

## Form 5

Submission on notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To: Queenstown-Lakes District Council

Name of submitter: Mr Lloyd James Veint (Jim Veint)

**This is a submission on the following proposed policy statement (or on the following proposed plan or on a change proposed to the following policy statement or plan or on the following proposed variation to a proposed policy statement or on the following proposed variation to a proposed plan or on the following proposed variation to a change to an existing policy statement or plan) (the proposal):**

Stage 3 of the Queenstown-Lakes Proposed District Plan (PDP) in relation to the Rural Visitor zone provisions (by both plan-change and variation).

**I ~~could~~/could not gain an advantage in trade competition through this submission.**

**I am/~~am not~~ directly affected by an effect of the subject matter of the submission that—**

**(a) adversely affects the environment; and**

**(b) does not relate to trade competition or the effects of trade competition.**

**The specific provisions of the proposal that my submission relates to are:**

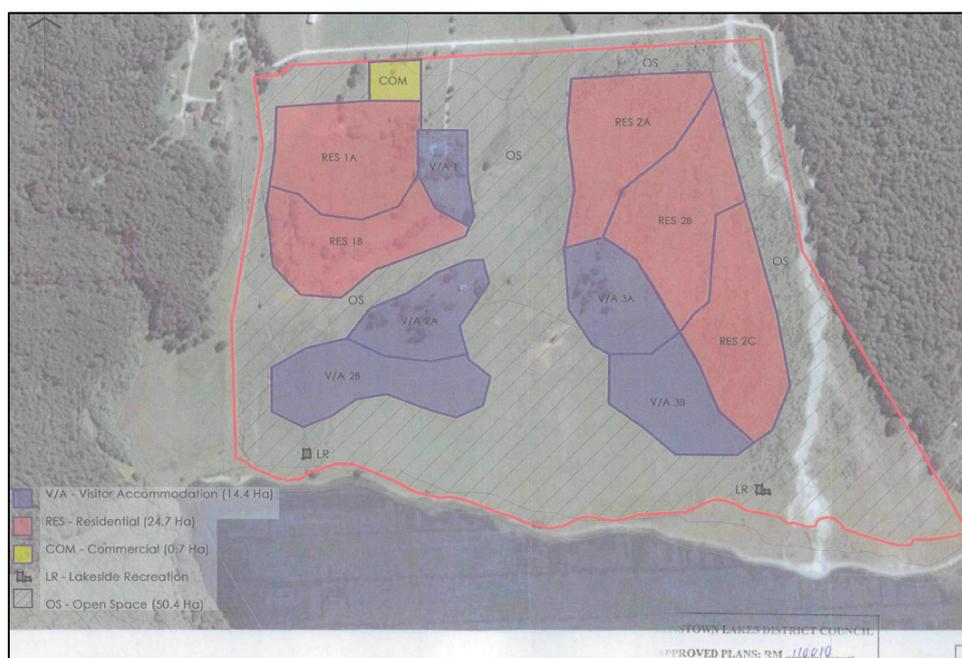
1. Chapter 46 Rural Visitor; and
2. Rural Visitor Zoning (RVZ) and overlay areas on the planning maps, in particular the Rural Visitor zone, as it affects the land owned by the submitter (Arcadia RVZ); and
3. All associated variations to PDP Chapters relating to the RVZ, including but not limited to the Subdivision and Development (Chapter 26) and the Earthworks Chapter (Chapter 25).

**My submission is:**

1. Mr Veint owns the land set out in the table below known as Arcadia Station. The land is located to the north of Diamond Lake.

| <i>Record of Title</i> | <i>Legal Description</i>                                     | <i>Site area</i>        |
|------------------------|--|-------------------------|
| 434244*                | Lot 2 DP 409271 and Lot 11 DP 25326 *                        | 22.2080 hectares        |
| OT16A/772              | Lot 7 DP 24043---  | 17.6443 hectares        |
| OT16A/773              | Lot 8 DP 24043   | 44.0480 hectares        |
| OT16A/774              | Lot 9 DP 24043   | 52.1305 hectares        |
| OT17B/743*             | Lot 13 DP 25326*   | 10.9850 hectares        |
| OT18D/1140             | Section 7 and Part Section 5-6 Block II Dart Survey District | 51.7090 hectares        |
| OT7D/1300*             | Section 1-2 Block II Dart Survey District*                   | 46.1342 hectares        |
| 434245*                | Lot 1 DP 409271*   | 9.9870 hectares         |
| OT18D/1136             | Lot 1 DP 27029   | 6122m <sup>2</sup>      |
| OT18D/1137             | Lot 2 DP 27029   | 5828m <sup>2</sup>      |
| OT18D/1138             | Lot 3 DP 27029   | 5673m <sup>2</sup>      |
| OT18D/1139             | Lot 4 DP 27029   | 6757m <sup>2</sup>      |
| <b>TOTAL</b>           |  | <b>257.284 hectares</b> |

- The land has been predominantly zoned Rural through the Proposed District Plan process (Stage 1). The notified Stage 3b proposes a new version of the Rural Visitor zone, which relates to the titles identified in the table above with an asterisk.
- The Arcadia RVZ is different to other areas zoned Rural Visitor under the ODP. Mr Veint sought and obtained resource consent for a Structure Plan (RM110010) to guide development of the Rural Visitor zoned portion of his land in May 2011. The consent was granted for a five year term. The consent was given effect to by a later subdivision consent (RM130799), and as the land use consent has been given effect to, pursuant to s125(1A)(a), it does not lapse.
- The 'stamped as approved' Structure Plan is shown in Figure 1 below, and the full decision is appended as Attachment [A].



**Figure 1 – Approved Structure Plan under RM110010**

5. A subsequent variation (as part of RM130799 - Attachment [B], and objection decision, Attachment [C]) was lodged to conditions 1 and 3 of RM110010, however the 'stamped as approved' plan in Figure 1 has not changed. The approved Structure Plan provides for:
- 50.4 hectares of open space and lakeside recreation
  - 24.7 hectares of residential activity areas
  - 14.4 hectares of visitor accommodation activity areas
  - 0.7 hectares for commercial activity
6. The approval included a set of Design Guidelines (Attachment [D]). The detailed Structure Plan Design Guidelines form part of the consented Structure Plan. I understand that, pursuant to the ODP, to undertake the development and buildings provided for by the Structure Plan would be a controlled activity.
7. Subdivision consent RM130799 was granted on 10 February 2014 to establish twelve allotments with eleven residential building platforms, create access lots, common areas and associated earthworks, roading, site landscaping and servicing. A commercial lot was also consented. Consent was also granted to vary conditions 1 and 3 of RM110010 to enable roading and landscaping that did not quite comply with the Design Guidelines. As noted above, this subdivision consent gave effect to the Structure Plan consent RM110010.
8. s.223 certification for RM130799 was obtained on 21/12/2018. In order to obtain new titles for the lots in the subdivision, a section 224(c) certificate must be obtained by 21/12/2021. i.e. two years are available to complete the physical works necessary. The applicant fully intends to complete the subdivision however family health issues are currently preventing it being a focus.
9. Paragraph 7.5 and 8.15 – 8.17 of the s.32 report suggests that because a condition of RM110010 requiring the registration of a land covenant has not been completed, that the consent has not been given effect to. This is not accepted as the subdivision consent RM130799 gave effect to the Structure Plan approved under RM110010 (including varying two conditions), and the consent RM110010 has therefore been given effect to and does not lapse under section s125(1A)(a). Compliance with condition 3 is just that, a compliance matter, and does not mean the consent for the structure plan has not been given effect to.
10. The covenant required under condition 3 of RM110010 will be registered when s224(c) certification is obtained. It is sensible to register all covenants and consent notices as part of the subdivision consent. Condition 3 is set out below:
- 3 At the time this consent is given effect to the consent holder shall register a covenant on the Computer Freehold Register requiring future development to be undertaken in accordance with the Structure Plan, the Structure Plan Design Guidelines and the resource consent granted referenced RM110010 received 29 March 2011 and submitted with resource consent RM110010.
11. The Arcadia RVZ therefore has a consented Structure Plan that has been given effect to, set of Design Guidelines and was also considered by Council's Urban Design Panel prior to being approved by Council. Subdivision is underway and investment decisions have been made on the basis of the ODP.
12. Mr Veint's fundamental concern is that the notified Chapter 46 has not recognised the unique nature of the Arcadia RVZ compared to other operative RVZs in the ONL by adopting or incorporating the consented Structure Plan into the Arcadia RVZ or Subdivision chapter. The Structure Plan approved by QLDC under RM110010 had in fact been carefully worked out and assessed by both the applicant and QLDC landscape architects to ensure it does protect the

important characteristics of the ONL. It was also considered and approved by the QLDC Urban Design Panel at the time.

13. The notified provisions result in a significant down zoning of the land and departure from what has previously been approved by QLDC. Mr Veint has made investment decisions based on the Operative District Plan zoning and the approved structure plan, is significantly disadvantaged by the approach to go back to ‘first principles’ that effectively reduce the extent of zoning, rather than fine tuning the existing rules to better link to the consented Structure Plan.
14. The change of status for Residential Activity from permitted under the ODP to non-complying under the PDP is a massive change to the planning framework that does not appear to be effects based. Option 2 of the s32 report refers to ‘refinement’ of the provisions. Changing from permitted to non-complying for residential activity is not refinement. For example the proposed non-complying status for residential activity will dramatically change the situation for construction of houses within the building platforms approved under RM130799. Instead of controlled it will be a non-complying activity, creating major uncertainty for future purchasers of these lots.
15. The changes to the RVZ as a whole, to limit the zone itself to just the area of ONL, is also a significant change. The Operative RVZ was certainly not limited to areas of ONL, for example operative RVZs include Windermere, Arthurs Point, and Cardrona. It is not clear why the RVZ is being limited to ONLs when rural visitor activities can occur in the less sensitive parts of the rural environment that are not ONL. This changes does not sit comfortably with the s.32 report which refers to the notified provisions as a refinement of the ODP.
16. The section 32 report acknowledges Decisions Version Policy 6.3.3 which states (underlining added):
 

*6.3.3 Provide a separate regulatory regime for the Gibbston Valley (identified as the Gibbston Character Zone), Rural Residential Zone, Rural Lifestyle Zone and the Special Zones within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply unless otherwise stated. (3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.3.20-24, 3.3.32).*
17. The Rural Visitor zone is a ‘Special Zone’ under both the ODP and PDP and therefore the Chapter 6 policies do not apply.
18. While it is accepted the Arcadia RV area is an Outstanding Natural Landscape, the special zones within these areas have always been just that, special areas where activities in the ONL are provided for, and due to their history or special characteristics, development in these areas is not inappropriate development. The Structure Plan and Design Guidelines approved by QLDC under RM110010 had in fact been carefully worked out and assessed by both the applicant and QLDC landscape architects to ensure it does protect the important characteristics of the ONL.
19. Objective 3.2.5 of the Strategic Directions chapter seeks the retention of the District’s distinctive landscapes. Strategic Policy 3.2.5.1 seeks to protect ONLs and ONFs from the adverse effects of subdivision, use and development that are more than minor and/or not temporary in duration. While the Strategic Directions chapter is new, the development enabled by the Structure Plan for Arcadia was carefully worked out and assessed to ensure it does protect the important characteristics of the ONL.

20. Ms Mellsoy also states in section 2.1 of her report that the existing matters of control under the ODP are in fact appropriate from a landscape perspective as they include development location, density, external appearance, earthworks, access and landscaping.
21. Ms Mellsoy goes on to state that a controlled activity gives the Council limited ability to modify the location, density or design of development proposals to achieve the desired landscape outcomes. In addition there are no clear outcomes specified for structure plans and no assessment matters for such plans. In the case of Arcadia, these matters have been addressed through the provision of a Structure Plan and Design Guidelines. A controlled activity does enable council to exercise its control to make changes to an application if it is not acceptable.
22. These matters can readily be addressed through the PDP process without removing the development rights approved under consented Structure Plans and subdivisions achieved in good faith at Arcadia.
23. Both the above consent applications (the subdivision and the Structure Plan applications) were assessed by the QLDC and granted. In both cases QLDC staff provided landscape assessments (Dr Read for the subdivision and Ms Mellsoy for the Structure Plan). Both assessments were generally favourable, albeit that these were in the context of the operative RVZ.
24. Combining the development enabled by the existing subdivision and the approved Structure Plan, results in a quite modest, sensitively designed and certainly is not approaching a maximum development of the ODP RVZ. This represents a suitable development of the site and represents a good compromise between the development that the ODP RVZ provides for and a hypothetical scenario in which the site is entirely undeveloped. Past reports by Dr Marion Read and Ms Mellsoy are also reasonably supportive of that opinion.
25. The area identified by Ms Mellsoy as being able to absorb development takes in the area of the existing subdivision and generally Activity Areas RES1A, RES1B and parts of VA1 and V/A2A. The expert opinion of Mr Espie is that the additional development enabled by Activity Areas RES2A,B,C, and V/A2B,3A and 3B (when we consider the approved Structure Plan Design Guidelines) is sensitively designed, relatively modest and appropriate. The Design Guidelines require considerable vegetation retention, careful finishing of buildings and restrictions on allowable roading etc.
26. The proposed non-complying activity status for residential activities does not take into account the consented subdivision RM130799 for residential purposes which included the creation 11 lots with residential building platforms. Constructing a house on these lots within the approved platforms would become a non-complying activity under Rule 46.4.13. This could render the lots incapable of reasonable use under section 85(2) of the RMA.
27. It is also submitted that the plan change, in this particular case of the Arcadia Rural Visor zone, is not supported by an adequate s.32 evaluation and does not promote sustainable management of the Arcadia Rural Visitor zone. The section 32 report contains inaccuracies about the status of the consented structure plan (RM110010) which has been given effect to, which leads to other conclusions about the Arcadia RVZ..

**I seek the following decision from the local authority:**

1. Decline Chapter 46 and associated variations and planning map changes until such time as the follow matters are addressed.
2. Amend the notified RVZ provisions as they relate to the Arcadia RVZ to incorporate the consented Structure Plan and Design Guidelines approved by QLDC under RM110010 as part of a revised Arcadia RVZ, AND/OR as part of the Subdivision and Development (Chapter 27).

3. Amend the Subdivision and Development chapter (27) as necessary to incorporate the consented Structure Plan and create subdivision objectives, policies and rules as necessary enabling subdivision in accordance with the consented structure plan as a controlled activity, and subdivision not in accordance with the consented structure plan as a discretionary or non-complying activity.
4. Provide for development as per the consented Structure Plan (including the existing subdivision that already has s223 certification and is on the way to s224 certification) as a controlled activity, but no development over and above that.
5. Remove the 'Moderate-High Landscape Sensitivity Area' annotation from the planning maps where it appears in the Arcadia RVZ, and instead incorporate the consented Structure Plan and require development to be in accordance with the Structure Plan.
6. Remove the 'High Landscape Sensitivity Area' annotation from the planning maps where it appears in the Arcadia RVZ and instead incorporate the Structure Plan and require development to be in accordance with the Structure Plan.
7. Notwithstanding the generality of the above points, amend the notified RVZ provisions as follows:
8. Amend section 46.1 Zone Purpose statement to recognise the unique circumstances of the Arcadia RVZ where a Structure Plan and Design Guidelines have already been approved by QLDC and given effect to.
9. Add a new Objective 46.2.3 to recognise the unique circumstances of the Arcadia RV zone where a Structure Plan has been approved and given effect to, and residential and commercial activity is also anticipated.
10. Add three new Policies 46.2.3.1 – 46.2.3.3 that together (1) enable development at Arcadia while requiring (2) development of the Arcadia RV zone to be in accordance with the approved Structure Plan and (3) the approved design guidelines.
11. Amend Rule 46.4.6 to provide for the construction, relocation or exterior alteration of buildings for the Arcadia RVZ that are in accordance with the consented Structure Plan as a controlled activity.
12. Amend Rule 46.4.10 to provide for the construction, relocation or exterior alteration of buildings in the Arcadia Rural Visitor zone 'Moderate-High Landscape Sensitivity Area' as a controlled activity OR, as noted under 5 above, remove this category from the Arcadia RVZ altogether and instead require development in accordance with the Structure Plan.
13. Amend Rule 46.4.11 to provide for the construction, relocation or exterior alteration of buildings in the Arcadia Rural Visitor zone 'High Landscape Sensitivity Area' as a controlled activity OR, as noted under 6 above, remove this category from the Arcadia RVZ altogether and instead require development in accordance with the Structure Plan.
14. Delete Rule 46.4.13 as it relates to the Arcadia RVZ, and provide a new rule that provides for residential activity in accordance with the consented Structure Plan and Design Guidelines in the Arcadia RVZ as a permitted activity (and within the approved residential lots and platforms approved under RM130799), as it was under the ODP.
15. Amend Rule 46.4.14 to provide for commercial activity as a controlled activity within the area identified for commercial activity on the Structure Plan approved under RM1110010 in the Arcadia Rural Visitor zone.

16. Amend Rule 46.6 relating to non-notification to add a new provision 'e' – "Development in the Arcadia Rural Visitor zone in accordance with the consented Structure Plan and Design Guidelines (RM110010)".
17. Support the proposed Variation to Chapter 25 Earthworks to enable up to 500m<sup>3</sup> of earthworks, however when considered in the context of notified Chapter 39 Wahi Tipuna, the whole Arcadia RVZ is covered by a Wahi Tipuna and the area would in fact be subject to a 10m<sup>3</sup> earthworks limit.
18. Any other consequential changes to achieve the above relief.

**I wish/~~do not wish~~ to be heard in support of my submission.**

**~~If others make a similar submission, I will consider presenting a joint case with them at a hearing.~~**

Blair Devlin

on behalf of **Lloyd James Veint**.



28 November 2019

**Attachments:**

- [A] – Decision RM110010 – Structure Plan approval
- [B] – Decision RM130799 – Subdivision consent
- [C] – Decision RM130799 following s357 objection decision
- [D] – Decision RM110010 approved Design Guidelines

Electronic address for service of submitter: [blair@vivianespie.co.nz](mailto:blair@vivianespie.co.nz)

Telephone: 441 4189

**Postal address (or alternative method of service under section 352 of the Act):** C/- Vivian Espie, P O Box 2514, Whakatipu 9349.

**Contact person:** Blair Devlin.

Note to person making submission

If you are making a submission to the Environmental Protection Authority, you should use form 16B. If you are a person who could gain an advantage in trade competition through the submission, your right

to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

it is frivolous or vexatious:

it discloses no reasonable or relevant case:

it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:

it contains offensive language:

it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

Schedule 1 form 5 heading: amended, on 18 October 2017, by regulation 15(1) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2017 (LI 2017/231).

Schedule 1 form 5 heading: amended, on 1 November 2010, by regulation 19(1) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2010 (SR 2010/279).

Schedule 1 form 5: amended, on 18 October 2017, by regulation 15(1) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2017 (LI 2017/231).

Schedule 1 form 5: amended, on 14 September 2017, by regulation 15(1) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2017 (LI 2017/231).

Schedule 1 form 5: amended, on 1 November 2010, by regulation 19(1) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2010 (SR 2010/279).

Schedule 1 form 5: amended, on 1 June 2006, by regulation 10(2) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2006 (SR 2006/99).