

19 April 2022

RECOMMENDATION ON CONSIDERATION OF LATE FURTHER SUBMISSION ON VARIATION 2 (ADDITIONAL HOUSING CAPACITY) TO THE 2GP

Department: City Development

INTRODUCTION

1. This report has been prepared to assist the Variation 2 Hearing Panel with making a decision on whether to waive the failure to comply with the statutory time limit for a late further submission.
2. Variation 2 to the 2GP was publicly notified on 3 February 2021 with original submissions closing on 4 March 2021. The summary of decisions requested through submissions was notified for further submissions on 2 June 2021. The closing time and date for lodging further submissions was midnight, 17 June 2021. A number of late further submissions were accepted by the Panel in July 2021. An additional late further submission was received by DCC on 13 April 2022.
3. Where the Panel does decide to waive the failure to comply with the time limit and allow the further submission, the content of that further submission (in particular, the decisions requested) will be included and considered in the 4th s42A hearing report (greenfield zoning).

STATUTORY FRAMEWORK

4. This section of the report sets out the statutory framework within which the Variation 2 Hearing Panel must consider whether to allow late submissions. This framework is set out in sections 37 and 37A of the RMA. Section 37 deals with the power of waiver and extension of time limits. Section 37(1) states as follows:
 - (1) *A consent authority or local authority may, in any particular case,—*
 - (a) *extend a time period specified in this Act or in regulations, whether or not the time period has expired; or*
 - (b) *wave a failure to comply with a requirement under this Act, regulations, or a plan for the time or method of service of documents.*
5. Section 37A sets out the requirements for waivers and extensions as follows:
 - (1) *A consent authority or local authority must not extend a time limit or waive compliance with a time limit, a method of service, or the service of a document in accordance with section 37 unless it has taken into account—*
 - (a) *the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and*
 - (b) *the interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan; and*
 - (c) *its duty under section 21 to avoid unreasonable delay.*
 - (2) *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*

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(b) *a time exceeding twice the maximum time period specified in this Act if the applicant or requiring authority requests or agrees.*

(3) ...

(4) ...

(5) ...

(6) *A consent authority or a local authority must ensure that every person who, in its opinion, is directly affected by the extension of a time limit or the waiver of compliance with a time limit, a method of service, or the service of a document is notified of the extension or waiver.*

6. It is noted that there is no maximum time period specified in the RMA for submissions and therefore section 37A(2) does not apply.

DISCUSSION AND RECOMMENDATION

7. The further submission is detailed below.

Table 1: Late further submission received April 2022

Submitter name	Further submission number	Submission points further submission is on	Date received	Other matters to note
Christopher Medicott	TBD	S40.002 – Bruce Hall S140.001 Nicole Perry-Ellison	13 April 2022	Further submitter is the landowner and developer of the subject site. Further submitter seeks to be heard

8. The matters set out in Section 37 of the RMA must be taken into account when deciding whether or not to waive a time limit.
9. I have considered the matters outlined in Section 37A(1)(a) and recommend that there would be no adverse effects on directly affected persons if a time limit waiver for the identified late further submission was given, as the decision will be made before the section 42A report is completed.
10. I have also considered the matters outlined in Section 37A(1)(b) and recommend that there would be no adverse effects on the interests of the community in achieving adequate assessment of the effects of the plan change by granting the time limit waiver. The assessment of effects of effects of the proposed change will likely be enhanced by accepting the further submission.
11. Waiver of the time limits will also not lead to any unreasonable delay.
12. I therefore recommend that the time limit to accept further submissions is waived in respect of the further submission in Table 1.

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OPTIONS

Option One – Waive the time limit under s37 for the late further submission in Table 1 (recommended option)

Advantages

- Enables the late further submission to be considered and included in the 4th section 42A report

Disadvantages

- Additional (minor) administrative work required to record the further submission within the submission database and associated correspondence with affected submitters.

Option Two – Do not allow late further submissions

Advantages

- No additional administrative work required.

Disadvantages

- Relevant information from the late further submitter may not be available for the hearing panel

Signatories

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