

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of Stage 3 of the
Queenstown Lakes
Proposed District Plan

MINUTE 3 – LATE BLENNERHASSET SUBMISSION

Introduction:

1. Stage 3B of the Proposed District Plan was publicly notified on 31 October 2019 with submissions closing Monday 2 December 2019.
2. On Thursday 30 January 2020, Mr Giddens lodged a submission relating to Stage 3B on behalf of Mr and Mrs Bennerhasset, accompanied by a request for waiver section 37.
3. In my Minute 2, I recorded that I have delegated authority from the Council to consider such applications. I also noted the general powers in respect of waiving and extending time limits. I do not, therefore, need to repeat those matters. This application, however, raises an additional feature that I do need to address. To state the obvious, this is an extremely late submission. By my calculation, it has been filed 27 working days since closure of the submission period. Putting aside any consideration of the merits, which I will come to shortly, I need to determine whether I have the ability to grant the application at all given the qualification of that power stated in section 37A(2) whereby:

“A time period may be extended under section 37 for-

- (a) a time not exceeding twice the maximum time period specified in this Act; or*
- (b) a time exceeding twice the maximum time period specified in this Act if the applicant or requiring authority requests or agrees.”*

4. Section 37A(2)(b) provides no assistance because in the case of a Plan Change, there is no applicant, and the subject matter of the Plan Change means there is no requiring authority either.

5. While the intention of Section 37A(2)(a) is clearly to limit the scope of waivers that might be granted, I find that it does not in fact impose a limit in this case, because the time limits for lodgement of submissions on proposed plans and proposed plan changes in the First Schedule of the Act are stated as minimum periods in each case (at least 40 working days after public notification for a proposed policy statement or plan and at least 20 working days after public notification for a proposed plan change (or variation) – see clause 5(3) of the First Schedule). Consistent with those provisions, the submission period for Stage 3B was 22 working days.
6. Accordingly, I find that the application made on behalf of Mr and Mrs Blennerhasset has to be considered on the basis of the more general factors discussed in Minute 2.

Reasons for Application:

7. In his application for waiver on behalf of Mr and Mrs Blennerhasset, Mr Giddens advised that his clients had intended to lodge a submission, that Mr Blennerhasset had responsibility for preparing and lodging same but, due to his serious ill health, this did not occur and that the omission was only identified when Mr Giddens was able to peruse the Summary of Submissions circulated by Council (and identify that there was no submission listed for Mr and Mrs Blennerhasset).
8. Mr Giddens offered to provide evidence of Mr Blennerhasset's health issues, but I do not find it necessary to take up that offer. I am happy to rely on Mr Giddens' advice in this regard (and would wish Mr Blennerhasset a speedy recovery).
9. Mr Giddens' application was premised on it being possible for the Council to include the Blennerhasset submission in the Summary of Submissions notified by Council on 31 January 2020. He asserted that this would avoid prejudice to any third parties. However, the process for preparation and notification of the summary of submissions did not enable late additions (quite apart from the need to obtain a waiver before the submission could be accepted for processing).

Discussion:

10. The Blennerhasset submission is of limited scope, being solely directed at the zoning of their property on the outskirts of Wanaka (on the Mt Aspiring Road). While that is a positive, and I accept that Mr Giddens moved with the utmost despatch when alerted to this problem, it is extremely late. The statutory obligation in section 21 to avoid unreasonable delay and the need for an efficient hearing process would normally be fatal in such circumstances. I am only prepared to entertain the possibility of waiver

on compassionate grounds, given the information Mr Giddens has provided in that regard.

11. The Council Team have advised me that if a waiver is granted, they will be able to publicly notify a summary of the submission on 20 February. That will mean that further submissions in relation to that submission close 5 March. This leaves little time to assess the content of any such further submissions before the indicative deadline for release of Section 42A Report and accompanying Council evidence (18 March). However, given the limited scope of the submission, and the fact that any further submissions cannot extend the relief sought, I find that this is an acceptable imposition to put on the Council Team in the particular circumstances of this case.
12. That process will ensure any prejudice to third parties is addressed. Indeed, notification of this sole submission will highlight its content to potentially interested parties in a way that would not have occurred had it been notified with the balance of submissions.
13. In summary, having considered the statutory criteria, I grant a waiver for the late submission of Mr and Mrs Blennerhasset on Stage 3B of the Proposed District Plan.

Dated 10 February 2020



Trevor Robinson

Chair

Stage 3 Hearing Panel