



FORM 5: SUBMISSION

ON NOTIFIED PROPOSED DISTRICT PLAN OR PLAN CHANGE OR VARIATION OR POLICY STATEMENT



Clause 6 of Schedule 1, Resource Management Act 1991



TO // Queenstown Lakes District Council

Name of submitter [full name] Richard Kemp, Pragmatic Planning

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**):



NAME OF // Proposed or existing policy statement or plan and (where applicable) change or variation

21.22.12 Western Whakatipu Basin ONL

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:

(a) adversely affects the environment; and

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

* Delete entire paragraph if you could not gain an advantage in trade competition through this submission.

** Select one.



SPECIFIC PROVISIONS // Of the proposal that my submission relates to are:

[give details] 21.22.12 Western Whakatipu Basin ONL



MY SUBMISSION

[Include: whether you support or oppose the specific provisions or wish to have them amended; and reasons for your view]

Please see attached

*If your submission relates to a proposed policy statement or plan prepared or changed using the collaborative planning process, you must indicate the following:

- > whether you consider that the proposed plan or policy statement or change fails to give effect to a consensus position and therefore how it should be modified; or
- > in the case that your submission addresses a point on which the collaborative group did not reach a consensus position, how that provision in the plan or policy statement should be modified.

* This paragraph may be deleted if the proposal is not subject to a collaborative planning process.

**I SEEK THE FOLLOWING DECISION // From the local authority**

[give precise details]

Please see attached

* I wish / do not wish** to be heard in support of my submission.I will / will not** consider presenting a joint case with others presenting similar submissions.

* In the case of a submission made on a proposed planning instrument that is subject to a streamlined planning process, you need only indicate whether you wish to be heard if the direction specifies that a hearing will be held.

** Select one.

**SIGNATURE**

**Signature

[or person authorised to sign on behalf of submitter]

Digitally signed by member: C9613708-B62C-4365-93FD-47CBE5ABF434
19AB915E-228C-4AE4-88CA-30D4145E279C
Date: 2022.08.26 16:38:44 +12'00'

Date 26 August 2022

** A signature is not required if you make your submission by electronic means.

**YOUR DETAILS // Our preferred methods of corresponding with you are by email and phone.**

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[home]

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Postal Address PO Box 2770, Wakatipu, Queenstown

[or alternative method of service
under section 352 of the Act]

Post code

9349

Contact person [name and designation, if applicable] Richard Kemp, Pragmatic Planning

**NOTE // To person making submission**

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.



Queenstown Lakes District Council

Proposed District Plan – Submission

Clause 6 of First Schedule, Resource Management Act 1991
FORM 5

Correspondence to:
Attn: Planning Policy
Queenstown Lakes District Council
Private Bag 50072
QUEENSTOWN 9348

1. Submitter details:

Full Name of Submitter:	Richard Kemp Trading As Pragmatic Planning
Address for Service:	PO Box 2770, Wakatipu, Queenstown 9349
Email:	richard@pragmaticplanning.co.nz
Contact Person:	Richard Kemp

2. Scope of submission

- This is a submission to the Queenstown Lakes District Proposed District Plan (PDP) Landscape Schedules, notified 30 June 2022.
- The submitter could not gain an advantage in trade competition through the submission.
- The scope of this submission is detailed below and in Part 3 of the submission.
- The specific provisions that my submission relates to are:

(a) Schedule:	21.22.12 Western Whakatipu Basin ONL
(b) Any other provisions:	Any other provisions relevant to the purpose of this submission described in Part 3 below.

3. Submission

The Submitter **OPPOSES** the newly mapped Western Whakatipu Basin ONL Priority Area Landscape Schedule 21.22.12 and seeks further information, clarification and amendments as set out below:

A. The landscape attributes (physical, sensory and associative)

The landscape attributes include physical attributes such as: Vegetation patterns; Ecological (flora and fauna) and dynamic components; Settlements and occupation; Roads and circulation; Land use – cadastral pattern; Buildings; Likely future (permitted or consented) activities in the environment.

Para 26-38 - Under **important land use patterns and features**, the following was not included, and should be included:

- The unformed road that extends up the hill from Wynyard Crescent was not listed, as well as designation 237 and 22. Also, an unformed road along which the Ben Lomond track is formed.
- The Informal Recreation zoned land on the bottom of Ben Lomond, Cemetery Hill and Queenstown Hill was not listed. The permitted activities enabled by this zoning and associated effects that would have on the landscape values and capacity should be acknowledged.
- The irregular notified shape of the Priority area (**PA**) along the bottom slopes (Fernhill) of Ben Lomond and top of Queenstown Hill currently aligns with the Urban Growth Boundary (**UGB**) and existing land uses – a cadastral pattern instead of any landscape pattern or feature. This should be changed. Along with the need to either align the ONL and PA with landscape features or patterns or to acknowledge the capacity for urban expansion in-between the existing urban development.
- The Urban context with residential development on the lower slopes of Ben Lomond and Queenstown Hill (Fernhill, Queenstown and Arthurs Point) and its influence on the character of the area as a natural landscape should be acknowledged.

Para 101 -102 - Under **Aesthetic qualities and values**, the following was not included, and should be included:

- Point ix (**The general confinement of visible built development**) should also include the lower slopes of Ben Lomond (Fernhill) and Queenstown Hill where residential development has extended into the plantation forest and the PA. There is a need to amend the ONL and UGB line here so that it follows landscape features or patterns or to acknowledge the capacity for urban expansion in between the existing urban development.

B. The landscape values

Para 103 -105 - the Summary of the landscape values needs to be updated to reflect the above-mentioned matters.

C. The related landscape capacity

No rating scale is provided for the landscape capacities. From a review of the various Priority Areas, it appears to range as follows: No capacity; very limited capacity; limited capacity; some capacity. The extent of the capacity rating scale should be confirmed within the

Landscape Schedules. It should also be clear from the rating scale how these interrelate with the wording used in the provisions in Chapter 3. For example, Strategic Policy 3.3.31 states: “Avoid adverse effects on the landscape values of the District's Outstanding Natural Features and Outstanding Natural Landscapes from residential subdivision, use and development where there is little capacity to absorb change.” [emphasis added]

Additional amendments sought - shown with underlined text and deleted text ~~struck through~~:

- **Commercial recreational activities** – some landscape capacity for activities that integrate with or expand and/complement/enhance existing recreation features; are located to optimise the screening and/or camouflaging benefit of natural landscape elements; designed to be of a sympathetic scale, appearance, and character; integrate appreciable landscape restoration and enhancement; eradicate wilding vegetation and replant native vegetation; enhance public access; enhance visual amenity and landscape values; and protect the area’s ONL values.
- **Visitor accommodation and tourism related activities** – Limited ~~no~~ landscape capacity for visitor accommodation on the lower slopes of the PA. The area can be serviced by Queenstown. Limited capacity for tourism related activities that expand or integrate with and complement/enhance existing recreation features; are located to optimise the screening and/or camouflaging benefit of natural landscape elements; designed to be of a sympathetic scale, appearance, and character; integrate appreciable landscape restoration and enhancement; eradicate wilding vegetation and replant native vegetation; enhance visual amenity and landscape values; enhance public access; and are consistent with the area’s ONL values.
- **Urban expansions** – ~~no landscape capacity.~~ Limited landscape capacity on the lower slopes of the PA, adjacent to or in-between the existing urban development.

Or

Update the PA mapping and associated ONL line/UGB and zoning to exclude areas where there is capacity to absorb urban expansion. These include areas on the lower slopes of Ben Lomond in Fernhill and Queenstown Hill where the ONL line simply follows the UGB (Land use – cadastral pattern) instead of landscape features or patterns.

So in summary, either acknowledge the capacity in the schedule or move the mapped PA, ONL line, UGB and zoning to reflect the actual landscape capacity.

- **Gondolas, towers and cableway** – Limited landscape capacity

4. Further rational for capacity sought above.

Following the guidance of the Court of Appeal in **Man O'War Station Limited v Auckland Council [2017] NZCA 24**, the decisions on ONL lines need to be made on landscape grounds, rather than by a reference to their planning implications. The planning consequences that flow from the fact the land is an ONL are not relevant to determining whether or not it is an ONL. Conversely, the provisions or landscape schedules that relate to a ONL should not predetermine the planning consequences for the ONL.

By stating in these schedules that there is no capacity within the ONL landscape, the Council is predetermining the planning outcome for the land and fundamentally limiting the use of the land despite the underlying zoning. If the Council's schedule does not reflect the capacity of the landscape in the specified locations, then the appropriate planning decision would be to change the underlying zoning to reflect that.

Furthermore, by stating there is no capacity, the schedule seeks to avoid all development. This is not consistent with **King Salmon**, which found that it is "inappropriate" subdivision, use and development that is to be avoided, with inappropriateness assessed by reference to what is sought to be protected. It is not all adverse effects, nor all activities, that are to be avoided.

Lastly, it should be highlighted that the West Wakatipu ONL was specifically considered in **Skyline Enterprises Limited v Queenstown Lakes District Council [2017] NZEnvC 124**. The court accepted evidence [97] of Mr Denney's that the existing Upper Terminal and gondola have already compromised the visual coherence and naturalness at a prominent location in the landscape.

It also agreed [98] with Mr Denney that the question of whether the site has reached a 'threshold' with respect to the site's ability to absorb further change is to some extent related to what viewers would tolerate. It stated:

Related to that, we agree with Mr Denney that the site's ability to absorb the redevelopment is helped by the fact that the redevelopment would occur in a relatively contained lower part of the clearing on the ridge and in close proximity to the already prominent existing Upper Terminal development....As such, we find on the evidence that the extent of mitigation now proposed in the QLDC conditions would be sufficient for ensuring the proposal does not represent 'a threshold with respect to the site's ability to absorb further change.'

From this decision, it is clear that the landscape has capacity to absorb further commercial recreational, visitor accommodation, built form/urban expansion and gondola-type developments.

5. The Submitter seeks the following decision from the Queenstown Lakes District Council:

5.1 The Submitter seeks the relief set out in Part 3 of this submission.

5.2 The submitter seeks in the alternative additional or consequential relief necessary or appropriate to address the matters raised in this submission and/or the relief requested in this submission, including modifications to the landscape schedule or any such other combination of plan provisions, objectives, policies, rules, standards, and zoning provided that the intent of this submission, as set out in Part 3 of this submission, is enabled.

The Submitter **DOES** wish to be heard in support of this submission.

If others make a similar submission, the Submitter will consider presenting a joint case with them at a hearing.

Dated 26/08/2022