

Sections 37 and 37A, Clause 13(1) of Schedule 1 Resource Management Act 1991



Decision/Report

Report pursuant to section 37A of the Resource Management Act 1991 recommending whether or not a time limit specified in clause 13(1) of Schedule 1 should be extended or compliance with a time limit waived, in relation to a decision of a requiring authority.

Decision pursuant to section 37 of the Resource Management Act 1991

REQUIRING AUTHORITY	Minister of Defence
DESIGNATION(S)	MDEF-1 Burnham Military Camp MDEF-2 Glentunnel Ammunition Storage Depot MDEF-3 West Melton Rifle Range MDEF-4 Weedons Depot and Communications Site
BRIEF DESCRIPTION OF APPLICATION:	This is an application to extend the timeframe for notifying Selwyn District Council whether the requiring authority accepts or rejects its recommendation in whole or in part. The existing timeframe is 29 September 2023. The requested timeframe is 24 November 2023.

The Application

1. The application was formally received by the Selwyn District Council on 26 September 2023.
2. The application proposes to extend the timeframe for providing the decision of the Minister of Defence from 29 September 2023 until 24 November 2023.

Background

3. Clause 13(1) of Schedule 1 of the RMA directs that the requiring authority shall, within 30 working days of notification of the Council's recommendation, notify the Council whether the requiring authority accepts or rejects the Council's recommendation in whole or in part.
4. This requires the Minister of Defence, as requiring authority, to provide their decision on the recommendations by 29 September 2023.
5. Section 37(1)(a) of the RMA provides that a Council may, in any particular case, extend a time period specified in the RMA or in regulations, whether or not the time period has expired. In making a decision under s37, the Council must take into account the matters set out in s37A.

Section 37A Assessment

6. Section 37A(1) and s37A(2) of the RMA sets out the matters the Council must have regard to when considering an application to extend a timeframe.

37A Requirements for waivers and extensions

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

The interests of any person who may be directly affected by the extension

7. The NZDF and four other parties submitted on NZDF designations, with the NZDF submitting on each of NZDF-1 – NZDF-4 and the other parties all submitting only on NZDF-3 West Melton Rifle Range. No additional parties lodged further submissions. Three parties (of which Canterbury Regional Council is one) own land adjoining NZDF-3 but did not submit on the designation.
8. By way of background, parliament was required to be dissolved before the Governor-General can officially instruct the Electoral Commission to hold a general election. All the business of the current parliament is stopped and is only able to be resumed when a new parliament with new elected members decides to reinstate that business when it meets.
9. The Minister did not notify Council of their decision before parliament was dissolved on 8 September 2023.
10. The consequence of not issuing an extension is that the recommended designation updates are not decided upon. The NZDF designations are all existing, and so the operative designations would continue until the Minister notifies Council of their decision. There is no practical consequence for the Minister of not complying with the statutory timeframe.
11. As such, I consider that it is in the interests of any person who may be directly affected by the Minister's request to extend the timeframe for providing their decision until such time as there is a Minister appointed to make a decision.

The interests of the community

12. The Minister did not notify Council of their decision before parliament dissolved on 8 September 2023. As such, I consider that it is in the interests of the community to extend the timeframe for the Minister to provide their decision until such time as there is a Minister appointed to make a decision.

Duty to avoid unreasonable delay

13. The Minister did not notify Council of their decision before parliament was dissolved on 8 September 2023. As such there is not currently a Minister in place to make a decision to accept or reject Council's recommendations.
14. Following the election, the Governor-General will issue a proclamation to summon the new parliament to meet within six weeks of the final election results, being 24 November 2023. I therefore consider that the requested extension of time, in the circumstances, is not unreasonable.

Length of the extension

15. An extension of 40 working days is requested by the Minister. This results in a timeframe exceeding twice the maximum period specified in clause 13(1) of the First Schedule but is at the request of the requiring authority, and so the requirement of s37A(2)(b) is met.

Decision

For the reasons set out in the report above, the timeframe for the Minister of Defence to notify Council of their decision under Clause 13(1) of the First Schedule RMA is extended until **24 November 2023**.

 Rachael Carruthers, Policy Planner	Date: 27 September 2023
 Bev Bray, Policy Team Leader Acting under delegated authority	Date: 2 October 2023

