

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 SUBMISSION**

1.            The Council has today received a request from the New Zealand Transport Agency ('NZTA') for a waiver of time to lodge a submission on the Proposed District Plan ('PDP') in relation to its designations within the District. 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 further 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.
2.            The counsel for NZTA have filed a helpful memorandum setting out the circumstances which led to NZTA seeking this waiver. It appears that when the PDP was notified the designations for State highway purposes did not accurately reflect alterations which had recently been made to those designations. The submission identifies nine (9) such inconsistencies.
3.            NZTA wrote to the Council in October 2015 seeking that the Council address the omission. NZTA also lodged a submission shortly afterward, but that submission did not address the inconsistencies as NZTA was of the view that the Council should correct them.
4.            On receiving the legal submissions filed by counsel for NZTA on Hearing Stream 7: Designations, Commissioner Rogers, the Hearing Commissioner appointed to hear the submissions related to designations, issued a minute dated 11 October 2016 inviting the parties to consider whether s.37 was available as a means to get a submission lodged with a view to addressing these matters.

5. I am advised that counsel for NZTA and the Council have discussed this matter and consider that lodgement of a late submission would represent a pragmatic way forward.
6. Submissions on the PDP closed on 23 October 2015, almost 1 year ago, and certainly well beyond twice the maximum time by which a time period may be extended by s.37A(2)(a).
7. Whether treated as an extension of time or a waiver of the failure to lodge the submission in time, NZTA as requiring authority can request or agree to an extension exceeding the limitation of s.37A(2)(a) by way of s.37A(2)(b).
8. I agree with counsel for NZTA that interests of other parties are unlikely to be adversely affected as the Council would need to notify the submission under cl.7 of the First Schedule to the Act, and any person who may consider they are affected would have the opportunity to lodge a further submission on the submission. I also note that the changes sought only reflect the present reality, so would not impose any new effects on any person.
9. In addition, counsel advises that no private property would be affected by the corrected designations.
10. I accept that the interests of the community will be better served by having the corrections put before the Hearing Panel as soon as possible, given that they relate to matters which have recently been the subject of substantive determinations. If it were left for the Council to include in Stage 2 of the PDP it would delay the matter for approximately a year and could potentially lead to incorrect designations being confirmed in Stage 1 of the PDP. Allowing this waiver thus also avoids unreasonable delay.
11. For all the above reasons pursuant to s.37 of the Act I waive the time period for NZTA to lodge the submission dated 14 October 2016 included with the application and direct that the Council notify this submission under cl.7 of the First Schedule.



Denis Nugent

Hearing Panel Chair

19 October 2016