. Like the latter, the Rock Supplies NZ submission is extremely late. I calculate that it is 49 working days late (compared to 27 working days for the Blennerhasset submission). In Minute 3, I stated that I was only prepared to entertain the possibility of a waiver in the Blennerhasset situation on compassionate grounds, given the statutory obligation in section 21 to avoid unreasonable delay and the need for an efficient hearing process. No compassionate grounds arise in this case. Rather, the submitter appears to have been alone (given the number of submitters seeking rezoning of their properties Industrial or Rural Visitor in particular, and the absence of any similar waiver requests) in failing to appreciate the opportunity potentially open to it.
9. It suffers from comparison with the Blennerhasset submission in another respect. Acting for Mr and Mrs Blennerhasset, Mr Gibbons identified the issue his clients had immediately upon receipt of the summary of submissions and sought to remedy it with an appropriate recognition of the need for promptness. By comparison, Rock Supplies NZ has taken two weeks to identify that other submitters have identified an opportunity that it had not appreciated might be available to it. No explanation has been provided for that further delay.

10. To test counsel's submission that other parties will not be unreasonably prejudiced, I have inquired of the Council as to when, were I to grant a waiver, this submission could be summarised and publicly notified. I am advised that it might possibly be able to be notified on 27 February, but that imminent expiry of the relevant publishing deadline leaves little time to complete the necessary steps. The alternative, which I find to be the more likely scenario, would be notification on 5 March. The latter would mean that further submissions on the late filed submission would expire 19 March. In Minute 1, I signalled that the deadline for circulation of the section 42A Reports and accompanying Council evidence would likely be 18 March. I will be releasing a Minute early this coming week confirming that deadline.
11. Counsel for Rock Supplies NZ submits that it is probable that a limited number of further submitters will be interested in the proposal because of its site-specific nature. That may well be correct, but equally, the possibility that one or more further submissions may be lodged on it cannot be excluded, and I can only speculate what such further submitters might have to contribute to the process.
12. In those circumstances, the likelihood that further submissions would not close until after finalisation and circulation of the Council's section 42A Report is obviously not satisfactory. The parties are entitled to have the benefit of the views of the s42A author(s) on all of the submissions that have been lodged.
13. Issues of potential prejudice are not limited to other submitters. The Council's own position also needs to be considered.
14. In that regard, I have inquired also of the Council what the timeline is for production of the section 42A Report and related evidence in relation on the Industrial Zone.
15. I am advised that the draft Industrial Zone Report is due to go for external review this coming Monday (24 February) following which it will be open to legal review on 5 March tracking to finalisation by 16 March.
16. While as counsel for the submitter suggests, the submission is site-specific, if I were to waive it, the section 42A report author(s) would need to consider the characteristics of the site, including both the similarities to, and any differences from the neighbouring properties whose owners seek similar relief (submissions #3349 and #3357). I would assume that a site visit might be required as part of that consideration.
17. Counsel for the submitter implies that the ability to consider the group of properties in the area in a comprehensive way is a positive feature. Considered against the

statutory emphasis on integrated planning and development, that might well be the case. However, for the section 42A report author(s) who have almost completed their report, it means reconsidering their analysis of the submissions seeking rezoning of the adjacent properties in light of the potential rezoning of the Rock Supplies NZ site.

18. I do not know how much work inclusion of the Rock Supplies NZ submission into the process for preparation of the section 42A report would involve. Based on the limited material I have on which to form a view, I consider it fair to conclude that at the very least, it has the potential to disrupt the Council's planned finalisation of the section 42A report as above.
19. I also note that the Rock Supplies NZ submission seeks non-specific consequential relief *"including but not limited to, the maps, issues, objectives, policies, rules, discretions, assessment criteria and explanations that will fully give effect to the matters raised in [the] submission; including any other appropriate zoning and provisions"*. While the submissions on the neighbouring properties have similarly framed general relief, the potential that the issues rezoning 2677 Gibbston Highway raises are not identical to those in relation to its neighbours, combined with its open-ended nature, only adds to the task Council staff would face properly assessing this submission.
20. I find that accepting this submission at such a late stage would be an unreasonable imposition on (and prejudice to) the Council.
21. In summary, for the reasons I have discussed, I decline to grant a waiver in respect of the late submission lodged by Rock Supplies NZ Limited.

**Dated 20 February 2020**



**Trevor Robinson**  
**Chair**  
**Stage 3 Hearing Panel**