

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

ENV-

Under the Resource Management Act 1991 (**RMA**)

In the matter of an appeal under clause 14(1) of Schedule 1 of the RMA in
relation to Stage 3B of the Queenstown Lakes Proposed
District Plan

Between **The Station at Waitiri Limited**

Appellant

And **Queenstown Lakes District Council**

Respondent

Notice of Appeal on the Arcadia Rural Visitor Zone

18 May 2021

Appellant's solicitors:

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To: The Registrar
Environment Court
Christchurch

- 1 The Station at Waitiri (**the Station**) appeals against part of the decision of Queenstown Lakes District Council on Stage 3B of the Queenstown Lakes Proposed District Plan (**PDP**).
- 2 The Station made Submission #31008 on Stage 3B the PDP.
- 3 The Station is not a trade competitor for the purpose of section 308D of the RMA.
- 4 The Station received notice of the decision on 1 April 2021.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decision appealed relates to:
 - (a) Chapter 46: Rural Visitor Zone of the PDP;
 - (b) Chapter 27: Subdivision; and
 - (c) The PDP Planning Map for the Arcadia Station Rural Visitor Zone.
- 7 The reasons for appeal and general relief sought by The Station are summarised below.

Background

- 8 This appeal relates to the land known as Arcadia Station, located to the north of Diamond Lake, described below:

Record of Title	Legal Description	Site area
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

- 9 The land was predominantly zoned Rural through Stage 1 of the District Plan Review process. In Stage 3B the PDP Rural Visitor Zone was notified, which applies to the titles identified with an asterisk in the table above (**Arcadia RVZ**).
- 10 The history of the Arcadia RVZ is set out in detail in the submission (**Appendix C**). In summary the Arcadia RVZ was established through the previous district plan review process of the now Operative District Plan (**ODP**) in 1998, subject to council approval of a structure plan for the area (as a controlled activity). In 2011 RM110010 was granted for a Structure Plan and design guidelines (**Structure Plan Consent**). In 2014 consent RM130799 was granted for a 12 lot subdivision and identification of 11 residential building platforms (**Subdivision Consent**).
- 11 The consented Structure Plan, design guidelines and subdivision plan were not incorporated into the notified PDP planning maps and Chapter 46.
- 12 In its submission the Station sought to retain the development opportunities afforded by the Structure Plan Consent and Subdivision Consent by inserting the Structure Plan into Chapter 46, along with accompanying bespoke planning provisions to appropriately mitigate potential effects on the values of the Outstanding Natural Landscape (**ONL**).
- 13 The Council's decision did not incorporate the Structure Plan, design guidelines and bespoke provisions into the decisions version of Chapter 46. However, it did recognise the expectation created by the Subdivision Consent that residential development will be permitted in the Arcadia RVZ in accordance with the consent, by providing for one residential unit per consented building platform identified on LT 530138.
- 14 On appeal the Station seeks that the Structure Plan, design guidelines and bespoke provisions be incorporated into the PDP as per the submission, with the necessary amendments, to recognise and provide for the anticipated development of the Arcadia RVZ.
- 15 The Station supports the recognition of the residential development anticipated by the Subdivision Consent through new provisions providing for that residential development as a permitted activity. However, the appeal seeks that the provisions be reworded to not refer to the consenting history or consented building platforms specifically, and instead provide for the residential development (up to 11 units) as a permitted activity

generally, in that part of the Arcadia RVZ earmarked for residential development in accordance with the Structure Plan.

Reasons for appeal

- 16 The reasons for the appeal are set out in detail in the submission at **Appendix C**. In summary:
 - (a) When consent was granted, development in accordance with the Structure Plan Consent and Subdivision Consent was considered by the Council to be appropriate development within the RVZ from a landscape perspective. The Station relies on that landscape assessment and the Council's position, and considers development in accordance with the Structure Plan will meet the purpose of the RMA, be consistent with the objectives and policies for the RVZ, and will protect the values of the ONL;
 - (b) The decisions version of the Arcadia RVZ renders the Station's interest in the Land incapable of reasonable use in accordance with s 85(2) RMA. Under the RVZ provisions development in accordance with the Structure Plan Consent requires further consent for non-complying activities. A non-complying activity pathway does not provide for reasonable use of land, particularly in light of a strong policy framework directing against the activities proposed. In this case the landowner is essentially prevented from undertaking activities it had a legitimate expectation could be undertaken on its land, and is subject to an unfair and unreasonable burden to use its land in an alternative manner which undermines previous resourcing and planning efforts.
- 17 As the Independent Hearings Panel discussed in its recommendations to Council, it may be appropriate to use a Structure Plan for a RVZ, where that Structure Plan identifies areas of landscape sensitivity and includes sufficiently detailed provisions to protect, maintain or enhance the relevant landscape values. The Station considers the Arcadia RVZ is an appropriate situation for a Structure Plan, and that the work has already been undertaken in terms of ensuring development is appropriate from a landscape perspective.
- 18 Regarding residential activity, the Station supports the provision for residential development in accordance with the Subdivision Consent as a permitted activity, however considers that the development should be provided for in the PDP without reference to the consent. Implementation of the Subdivision Consent is dependent on matters outside of the District Plan Review process. The Council previously considered the development

is appropriate from a landscape perspective, and the Independent Hearing Panel determined the development could be accommodated without undermining the purpose of the RVZ. As such the most appropriate way to enable the residential development is to amend Chapter 46 to provide for 11 residential dwellings as a permitted activity, within a particular part of the Arcadia RVZ as identified on the planning map, without reference to the consent.

Relief sought

- 19 The Station seeks the following relief:
- (a) Amend the planning map for the Arcadia RVZ to incorporate the Structure Plan attached as **Appendix A**;
 - (b) Amend the RVZ provisions (Chapter 46) as they relate to the Arcadia RVZ to incorporate the consented Structure Plan, Design Guidelines and Subdivision Consent as part of a revised Arcadia RVZ;
 - (c) Amend Chapter 27 as necessary to incorporate the consented Structure Plan and create subdivision objectives, policies and rules as necessary to enable subdivision in accordance with the Structure Plan as a controlled activity;
 - (d) Remove the "Moderate-High Landscape Sensitivity Area" and "High Landscape Sensitivity Area" annotations from the planning maps for the Arcadia RVZ;
 - (e) Amend the provisions of Chapter 46 as they relate to residential development in the Arcadia RVZ, in particular the purpose, policy 46.2.1.4 and rule 46.4.6, to provide for the development of 11 residential dwellings in that part of the zone identified for residential development by the Structure Plan, without specific reference to the consenting history or consented building platforms. Instead, identify on the planning map the area within the Arcadia RVZ where 11 residential dwellings will be permitted activities.
 - (f) Notwithstanding the generality of the above, amend the provisions of Chapter 46 as set out at **Appendix B**.

Further and consequential relief sought

- 20 The Station seeks alternative, consequential, or necessary additional relief to that set out in this appeal to give effect to the matters raised generally in this appeal or such other changes that give effect to the outcomes sought in the Station's submission.

Attachments

21 The following documents are **attached** to this notice:

- (a) **Appendix A** – Proposed Arcadia RVZ Structure Plan;
- (b) **Appendix B** – Proposed amendments to Chapter 46;
- (c) **Appendix C** – A copy of the Station's Stage 3B submission #31008;
- (d) **Appendix D** – A copy of the decision appealed; and
- (e) **Appendix E** – A list of names and addresses of persons to be served with this notice.

Dated this 18th day of May 2021

A handwritten signature in black ink, appearing to read 'V. Robb/Roisin Giles', is written over a horizontal line.

Vanessa Robb/Roisin Giles
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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the Appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Christchurch.