

## **District Plan Review submission on Matakauri Lodge Visitor Accommodation subzone.**

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One of the issues QLDC has identified for review is the existing planning provisions in the Rural Living zones that ensure “the maintenance of amenity values and a pattern of development consistent with the expectations of inhabitants in the face of pressure from non-residential activities.”

This issue gives rise to proposed Rural Living zone policies which:

- strictly limit or discourage non-residential activities such as visitor accommodation ( policy 22.2.2.3), and
- direct such activities to visitor accommodation sub-zones(policy 22.2.2.4)

With these policies in mind, the District Plan review proposes to change the zoning of Matakauri Lodge from Rural Lifestyle to Rural Lifestyle Visitor Accommodation subzone. This submission examines the rationale for creating VA subzones in general and VA subzone at Matakauri Lodge in particular.

### **Current and proposed VA provisions in the RL zone.**

The purpose of the Rural Lifestyle zone is to allow for low density rural living. On this basis, the lot size in the RL zone is typically above 2 ha, and each lot is allowed a single residential building platform of 1000 sqm. All buildings are a controlled activity, provided they are located on a building platform and providing they comply with all the Site Standards for the zone. Under Site Standard (v), buildings for visitor accommodation are allowed, provided they do not exceed a total floor area of 100 sqm. In addition to consent for the buildings, visitor accommodation , as an activity, also requires discretionary resource consent, and specific assessment criteria ( noise, traffic parking etc) are listed in the plan provisions.

The District Plan review proposes the creation of VA subzones where buildings are allowed as of right ( ie as a Controlled Activity) up to a density of 10 % site coverage or 2500 sqm floor area (whichever the lesser). Beyond that level of density, a discretionary resource consent is required.

In summary, the proposed VA subzone will allow a significant increase in intensity of development: building density for VA subzones will be 25 times the current VA building site standard ( 100 sqm) , and 2.5 times the current(1000sqm) residential density standard for the RL zone. What is the rationale for this sub zoning?

### **Matakauri lodge VA subzone S32 report**

To explain the rationale of the proposed rezoning of Matakauri lodge as a VA subzone, QLDC has provided a Section 32 report. My summary and assessment of this report is as follows.

The S32 Report states that the key resource management issue is :

*“ The Rural lifestyle zoning and its purpose is not reflective of the visitor accommodation character and built form present on the Matakauri site. As a result, alterations to or expansion of the operation is uncertain and makes planning for further investment challenging. As can be seen from the resource management history to date, any expansion of the site has come with*

*administrative costs associated with resource consent applications and their associated processes. Therefore it is evident that the Rural Lifestyle zone provisions are not ideally suited for visitor accommodation of the nature of Matakauri.”* It then states :

*“The purpose of the proposed changes is to simplify and streamline the provisions to better recognise the presence of visitor accommodation on the site and therefore reduce administrative cost and provide certainty to ongoing investment in the site and the activity.”*

In my opinion this is a narrow and false statement of the key planning issues, and one which turns planning on its head. Instead of examining whether the proposed planning provisions for ML are in accordance with the goals of the District Plan and of the objectives of the Rural Lifestyle zone, the report asks whether the Planning provisions suit the self interest of Matakauri lodge, in particular its desire to expand its visitor accommodation facilities, and its desire to do so with as few planning constraints and costs as possible. In short, the report advocates that planning provisions should be tailored to suit the individual interest of Matakauri rather than the collective interests of the zone it is located in.

### **Relevance of Matakauri lodge aspirations for expansion and for streamlining of planning processes to the question of zoning.**

The focus on the need to accommodate Matakauri growth aspirations derives, according to the Section 32 report from the strategic directions chapter of the draft district plan, specifically: Goal 1: “to develop a prosperous , resilient and equitable economy.”

This justification is false. The reasons are as follows:

- 1) A sustainable economy does not dictate that Matakauri lodge must grow. The ongoing, sustainable operation of Matakauri lodge is assured by its existing resource consents. Its viability does not depend on being able to expand its operation. Sustainability does not require growth, on the contrary, growth can undermine sustainability.
- 2) Even it is accepted that sustainability of Queenstown’s economy requires growth, and that planning provisions need to accommodate growth, it does not follow that every business in every zone should grow. Planning is about where growth should occur, not whether it should occur. A growth imperative sheds no light on zoning. If it did, then every business and every activity would be justified in seeking exemptions to zoning requirements or special rezoning provisions to suit its growth aspirations. Therefore, the proposed economic rationale given in the S32 report for Matakauri rezoning is nothing but a pretext to twist planning provisions to suit its narrow self-interest.

Matakauri’s planning provisions, like the growth imperative, also has no relevance to the question of re-zoning: to streamline planning provisions, to reduce administrative costs to land owners, and to provide certainty to investment, these are goals that apply across the board to all properties, zones, and Council policies. They are not unique to Matakauri. If they apply to all, then they cannot be a rationale for re-zoning, since zoning, per definition, involves the identification of unique or distinct characteristics particular to each zone, rather than objectives shared by all. Rezoning everyone is a contradiction in terms.

In summary, the Section 32 report's statement that the current zoning constraints and planning costs to Matakauri's expansion are "the main planning issue" is false. For zoning to have any meaning there need to be constraints on activities. And in a democratic society these constraints need to be determined by the aspirations, objectives and collective interests of society, or the collective interest of the inhabitants of a zone, not by the narrow self-interest of a single individual. The objective of the Rural lifestyle zone is low density rural living. Restrictions and limits on the level of development are implicit to the zone. These restrictions may be a problem for Matakauri, but contrary to the assertion of the Section 32 report, they are not a planning problem of the zone. They are a necessary and desirable measure that safeguards the zone.

### **Matakauri lodge VA subzone and other District plan goals.**

The section 32 report also examines the extent to which the proposed rezoning of Matakauri meets other QLDC strategic goals such ( Goal 5) "Ensure our distinctive landscapes are protected from inappropriate development". It states: "*The form of development of VA on site has provided a sensitive response to the landscape and amenity of the area. The existing activity on site provides a basis for further activity to be accommodated in an area with the ability to absorb change without detracting from the landscape and rural amenity values.*" And: "*The history of consenting and the style and form of development that has occurred on the site has demonstrated that development can be absorbed on the site without detracting from the ONL.*"

There are two problems with these statements:

- 1) The statement that the scale of development of the lodge is compatible with its environment is based on assertions with no evidential basis. The reality is that ML was consented in an incremental or piece-meal fashion with each new consent treated in isolation of the previous consents, and it now has a consented site coverage in excess of 2000 sqm, more than 20 times the current Site Standard for VA permitted by the RL zoning. Matakauri lodge is located on a prominent slope on the margin of Lake Wakatipu, and bounded by a recreation reserve, both of which are designated as ONL. It already has about 150 meters of length of building frontage facing the lake and reserve. It is highly unlikely the development would have been approved if it had been applied for in its totality rather than in a piece meal fashion.

With one exception, all the recent ML consents have been non-notified. The one recent consent that was notified received more than 20 submissions against it. The common thread of all these submissions was that the level of development at Matakauri was already excessive in terms of its impact on natural landscape.

- 2) Even if one assumes that Matakauri lodge in its totality is consistent with existing planning provisions, the report makes the logical error of concluding that this justifies further development. No such conclusion can logically be drawn. If it could, then every site with a consented activity would be justified in being rezoned to allow for a greater level activity on the same basis. As already noted earlier, rezoning everyone is a contradiction in terms.

In summary, the statement that the existing level of development at Matakauri lodge and its effects are consistent with District plan provisions is dubious at best. Even if it were true, there is no logic in concluding that because an activity has consent, further activity should also be consented. The S32 report does analyse or even question whether the proposed rezoning to

allow more intense development at Matakauri lodge is consistent with planning goals and environmental protection measures. It just assumes it.

Having made this assumption, p5-7 of the S32 report go on to analyse zoning options for Matakauri. Not surprisingly, on this basis, it recommends that Matakauri lodge be rezoned to be a VA subzone to allow for more development.

The report then goes on( p8) to a “scale and significance” evaluation. This section of the report is incomprehensible, and appears to have been lifted from an un-edited report about provisions for informal airports(!)

### **ML subzone and its compatibility with Rural Lifestyle zone objectives**

The S32 report continues with an assessment of the proposed ML rezoning in terms of objectives of the Rural Lifestyle zone. It does not discuss objective 1, but does discuss objective 2 of the proposed RL zone: “to ensure that the predominant land uses are rural residential and, where appropriate, visitor accommodation activities.” The report states:

*“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.”*

Every profession has its own jargon. But this is not jargon; it is gobbledegook. The statements are largely incomprehensible, but they appear to say something like:

“Visitor accommodation subzones are those zones where visitor accommodation is appropriate. Visitor accommodation at Matakauri lodge is appropriate. So Matakauri lodge should be in a Visitor Accommodation subzone. How do we know that visitor accommodation at Matakauri lodge is appropriate? Because it is in a VA subzone ”

The argument is circular in the sense that the conclusion arrived at is already implicit in the assumptions that under-pin it. It does not address the key issue of how to determine which areas are appropriate for VA subzone and whether the ML site is one of these. But that does not appear to bother the report, and using its circular argument it goes on in pages 9-14 to supposedly demonstrate that the proposed ML subzone is beneficial and effective and consistent with all District plan provisions.

There is a further problem with the report: it never addresses the question how the proposed VA, with its much higher permitted density of development than the underlying RL zone, is compatible with the underlying zoning. There is an inherent and fundamental contradiction in the argument put forward in the Report advocating for the VA sub zone: on one hand it is stated that the RL zoning is “not reflective of” the development of the Matakauri site and that because further development will be difficult given this zoning, the zoning needs to be changed to allow a greater level of development. On the other hand, on p.9 we read that a “benefit” of the proposed sub zone is that VA will “ *still be appropriately managed to ensure activity is compatible with the surrounding area. This is considered to provide benefits to neighbours to ensure the activity is not out of character with the general amenity of the area*”.

The two statements contradict each other. If the second statement is correct, and the increased development will be incompatible with the underlying zone or with other District plan provisions, this begs the question why the rezoning is required in the first place, or conversely, why the entire RL zone should not be rezoned to allow the same elevated level of development as that suggested for sub-zones such as Matakauri.

### **Summary of ML subzone section 32 report:**

In summary, the S32 report is highly problematic. It purports to address planning issues such as conflicts of interest between visitor accommodation and the RL zone, and claims that the establishment of a special Matakauri Lodge visitor accommodation subzone serves zoning objectives. Although set out as if it were a balanced consideration of options for addressing planning issues, it is in fact a totally one-sided report focussed on an entirely different question of how to allow for expansion at ML with the least possible planning constraints. The report uses the pretext of planning and strategic goals such as a sustainable economy and reduced red tape to advance Matakauri's expansion aspirations. But, these goals are shown to have no relevance to the zoning of a particular site. Nor does the report shed light on how the proposed rezoning of ML serves the objectives of the Rural Lifestyle zone and general provisions of the District Plan. It adopts circular arguments and implicit assumptions that preclude any conflicts with the underlying RL zone provisions. Yet its very rationale for rezoning is that a conflict between the growth aspirations and the zoning exists.

The proposed sub zone for Matakauri has no planning rationale. It is a perversion of planning : instead of being guided by the objectives of the zone, it is suggested the planning provisions be modified to accommodate, by means of a "subzone," a level of development that even by QLDC's own admission is in excess of what is consistent with the zone. The proposed sub zone is simply a device motivated by self interest to free ML from planning restrictions whilst at the same time benefitting from the protection provided by those same restrictions that continue to apply to neighbouring properties: the creation of a sub zone consisting of a single site is not zoning; it is an exemption from zoning.

### **What rationale is there for the VA subzones in the Rural Lifestyle zone? Is there actually a problem with the current provision for VA in the RL planning provisions?**

As show above, the S32 report for a Matakauri subzone is a flawed and self-contradictory document. It provides absolutely no rationale for a ML subzone. Moreover, the problem it seeks to address is not in fact a problem with the current District Plan. Rather, the problem lies in a failure of QLDC to properly implement its own Plan: if visitor accommodation in the RL zone were limited to the 100 sqm Site Standard of the current RL zoning provisions, it is doubtful that any conflict between VA and the RL zone would exist. VA on this small and diluted scale is likely to be compatible with the RL zone and the broader District Plan objectives. By contrast, it is the proposed VA subzones with a much higher than average building density than the underlying zone that are likely to create problems: the proposed VA subzones far from being a solution, are in fact a problem. The lesson for the RL zone from Matakauri is clear: Council needs to enforce the existing zoning provisions that limit the extent of visitor accommodation much more diligently.

Turning to Matakauri lodge itself, it was originally consented, with neighbours' approval, as a homestay with 2 small chalet buildings. Had it remained at that scale it is doubtful any conflicts with DP provisions would have arisen. It is only as a result of Council having incrementally consented the current scale of development at Matakauri, that conflicts with the zoning arise. The identified problem is therefore entirely of Matakauri's and Council's own making. To now suggest that the solution to this problem is to re-zone to allow still further development is just another chapter in QLDC's woeful failure to uphold the provisions of the RL zone at the Matakauri site, or worse still, to now use the District Plan review to endorse what amounts to a private plan change for Matakauri Lodge.

While other parts of the RL zone can still be protected from excessive development if QLDC diligently enforces its own planning regulations, the level of development at Matakauri can not be turned back. There are only two options that might alleviate the zoning problem at Matakauri. One is for the

council to place a Consent Notice on the ML title to clarify to the current and any future owners that no further development on the site can be consented given the underlying RL zoning. The other, is to acknowledge that the character of Matakauri and its immediate surrounding area has been irredeemably altered by the development at Matakauri compared to what is anticipated in a RL zone, and to thus rezone this area in its entirety.

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