Form 33

Notice of person's wish to be party to proceedings

Section 274, Resource Management Act 1991

To: the Registrar
Environment Court
Auckland, Wellington, and Christchurch

I, Marc Scaife, wish to be a party to the following proceedings:

2018- CHC- 66: Appeal by Matakauri Lodge Ltd against QLDC stage 1 of Proposed District Plan provisions for Visitor Accommodation (VA**) in the Rural Lifestyle zone.**

I am a neighbour of Matakauri Lodge, the property to which the appeal relates, and directly affected by the provisions being appealed.
In stage 1 of the PDP I was a submitter on the provisions for Visitor Accommodation that are now subject to the appeal.

I am not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.

I am interested in the following particular issues:

1. I do not agree with the creation of a Matakauri Lodge Visitor Accommodation sub-zone proposed in stage 1 of the PDP provisions for the Rural Lifestyle zone. I agree with the decision of the independent commissioners, and accepted by QLDC, to scrap the proposal to introduce such a sub-zone.
2. I do not agree with the glaring lack of rules pertaining to Visitor Accommodation in stage 1 of the PDP, and with the loopholes which allow VA to escape the constraints imposed on other activities in the Rural Lifestyle zone.

1. **Matakauri Lodge VA subzone** .

My reasons in support of the Commissioners decision for scrapping this proposed zone are as follows:

a. The topic of Visitor Accommodation is scheduled to be dealt with in stage 2 of the PDP. Included in stage 2 is a review of the definition of Visitor Accommodation. For example, stage 2 of the PDP proposes to broaden the definition to now include activities previously classified as "Commercial activities", such as café and restaurant facilities open to the general public or to patrons who are not staying overnight. Also, it is proposed to broaden the definition of VA to now include on-site staff accommodation. I believe it is inefficient, premature and inappropriate to notify, assess and introduce into stage 1 of the District plan new provisions for visitor accommodation, such a VA subzone for Matakauri lodge, when the definition of visitor accommodation is subject to review in Stage 2. Therfore it would be inappropriate for QLDC to approve a new Visitor Accommodation subzone as part of stage 1 Decisions.

b. The concept of Visitor Accommodation subzones in the Rural Living Zone was introduced in stage 1 of the PDP. Only one such subzone was proposed, namely for Matakauri Lodge. The subzone comprised just one property, the site occupied by Matakauri lodge. The proposal for the subzone was accompanied by a Section 32 Report. It was endorsed by QLDC, but written by Matakauri Lodge's own planning consultant, Southern Planning Ltd. This report also defined the planning provisions proposed for the subzone. In short, the proposed Rural Living VA subzone is simply a private plan change originally endorsed by QLDC's planning department. The presence of private plan changes in a District Plan Review is problematic. It risks turning the process into a "lolly scramble", a race to bottom, in which individuals have no choice other than to pursue their narrow self- interest. It allows bullies to thrive at the cost of good collective outcomes. To see QLDC's planning department actively endorsing what amounts to a private plan change is disturbing. I believe the independent commissioners who decided to scrap the proposed subzone concurred with this view, and I urge the Court to uphold their decision.

c. The section 32 Report which forms the basis for the introduction into the PDP of a Matakauiri Lodge VA subzone is a document of very poor quality in all respects. Its use of language is garbled and often unintelligible. The reasoning, where it can be followed, is logically flawed, and also circular in the sense that the conclusions reached are already implicit in prior assumptions. The Report also contains absolutely no evidence in support its conclusions. The appellant laments the lack of evidence in support of the decision to scrap the sub zone. The reality is that no evidence (or valid reason) was ever supplied to support the introduction of the subzone in the first place, and the burden of providing evidence rests with the persons advocating for its introduction.

d. The planning provisions proposed for the Matakauri Lodge subzone would allow a level of density of buildings, occupancy , activity and general development far in excess of those of the Rural Lifestyle that contains it. Unlike other existing sub-zones(for example the Northern Lake Hayes or the Bob's Cove subzones), the provisions of the proposed VA subzone do not comply with those applying to the overall or underlying zone that contains it. In other words, the proposed VA subzone is not a subset of the zone, but rather at odds with it. It is a misnomer to call the proposed zone a sub-zone or, in deed, a zone. It is simply an exception granted to a single site to escape the rules that apply to the zone in which it is located.

e. Both the Section 32 Report and the appellant's submission claim that economic reasons justify the creation of a VA subzone. Various arguments are made in this regard, but they are all without foundation.

    i. For example, it is claimed that the "continued operation" and the associated job and revenue generation of Matakauri lodge justifies the creation of the subzone. This is non-sense. The Lodge has existing resource consents for its operation and none of these consents are in any way jeopardised by either the operative or the proposed district

plan. The continued operation and its on going contribution to the economy do not depend on the creation of a subzone.

ii. It is claimed that the strategic directions chapter of the PDP such as "the development of a prosperous, resilient and equitable economy" and of an "innovative and diversifying economy" justify the creation of a VA subzone. This argument is flawed in numerous ways.

f. The creation of a ML subzone which allows for more growth at ML site does not lead to a diversified, stronger or resilient economy. Further development of VA in our district just adds adds more tourism to a Queenstown tourist-based economy already bursting at its seams with over-stretched infrastructure. Further growth in Queenstown tourist numbers in an over-heated local economy comes at the cost of local residents in the form of congestion, inflation, lack of services, shortage of available houses, land and labour, and also at the cost of degradation of the very assets and natural resources that underpin our economy and our lifestyle. It would be hard to think of a more inappropriate time and place to advocate for more tourists and more luxury lodges on the basis of economic benefit or of a sustainable and efficient use of resources.

g. Even if, for the sake of argument, one accepted an economic imperative to have still more tourism and visitor accommodation growth in the Queenstown district, this does not give a mandate to Council to expand opportunities for VA in every zone or wherever VA currently exists. Zoning is primarily about **where** growth and development should take place, not about whether it should take place. Numerous zones already exist in the District that specifically provide for VA. If tourism growth is imperative, why not direct it to these zones? As referred to above, the appellant and the Section 32 Report have provided no justification for the creation of special concentrated nodes of VA located inside a rural living zone defined by low density living with limited VA. Nor did they provide any justification why, if they deemed their site to be suitable, neighbouring sites would not equally be suitable, and why the proposed subzone should be confined only to their site. I submit that the operative DP which permits a very small scale (max 100 sqm) of non-residential and non- rural use of buildings in the Rural Lifestyle zone provides a much more appropriate, sustainable and low-impact model for VA in the Rural lifestyle zone than the proposed VA subzones. I urge the Court to re-instate a rule that limits VA in the same way as other non- residential or non–rural activities are constrained(see Rural Lifestyle zone rules below).

In summary, no valid reasons exist for the introduction of a Visitor Accommodation sub zone in the Rural Lifestyle zone as proposed in stage 1 of the PDP. I can understand, and agree with, the decision of the independent commissioners to scrap the proposal. The appellant has not provided any new or valid reasons for its introduction. I urge the Court to dismiss the appeal.

2. Stage 1 Provisions for VA in the Rural Lifestyle zone

The appellant has appealed numerous policies and rules pertaining to VA in chapter 22 Decisions of stage 1 of the PDP. These are rules and policies regarding VA that

apply to the Rural Lifestyle Zone in general(i.e. not to just the VA sub-zones). My concerns about these policies and rules are that, as currently worded in the PDP, they fail to properly control and limit VA activities in the Rural Living zones. In particular, the rules which control the density and sprawl of buildings, and the general level of activity (eg traffic) on a site are worded in a manner that allows VA to escape them:

- whilst residential activity in the RL zone is constrained to a density of 1 residential unit per 2 ha site, and to a maximum 1000 sqm building platform, no such rules exist to limit to the number, total size , footprint, or sprawl of buildings used for VA.
- whilst residential units (including all accessory buildings such as garages, sleep-outs and flats) outside of an approved building platform have a non-complying activity status, buildings for VA have a discretionary activity status.
- a second residential unit on a 2ha site has a non-complying activity status. However the same site could apply for an unlimited number of similar sized units for VA all outside of an established building platform, all as Discretionary activity.
- Non–residential and non-rural activites , including visitor accommodation, are constrained by rules in the Operative District Plan, with a site standard of maximum 100sqm floor area. In the PDP, "home-occupation" is limited to 150 sqm of floor area, and 10 vehicle movements per day. But no such rule exists anymore in regard to visitor accommodation.

These inconsistencies are even more acute when it is realised that stage 2 of the DP proposes to broaden the definition of VA to include commercial activities such as restaurants and bars, and also to include accommodation buildings for hospitality workers: the tight rules that constrain residential buildings stand in sharp contrast to the complete absence of rules for buildings that house overnight visitors, staff accommodation units, restaurants and cafes, spa pool and other facilities that are part of a hotel complex or resort. These inconsistencies in the rules and policies pertaining to VA buildings compared to Residential units undermine the integrity of the Rural Lifestyle zone by opening the door to VA developments way beyond the building density and building sprawl anticipated for the zone. Similarly so for the rules that curtail vehicle movements and floor area of non –residential and non rural activities with the glaring exception of VA.

I submit it is poor planning practice to have no rules regarding VA. The lack of clear rules for VA places the Rural Lifestyle zone at the mercy of discretionary resource consents guided, at best, by policies which are vague and poorly defined. Discretionary resource consents are a bonanza for planning consultants and lawyers, and for landowners with deep pockets and high stake commercial developments. They favour private, concentrated interests over public interest, which per definition, is diluted. The residents of the Rural lifestyle zone deserve better than this. The history of incremental consents at Matakauri lodge has proven that an absence of clear rules has led, at a minimum, to a very inefficient,

expensive, acrimonious and unclear consenting process. It has also led to a scale of development which, even by admission of Matakauri's own planning consultant, is at odds with or "not reflective of" the Rural Lifestyle zone (refer Section 32 report) I ask the Court to direct QLDC to go back to the drawing board and remedy the inconsistencies and exceptions it has made for VA in the RL zone and set clear rules that are consistent with other activities in the zone. My suggestions to put VA on an even footing with the rules that apply to other activities in the zone are as follows:

All buildings, including those used for VA, must be subject to the same rules that govern density and sprawl, ie one building platform of max 1000 sqm per 2ha site. To achieve equal treatment of all buildings, Visitor Accommodation needs to be defined as the **use** of buidings, not the building per se. In other words, VA is an extra activity or overlay beyond the activity status of the building in which it is housed. This parallels the treatment of VA in the residential zones where all buildings are subject to planning rules that govern buildings, and an extra planning layer and activity status applies to the use of these buildings for VA. On this basis I suggest::

- The rule regarding building platforms should apply to all buildings, not just residential buildings: Rule 22.4 .2.4 should delete the words "**for residential purposes".**
- The rule regarding density and sprawl should refer to building platforms, not residential units: Rule 22.5.12.3 : "On sites equal to or greater than 2 ha there must be no more than one **building platform** per two ha on average".
- Buildings used for Visitor Accommodation should not have a special activity status compared to other buildings: for example they should have complying activity status if located on a building platform, and non-complying activity status if off a building platform: Rule 22.4.10 should delete the words "**including the construction of buildings**".
- VA should be subject to specific rules governing the total size of the activity and the number of vehicle movements.
- In the Operative District Plan, a site standard of 15 % maximum building site coverage applies in the Rural Lifestyle zone. The appellant has asked for this to be retained, in the false belief that this standard dictates site density. In the RL zone, site density is generally **not** controlled by the 15% site coverage standard: it is controlled by the single 1000 sqm building platform and single residential unit per 2ha rule. That is an average density of 1000/20,000 i.e. 5%. The 15% site coverage rule serves only as second line of defense to control building density in exceptional cases where a property in the Rural Lifestyle zone is less than 2ha and a 1000sqm building platform would be excessive. The appellant's request to re-instate the 15% building coverage rule is an attempt to continue to escape the building density and sprawl rules that apply to the zone. The request should be denied and the density rules should be made to apply without exception to all buildings, as described above. The 2nd line of defence for controlling density on exceptionally small sites, if

needed, could be easily be captured by inserting a clause stating that a building platform must be a maximum of 1000 sqm " *or 15 % of the net site area, whichever is the lesser*."

I agree to participate in mediation or other alternative dispute resolution of the proceedings.

Marc Scaife

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