

## **C Byrch submission to be presented at stage 3 hearing**

### **Chapter 46**

I have read the Section 42a report prepared by Ms Grace, and although it brings more scrutiny to this chapter than the section 32a report and the notified chapter, the amended chapter still does not provide enough certainty, or guidance to effectively limit the extent and effects of the very permissive proposed Rural Visitor zone.

The majority of the Queenstown Lakes community considers tourism has reached its limit, and the District should not become more dependent on tourism, other industries should be explored. So I question whether further tourism industry development should be facilitated by the proposed Zone.

In determining what are suitable Rural Visitor sites, there is a focus on landscape values, but little else. The proposed landscape sensitivity and capacity assessment seems complicated, subjective, somewhat contrived and sure to be contentious. It is contrary to the ONL/F assessment matters whereby development is inappropriate in almost all locations and successful only if exceptional.

Further, there is no assessment determining how the various permitted commercial activities or informal airports, bringing people, noise and traffic, will impact the amenity (for example privacy, peace and quiet) of surrounding sites.

One aspect that is limited is building density - limited to a total maximum ground floor area across the zone of 500m – but how realistic is this? For example, Blanket Bay and Walter Peak already have much more than this. How will this work? Will all proposed Rural Visitor Zone sites have different standards?

Furthermore, all the activities considered within the Chapter 46 have already been considered and provided for as part of the review of all other zones and objectives, policies, activity status and rules decided for them. There is no compelling reason given for why the Rural Visitor Zone should override other zoning.

There is no imperative for the Rural Visitor zone, it is superfluous, and rather than clarifying and giving certainty to planning, it opens a can of worms by trying to combine various disparate and dispersed sites as a 'zone'.

For these reasons, I submit that the Chapter 46 should be deleted from the District Plan. Visitor industry activities and all their effects, not just those on landscape, are better scrutinised and considered alongside other activities, against the provisions of the underlying zone.

### **Matakauri Lodge Limited (MLL) request to be Rezoned Rural Visitor Zone (RVZ)**

I am a neighbour of Matakauri Lodge and the owners, Matakauri Lodge Limited (MLL) have requested that the Matakauri Lodge site be rezoned as Rural Visitor Zone. It is my view that the Rural Visitor zone should be deleted, but if it persists, the Matakauri Lodge site should not be rezoned Rural Visitor Zone.

The MLL site is neither remote nor difficult to see from public places, as required by policy 46.2.1a.

With regard to the MLL request, Ms Grace in her section 42a report states:

13.7 Mr Jones has undertaken a high-level landscape analysis of the site and considers that there is capacity for the site to accommodate the type of development anticipated by the RVZ, subject to a detailed landscape assessment being undertaken and the outcome of that assessment. Mr Jones identifies as contributing to this opinion the established land use on the site that is sensitive to the surrounding landscape, the visually discrete nature of the site and a degree of remoteness provided by its separation from the road, and the established vegetated setting of the site. However, on the information available it is not possible to establish the landscape sensitivity rating of the site.

#### Recommendation

13.8 In my opinion, the Matakauri site generally has the key characteristics for RVZ areas, including those set out in the new policy I recommend in this evidence. The site has a degree of remoteness and is difficult to see from the road, although I note it would be visible from Lake Wakatipu. Mr Jones considers that the site should be able to accommodate the type of development anticipated by the RVZ. The site is within an ONL with wide views of Lake Wakatipu, and the native vegetation on the site has been enhanced by well-maintained landscaping.

13.9 In principle, I consider that the RVZ is a more appropriate zone than the Rural Lifestyle Zone to manage the activities on the Matakauri site. The site is clearly not used for rural living activities and in my opinion would be highly unlikely to be in the future given the nature of the built development on the site. There would be an economic benefit of providing certainty for future activities on the site through the application of the RVZ. I note that the bulk and location standards for buildings in the RVZ are either the same<sup>114</sup> or more restrictive<sup>115</sup> under the RVZ than Rural Lifestyle Zone. I consider that the RVZ is better able to manage the effects on landscape from future development of the site, provided a landscape sensitivity assessment has been undertaken on the site, resulting in an environmental benefit from re-zoning.

13.10 However, in my opinion it is not possible to recommend re-zoning the site unless a landscape assessment has been undertaken, and any areas of moderate-high and high landscape sensitivity have been identified. Overall, when considering the costs and benefits of the economic, social, cultural, and environmental effects of the rezoning of the Matakauri site to RVZ, and the risk of acting, it is my opinion that this would not be an efficient or effective way to achieve the Objectives of Chapters 3 at this point in time, based on the available information. I recommend that the relevant submission points for this submission be rejected.

Notes 114 For example, the building size rule is the same in both zones (500m<sup>2</sup>), Rule 46.5.2 and 22.5.3

115 For example, 6m building height limit in RVZ (Rule 46.5.1) compared to 8m in Rural Lifestyle Zone (22.5.8) 33300939\_1.docx 54

Ms Grace states that the building size and density rules are stricter in the Rural Visitor Zone than the Rural Lifestyle Zone. However, the Operative DP includes a site standard limiting non residential and non rural building area to 100m<sup>2</sup>, but this has been ignored by QLDC in granting MLL approximately 1940m<sup>2</sup> total ground floor area of non-residential buildings plus another 400m<sup>2</sup> of covered decks.

Regardless, Ms Grace suggests that whether or not the MLL site is rezoned, Rural Visitor Zone depends largely on a landscape assessment. This is a very blinkered and inadequate approach – it looks only at the MLL site and does not consider the impacts of the commercial activities permitted by the Rural Visitor Zone with no control, on its neighbours and the surrounding zone.

Furthermore, landscape assessments are too subjective to be useful, or to be used as a basis for rezoning. For example, with respect to the large Owner's Cottage on the MLL site, consented by RM120008, landscape Architect Michael Stevens (who believes the MLL site to be ONL) (p15) concludes:

“... it is my opinion that the effects of the proposed development are more than minor and the development is contrary to the objectives and policies of the plan ... I regard the proposed lodge development, and indeed the existing lodge complex, to be an inappropriate development in this location. ... the development is inconsistent with the maintenance and enhancement of amenity values associated with the anticipated rural living experience of Marc Scaife and Christine Byrch, and of recreational users of the adjacent trail through the DoC reserve, the beach, public jetty and nearby waters of Lake Wakatipu.”

Concerning the same development, Landscape Architect Rebecca Lucas in her evidence at the same hearing concludes (p16):

“I consider the visual effects of the building assessed individually or cumulatively will not be adverse. ... Rural amenity values of the neighbours will be maintained.”

The stakes are too high to rely on one subjective landscape report to decide whether or not to rezone a site as Rural Visitor Zone.

Ms Grace says the site is remote – but it is not remote from its neighbours. (I note that Ms Lucas in her landscape evidence for this hearing states that our residence is 62m from the nearest site boundary. However, we have a residential unit 10.5m from the site boundary as measured on the QLDC GIS mapping).

Why is Ms Grace not concerned for the effects of traffic, noise, helicopter nuisance, patrons of restaurants, bars, and commercial recreation, deliveries etc on neighbours of the MLL site and others who are in the surrounding Rural Lifestyle zone, and the loss of amenity this will

cause? Is she aware that under the Rural Lifestyle Zone commercial visitor accommodation is discretionary, and commercial activities are non-complying?

Chapter 46 quite clearly recognises that the Rural Visitor Zone is not compatible with residential activity:

46.2.1.7 Avoid residential activity within the Rural Visitor Zone with the exception of enabling onsite staff accommodation ancillary to commercial recreation and visitor accommodation activities.

So surely it is not appropriate to locate a Rural Visitor Zone within a residential area?

At Ms Grace's suggestion, MLL has engaged Ms Lucas to provide a landscape assessment of their site.

Ms Lucas in her evidence states that the MLL site is within the ONL, which is interesting as in her evidence for the RM 120008 hearing (p7) she stated it was not:

"The existing Matakauri Lodge development has also changed the character of the area. The area is clearly different from the surrounding more natural mountains and lake where development is less concentrated and if it does exist it is more difficult to see or not visible at all. For the reasons above, I consider the site should not be classified as an ONL (WD)."

Landscape assessments are subjective, and some landscape architects are fickle.

The landscape assessment is completely inward looking. For example, Ms Lucas mentions "The darkness at night due to very few visible surrounding lights adds to the sense of isolation." She neglects to say that the residents above Matakauri Lodge, in particular the Forest Hill and Corsican Cove subdivisions, look down on the many lights from Matakauri Lodge, and for this reason have made submissions against MLL development.

Ms Lucas (p7) states "The planting ... successfully absorbs the Lodge development into the surrounding landscape." What exactly does 'absorbs' mean? The buildings are still there and clearly visible from houses above the site (especially the Forestline, Corsican Cove and Forestlines subdivisions), the Petit residence, lake Wakatipu, the Glenorchy Queenstown Road, and the very popular DoC Seven Mile carpark and walking track.

I note that although Ms Lucas (p13) acknowledges that Matakauri Lodge is very visible from the lake, she says it is not visible from the Glenorchy Queenstown Road, the Seven Mile reserve or track – but this is obviously a mistake.

Ms Lucas (p8) states that "The site is modified due to the existing Lodge development but has retained a remote, wild, scenic and peaceful character." with a "high level of isolation and wildness". I dispute that the site is remote or wild. What Ms Lucas doesn't state is that the very characteristics that MLL relies on to provide its quiet peaceful remote character and birdsong, largely arise from its location within the Rural Lifestyle zone. If all sites were as developed as MLL and providing accommodation for 32 guests; public dining; public spa; car parks; functions; large wastewater disposal fields; traffic from staff, guests, deliveries

and services; and public functions; then the attributes that MLL rely on and promote as their own, would be lost. MLL is quick to take advantage of the benefits of the Rural Lifestyle Zone but adamantly opposed to contributing to these.

Rezoning MLL as Rural Visitor Zone does not remove the site from the Rural Lifestyle zone. The reason for having zones and applying zone standards is not to protect the site that develops, but to provide certainty for and to protect the rest of the zone, and in particular the developing site's immediate neighbours.

### **Previous Decisions and Statements**

It is useful in considering this rezoning to consider what MLL and QLDC have written previously on relevant matters.

The report titled Section 32 Evaluation Report Matakauri Lodge presented by QLDC as its own but actually written (largely) by Tim Williams of Southern Planning Group, also planner for Matakauri Lodge Ltd (MLL), evaluates the proposed Matakauri Lodge Visitor Accommodation (VA) sub-zone. Mr Williams states that the current MLL development is well beyond what is allowed within the Rural Lifestyle Zone, and that any further development is uncertain and likely to be costly.

I agree with Mr Williams – the MLL development is far in excess of what QLDC should have consented within the Rural Lifestyle zone.

Regarding certainty - as neighbours of MLL, we also want certainty that the zone will be upheld and rural amenity maintained. MLL bought Matakauri Lodge in 2009 knowing full well that it was in a Rural Lifestyle zone and the level of development that this allowed. But this is not the certainty that MLL is seeking – MLL is seeking certainty of further development.

Mr Williams goes on to evaluate the declined subzone against two other options – the status quo and rezoning the site to Rural Visitor Zone. Then Mr Williams (p5) dismisses the Rural Visitor Zone as inappropriate:

*The Rural Visitor (RV) zone would enable a greater range of activity (commercial activity is provided for in the RV zone) that would potentially create a level of activity out of character with the surrounding area.*

- *Applying a RV zone would not recognise the amenity and character of the area given the intensity of development it enables. For example the RV zone provides for VA buildings up to 12m in height.*
- *Amenity to neighbours may be compromised given the intensity and form of development that would be enabled.*
- *This zoning does not recognise the particular qualities and characteristics of the Matakauri VA activity.*

Apart from the third point which I do not understand, I agree with Mr Williams – applying a Rural Visitor zone to a single site within the Rural Lifestyle zone is way out of step with the zone, and would significantly reduce the amenity of the surrounding area.

Mr Williams (p8) goes on to try to explain why the MLL site should be rezoned as a VA Sub Zone:

*The provision for visitor accommodation sub-zones provides a method for identifying where visitor accommodation is appropriate within the zone. Therefore this objective sets a framework for guiding the provision of visitor accommodation. The objective also highlights the importance of recognising the Matakauri site within a visitor accommodation sub-zone to avoid uncertainty, where the objective is seeking to direct where visitor accommodation is provided for.*

*Therefore on the basis that the visitor accommodation sub-zoning provides a mechanism for identifying where visitor accommodation is appropriate and this applies to the Matakauri site this objective is the most appropriate for providing for the identified issue.*

Mr Williams' argument is (I think) that that a VA subzone is defined as a zone where VA is appropriate and if MLL is in a VA subzone then it will be appropriate for VA. A little clearer is MLL's Stage 2 further submission (#2735 submitted by Rebecca Holden of Southern Planning Group) which states that 'a VA-subzone over the site will simplify the administrative process for consenting VA activities, providing certainty for planning of future investment.'

MLL want to rezone the Matakauri Lodge site to allow development that bypasses the scrutiny of the resource consent process - this is certainly not a justification for a subzone, let alone rezoning.

**Queenstown Lakes District Proposed District Plan – Stage 1 Section 42A Hearing Report For Hearing commencing: 2 May 2016 Report dated: 6 April 2016 Report on submissions and further submissions Chapter 22 Rural Residential and Rural Lifestyle**

Mr Craig Barr (Senior Planner at QLDC) in his section 42a report for the Chapter 22 hearing is quite clear that commercial activities should not be 'enabled' or readily contemplated in the Rural Lifestyle zone.

*9.14 The primary purpose of the Rural Residential and Rural Lifestyle Zones is to provide rural living opportunities and maintain rural amenity. I consider that enabling commercial activities is going too far and the impacts on amenity generally from commercial activities, on the (at times) quietness and spaciousness of residences in the Rural Residential and Rural Lifestyle Zones is not supported. Additionally, and compared to the surrounding Rural Zone, I do not consider commercial activities should be as readily contemplated because the Rural Residential and Rural Lifestyle zones are not as expansive as the Rural Zone.*

I agree with Mr Barr – commercial activities (as allowed within the Rural Visitor zone) will conflict with rural living.

#### **Stage Two Visitor Accommodation Variation Section 32a Report**

The Section 32 Evaluation for Visitor Accommodation and Chapter 2 Definitions dated 2<sup>nd</sup> November 2017 describes the adverse effects of visitor accommodation in residential areas including “the additional demands placed on the District’s infrastructure services, traffic and parking, effects on residential amenity (such as noise and nuisance effects generated by visitor movements), and the general erosion of residential cohesion and character”. The report proposes objectives for residential areas that will restrict “intensive commercial VA in predominantly residential environments”.

This report also mentions spot zoning with regard to Visitor Accommodation subzones, recommending an approach to: “*Generally prevent very small sub-zones or single parcel sub-zones which result in ‘spotzoning’*”. I note that the author of this report incorrectly assumes the MLL site is already zoned VA subzone – it is not.

Rezoning the MLL site as Rural Visitor zone flies in the face of the intent of the Visitor Accommodation Variation. It is clear that a single site zoned Rural Visitor zone within a residential zone will lead to significant adverse effects on the surrounding properties.

#### **Hearing of Submissions on Proposed District Plan Report 4A Report and Recommendations of Independent Commissioners Regarding Chapter 21, Chapter 22, Chapter 23, Chapter 33 and Chapter 34**

Also relevant is the Commissioners report on the proposed Matakauri visitor accommodation subzone.

The Commissioners (p5) note that the only resource management issue addressed (by the Section 32 report) in considering this proposal was the administrative cost of further development, and were critical that there was no “proper evaluation made of the effects of applying the proposed rules on the environment surrounding the three VASZs.”

Their recommendation was to delete the proposed subzone because if visitor accommodation buildings were given a controlled activity status, there would be no opportunity for QLDC to refuse them and (p9) “only by having the ability to refuse consent would Council be able to achieve the policies of the PDP when considering applications for visitor accommodation in a VASZ.”

Instead, the Commissioners (p8) recommended that visitor accommodation should occur “where the overall qualities of the relevant zone are retained and the scale and intensity of development is consistent with that anticipated by the zone outside of any VASZ.” Mr Barr, QLDC planner, concurs, stating in his hearing evidence that: “Although these areas contemplate visitor accommodation, the scale and intensity should be commensurate with the zone it is located in.”

I agree with the Commissioner's decision and believe the same applies to the Rural Visitor zone. All the activities in the Rural Visitor zone have already been considered and included in the Rural Lifestyle zone as appropriate – why do they need to be revisited?

And, why exactly should QLDC arrange the District Plan so that the Matakauri Lodge site can continue to be developed contrary to the Rural Lifestyle zone? MLL's development ambitions must fit the zone, not the other way around.