

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Stage 3 of the
Queenstown Lakes
Proposed District Plan

MINUTE 18 – LATE VEINT SUBMISSION

Introduction

1. Ms Robb has made application for a waiver of the time limit applying to lodgement of submissions in order that Mr Veint (the current owner of Arcadia Station) might add some relief to his existing submission (#31008) providing for temporary filming activities within the Rural Visitor Zone.
2. Ms Robb explains that Arcadia Station is in the process of being sold, with settlement on 30 June. It appears that as part of the environmental due diligence for the purchase, Ms Robb and her colleagues identified that the existing provisions of Chapter 35 do not provide for temporary filming activities within the RVZ, and the submission that Mr Veint had lodged did not seek relief in that regard. That is the hole that Ms Robb now seeks to fill.
3. Ms Robb suggests that the formal steps required, should this additional submission be accepted, can be accommodated, with the evidence on heard in the final week of the hearing.
4. The existing submission from Mr Veint is the subject of a further submission opposing the relief sought from Otago Fish and Game. I asked the Hearing Administrator to seek input on Ms Robb's application both from that further submitter and from the Council team.
5. The advice back from Otago Fish and Game was that it had no comment either on the late submission or the application for waiver.
6. Ms Scott has filed a memorandum for Council advising that the Council does not oppose the application provided the relief sought is limited to the Arcadia RVZ. Ms

Scott's suggestion is that the existing elements of Mr Veint's submission (and Otago Fish and Game's opposition) be heard in accordance with my previous directions, and that a separate evidence timetable be fixed for this late submission, if accepted, with the objective that if possible, that evidence might be heard before the conclusion of the currently scheduled hearing, and the Panel's recommendations included with its broader report.

7. Ms Robb has advised that her client(s) would limit their relief to the Arcadia Station RVZ and has supplied a replacement submission (attached) to that effect.

Jurisdiction

8. In Minute 2, I set out the jurisdiction to receive late submissions, and the considerations that bear upon exercise of the discretion I have in that regard.
9. In Minute 3, I discussed the limitations on that jurisdiction, finding that section 37A(2)(a) does not constrain the grant of a waiver, because there is no maximum time period specified in the Act for lodging submissions on plans and plan changes (just minimum time periods).
10. I am accordingly able to consider the merits of accepting this later submission.

Discussion

11. To say this application is late is something of an understatement. The hearing is commencing in less than three weeks. If accepted, the submission has to be summarised and publicly notified for further submissions, following which a report under Section 42A will need to be prepared and circulated not less than 15 working days before the hearing of the submission.
12. Clearly that will not be possible before 29 June. In effect, a special one-off hearing would have to be held for this single submission. Having said that, if the formal elements were able to be completed, such a one-off hearing might be combined with the existing hearing arrangements.
13. Ms Robb suggests that the way in which the staged notification and hearing of the 'Proposed District Plan' has proceeded has created a natural justice issue "*whereby the Applicant did not have the opportunity to submit on provisions regarding temporary filming (as they relate to the RVZ) as part of Stage 1 of the District Plan review, because the RVZ was not subject to Stage 1 of the Review, and have also not had the opportunity to submit on those provisions as part of Stage 3B of the*

Review, because the council did not notify a variation to those provisions alongside notified Chapter 46”.

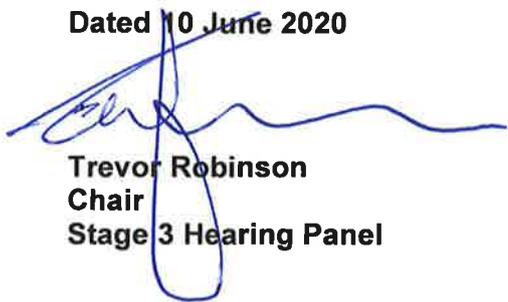
14. I accept that the staged manner in which the ‘Proposed District Plan’ process has proceeded has created complexity, but I tend to agree with Ms Scott that this is not a natural justice issue. It is clear that submitters making submissions on zones that have been notified as part of Stage 3/3B were able to seek changes to the district-wide chapters as they relate to those zones in this process, and a number of submitters have done just that.
15. I do not know if Mr Veint and his advisors overlooked this issue, or made a positive decision that they did not wish to seek additional provisions related to temporary filming activities in the Arcadia RVZ. Clearly the incoming purchaser takes a different view, if the latter was the position.
16. The proposed submission records that Arcadia Station has historically been used on a number of occasions for filming activities. To the extent that that has occurred within the area proposed to be zoned RVZ, I can understand the desire to provide for that continued use. There is obviously also a public interest component given the potential for continued filming on the site to contribute to economic recovery in the Queenstown area following the Covid-19 related disruption to the international tourist industry.
17. That said, the lateness of this application relative to commencement of the hearing and the procedural disruption it will cause to the smooth hearing of submissions and further submissions would have meant an almost inevitable refusal had the Council opposed the application. The Council, however, does not oppose the application and the party most likely to have an issue with it, as evidenced by its existing further submission, has advised that it does not wish to comment on it.
18. I think that the breadth of the submission as originally proposed would have nevertheless created a problem. If the relief were granted in respect of all RVZ sites, that would significantly enlarge the pool of potential interested parties whose interests would need to be protected.
19. As it is, Ms Robb has accepted that the submission be limited to the Arcadia site and on that basis, I consider that her application can be accommodated.

Consequential Orders

20. A number of steps will follow acceptance of this submission. The steps that occur to me are:
 - (i) A summary of it must be prepared and publicly notified;
 - (ii) Following closing of further submissions (10 working days after public notification), a report must be prepared by Council pursuant to Section 42A of the Act;
 - (iii) Following release of the Section 42A Report, provision must be made for submitters and further submitters (if any) to file evidence. Given the relatively narrow range of matters the proposed submission puts in issue, I do not consider rebuttal evidence necessary;
 - (iv) The Council must have the opportunity to address us (including an appearance by the Section 42A Author);
 - (v) The submitter and any further submitters must similarly have an opportunity to appear.
21. I am advised that the submission may be able to be summarised and publicly notified by 18 June.
22. Ten working days thereafter would expire 2 July, although it might be prudent to add one or two working days as a safety margin – say to 6 July.
23. I anticipate that the section 42A report would be short and might be provided within 10 days of the closing of further submissions, that is to say by 16 July. Any evidence from the submitter and further submitters might then follow two weeks thereafter that is to say by 30 July. Because of the need to have 15 working days from the Section 42A Report to the hearing of submissions, hearing of this submission could not proceed before 6 August.
24. Rather than complicate hearing of the submissions and evidence that have already been filed, I propose to run this matter as a discrete hearing withing a hearing (if Wayfare Group's submissions on RVZ at Walter Peak are Stream 19, as per Minute 14, this single submission will be Stream 20). The Hearing Administrator advises that the afternoon of 13 August is currently free, and we can target that as our opportunity to hear first from the section 42A reporting officer (and counsel if required), followed by Ms Robb and her witnesses, and then by any further submitters. Council can then wrap its reply into its response on all other matters.

25. I, therefore direct that late receipt of the submission on behalf of Mr Veint as attached be waived, and that consequential steps proceed in accordance with the above timetable. Because I have not had the opportunity to seek input from affected parties, if either Ms Robb or Ms Scott (or any other interested party for that matter) have any issues with that timetable, they can make application through the hearing administrator.

Dated 10 June 2020

A handwritten signature in blue ink, appearing to read 'T. Robinson', is written over the typed name and title.

**Trevor Robinson
Chair
Stage 3 Hearing Panel**

Submission on Queenstown Lakes Proposed District Plan Stage 3B

Under Clause 6 of the First Schedule, Resource Management Act 1991

To: Queenstown Lakes District Council

Submitter: Mr Lloyd James Veint (#31008)¹

1. This is a submission on the Queenstown Lakes Proposed District Plan – Stage 3B (PDP).
2. Mr Lloyd James Veint (**Submitter**) could not gain a trade competition advantage through this submission (clause 6(4) of Part 1 of Schedule 1 of the RMA 1991).
3. The specific provisions this submission relates to are:
 - a) Chapter 35 Temporary Activities and Relocated Buildings; and
 - b) Any provisions of Chapter 46 Rural Visitor Zone and/or any provision in any district wide chapter of the PDP and/or Planning Map 9, to be consequentially amended to give effect to the relief sought in this submission.
4. The Submitter has an interest in the land set out below and known as the Arcadia Station at 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 ²
OT18D/1137	Lot 2 DP 27029	5828m ²
OT18D/1138	Lot 3 DP 27029	5673m ²
OT18D/1139	Lot 4 DP 27029	6757m ²
TOTAL		257.284 hectares

5. 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 (**Arcadia RVZ**).

¹ For the avoidance of doubt this submission is additional to and does not replace submission 31008.

Summary of Submission

6. The Submitter supports the intent of the provisions of Chapter 35 of the PDP which generally encourage and provide for temporary filming activities and recognise their economic, social and cultural value.
7. However, the Submitter opposes the provisions of Chapter 35 which concern temporary filming activities, to the extent that the provisions are more restrictive on temporary filming activities in the Arcadia RVZ as compared to in the Rural Zone.
8. The Submitter seeks such amendments to the PDP that are required to address the Submitter's concerns set out below.

The Submission is "on" Stage 3B

9. Chapter 46 and the ODP RVZ is being reviewed in Stage 3B of the District Plan Review (DPR). The Submitter understands that the Council's approach to its staged plan review has been to review district wide provisions which apply specifically to a particular zone at the same time as land within that zone is reviewed. If any submitter seeks relief that a provision applying generally to the whole district be amended in respect of its application to a specific zone, this relief is considered alongside the review of that zone.
10. Chapter 35 as notified and decided departs from the ODP position for temporary filming activities in the RVZ under ODP Section 19. This was not expressly discussed in the Chapter 35 s32 report. Chapter 35 was reviewed in Stage 1 of the DPR. However, as the RVZ was not reviewed in Stage 1 the Chapter 35 provisions were not reviewed to the extent they apply specifically to the RVZ. Any relief sought to the provisions of Chapter 35 to the extent they apply to the RVZ must be considered in Stage 3B.
11. The question of whether a submission is 'on' a plan change is fundamentally a question of procedural fairness. The core purpose of the statutory plan change process under Schedule 1 of the RMA is to ensure all persons potentially affected by the plan change are adequately informed of what is proposed, and have been given the opportunity to participate.²
12. It is submitted that the relief sought in this submission regarding Chapter 35 should rightfully be considered in Stage 3B of the DPR alongside the review of the Arcadia RVZ. If there is no opportunity for the relief to be considered in Stage 3B the Submitter will have been essentially locked out of each stage of the DPR, which is procedurally unfair.

Reasons for the Submission

13. Temporary filming activities are recognised as being beneficial from an economic, social and cultural perspective, and are enabled in the Rural Zone. There is no justification for a different approach to apply to temporary filming activities in the Arcadia RVZ, when potential adverse effects can be similarly managed and mitigated.
14. The s32 report for Chapter 35 briefly discussed the justification for applying more permissive standards to temporary filming activities in the Rural Zone as compared to 'any other zone'³. It is apparent from the s32 report that the analysis focused on comparing temporary filming activities in the Rural Zone with these activities occurring in residential and urban zones, and likely did not contemplate temporary filming activities in the RVZ at all (as the RVZ was not part of Stage 1 of the DPR).

² *Motor Machinists Ltd v Palmerston North City Council* [2013] NZHC 1290 at [77] and [91].

³ Section 32 Evaluation Report Temporary Activities & Relocated Buildings at page 37 considering notified Rule 35.4.11 (now decisions version Rule 35.4.7).

15. The reasoning given in the s32 report as to why temporary filming activities are appropriate in the Rural Zone suggests temporary filming activities are similarly appropriate in the RVZ:
- a) In relation to the 200 people limit in the Rural Zone as compared to 50 people limit in 'any other zone', the s32 report notes that the Rural Zone generally has large site sizes, so is most capable of accommodating larger numbers. The RVZ also generally has large lot sizes so would be similarly capable of accommodating up to 200 people at a time;
 - b) The s32 report notes that the majority of filming is undertaken within the Rural Zone and therefore targeting these areas to encourage filming is most efficient. As part of the Stage 3B review of the RVZ Ms Mellsop's landscape assessment of the Arcadia RVZ⁴ notes that the Arcadia area is already a popular filming location. Regardless, the PDP should allow for and promote diversity of filming locations where appropriate;
 - c) In relation to the use of helicopters for temporary filming activities, the s32 report notes that use of helicopters should be enabled, but that helicopter movements should be restricted to the Rural Zone to protect residential amenity. Residential amenity concerns are not a significant issue in the RVZ, which as notified does not provide for residential activities⁵. It is appropriate for helicopter movements to be enabled in the Arcadia RVZ, as potential adverse effects are limited and can be managed in the same way as they are in the Rural Zone;
 - d) In relation to limits on shooting periods, the s32 report notes that limited expansion of filming activities should be provide for in 'other zones', but in a manner that is more restricted, particularly regarding shooting periods which have the greatest adverse effects. No further explanation is given, however it is assumed that the adverse effects associated with shooting include general disruption in public places and urban areas, and disturbances to residential amenity in residential areas. These potential effects are not a significant concern in the Arcadia RVZ.
16. The Chapter 35 objective and policies concerning temporary filming enable and encourage temporary filming activities provided the activity can be managed to minimise adverse effects. As set out above, there is no reason to distinguish temporary filming activities in the Rural Zone and Arcadia RVZ when the effects from these activities can be similarly managed in both zones to minimise adverse effects.
17. Given the current economic climate every opportunity should be taken to diversify and provide for various commercial ventures where the effects of these activities can be appropriately avoided or managed. The Arcadia RVZ is already a popular location for filming, and the PDP should be amended to adequately provide for temporary filming activities to continue in this area.

Relief Sought

18. The Submitter seeks the following decision:
- a) That the provisions of Chapter 35 be amended to be more enabling of temporary filming activities in the Arcadia RVZ, to the same extent that temporary filming activities are enabled in the Rural Zone;

⁴ QLDC Rural Visitor Zone Review Landscape Assessment by Helen Mellsop dated May 2019 at pages 8 and 10.

⁵ Submission 31008 does seek residential activity in the Arcadia RVZ where potential adverse effects are limited and can be managed in the same way as they are in the Rural Zone.

- b) In particular, that Rule 35.4.7 be amended as follows:
- i. Amend 35.4.7(a) so that the permitted number of persons participating in temporary filming activities at any one time is increased from 50 to 200 for the Arcadia RVZ;
 - ii. Amend 35.4.7(b) and/or (c) so that the limit on the duration of temporary filming activities in the Arcadia RVZ is as permissive as for the Rural Zone;
 - iii. Amend 35.4.7(e) to allow for the use of land as an informal airport as part of a filming activity in the Arcadia RVZ.
- c) Alternative, consequential, or necessary additional relief to promote and encourage temporary filming activities in the Arcadia RVZ where effects on landscape are appropriately mitigated, or to otherwise give effect to the matters raised generally in this submission.

General

19. The Submitter wishes to be heard in support of this Submission.
20. The Submitter will consider presenting a joint case with others presenting similar submissions.



Mr Lloyd James Veint
Signed by its duly authorised agents
Anderson Lloyd
Per: **Vanessa Robb**
vanessa.robb@al.nz

Address for service: vanessa.robb@al.nz / roisin.giles@al.nz