

**BEFORE THE HEARING COMMISSIONERS
AT QUEENSTOWN**

IN THE MATTER of the Resource Management Act 1991
(the Act)

AND

IN THE MATTER of the Queenstown Lakes Proposed
District Plan: Stage 3b – Chapter 46 (Rural
Visitor Zone)

**LEGAL SUBMISSIONS ON BEHALF OF MATAKAURI LODGE LIMITED IN
RELATION TO ARGUMENTS ARISING REGARDING SCOPE**

21 AUGUST 2020



ATKINS | HOLM | MAJUREY

Mike Holm/Vicki Morrison-Shaw
PO Box 1585
Shortland Street
AUCKLAND 1140

Solicitor on the record
Contact solicitor

Mike Holm
Vicki Morrison-Shaw

Mike.Holm@ahmlaw.nz
Vicki.Morrison-Shaw@ahmlaw.nz

(09) 304 0428
(09) 304 0422

BACKGROUND TO SCOPE QUESTION ARISING

1. In his legal submissions for Scope Resources Limited, dated 7 August 2020, Derek Nolan QC argues that the Panel has no jurisdiction to accept the standing of submissions seeking rezoning of land from rural zoning (as dealt with in Stage 1) to an alternative zoning under the auspices of Stage 3.
2. By Minute dated 12 August 2020 Trevor Robinson, Chair of the Stage 3 Hearing Panel, invited written submissions responding to Mr Nolan's argument.
3. The following submission is lodged on behalf of Matakauri Lodge Limited (**MLL**) to ensure that the jurisdictional arguments raised in Mr Nolan's submission are not considered relevant to MLL's legal position.

ACTIONS UNDERTAKEN BY MLL TO DATE

4. MLL lodged a submission (#595) on Stage 1. In this submission MLL supported the proposed Council rezoning of Rural Lifestyle zoning with a Visitor Accommodation Sub-zoning. Further MLL sought that the Rural Residential & Rural Lifestyle Objectives, Policies and Rules apply where those provisions enable visitor accommodation activity and buildings, and provide for those activities as a controlled activity within a Visitor Accommodation Sub-zone.
5. MLL's submission on Stage 1 was declined by the Hearings Panel on the basis that the zoning sought was "outdated" and would be subject to a specific overhaul in Stage 3 of the Proposed District Plan process.
6. MLL lodged an appeal against this decision as well as becoming a section 274 party to other visitor accommodation related appeals on Stage 1. On 15 June MLL lodged an appeal on the objectives, policies and rules in Chapter 22 – Rural Residential Rural Lifestyle and Map 38 which were part of the PDP Stage 1.
7. Following initial mediation of these appeals MLL decided to lodge a submission on Stage 3B (publicly notified on 31 October 2019) seeking that the Rural Visitor Zone (**RVZ**) introduced in proposed Chapter 46 be imposed on the site owned by MLL, and that purposes, policies, and rules contained in the RVZ be confirmed.

DOES THE SUBMISSION BY MLL CHALLENGE PROVISIONS OF THE PDP WHICH ARE SETTLED?

8. The submission by MLL seeks that the RVZ notified in Stage 3B be applied to MLL's land, and seeks confirmation of objectives, policies, and rules contained in the RVZ chapter.
9. MLL's appeal on Stage 1 is still pending resolution by the Environment Court. The submission by MLL to the current Hearings Panel (heard 29 July 2020) does not seek to challenge provisions of the PDP which can be regarded as "settled" - in fact, the public notification of Stage 3B ensures matters are very much "alive" and open for question and consideration by the Panel.

APPLICATION OF SCOPE ARGUMENT TO MLL

10. It is our submission that whatever the legal merits of Mr Nolan's arguments in relation to the specific circumstances of his client they are not relevant to MLL because:
 - (a) Rural zoning matters have not been confined to and finally determined solely in Stage 1. A specific new RVZ was notified by Council as part Stage 3B and further public submissions invited. This zoning change was clearly not the result of particular submissions but a substantive publicly notified new zoning (as foreshadowed by the Hearing Panel – see paragraph [5] above).
 - (b) MLL:
 - i. Submitted on rural zoning in Stage 1;
 - ii. Is a party to appeal proceedings in Stage 1;
 - iii. Submitted on a new RVZ specifically introduced in Stage 3B publicly notified on 31 October 2019; and
 - iv. Notes that not all the matters in Stage 1 (notably Chapter 3) have settled beyond challenge. This is made specific reference to in the public notification which refers to a "new" RVZ and a series of other zoning proposals related to "matters decided through Stages 1 and 2".

11. MLL does not seek to challenge any settled provisions in their submission – they merely seek to change the zoning on their property.
12. This is not a 'submissional side-wind'; it is a submission which is "on" Part 3B matters, namely the application of the RVZ to MLL's land.

DATE: 21 August 2020

A handwritten signature in black ink, appearing to read 'M Holm', with a horizontal line underneath it.

Mike Holm

Counsel for the Applicant
Matakauri Lodge Limited