

Submission by Marc Scaife in response to Matakauri Lodge's submission 31033 seeking to be rezoned as Rural Visitor Zone under stage 3b of the QLDC Proposed District Plan.

Matakauri Lodge's current submission is similar to its proposal in Stage 1 of the PDP where it sought to be rezoned as a Visitor Accommodation Subzone of the Rural Lifestyle zone; a proposal which was ultimately rejected by QLDC on the recommendation of the Independent Commissioners of the PDP (Report 4B, March 2019). The commissioners rejected both Matakauri's inclusion as a sub zone as well as the sub zone in its entirety. Their decision is directly applicable to the current submission by Matakauri and leads to the same conclusion with respect to the RVZ.

Stage 3b of the PDP introduces a Rural Visitor Zone (RVZ) whose purpose is to "provide for visitor industry activities in remote locations within the Outstanding Natural Landscapes". The zone's objectives, policies and rules are permissive of substantial development, with visitor accommodation as a permitted activity, with buildings up to 500 sqm as a controlled activity, and with very few rules in regards to number of visitors, patrons, and commercial or recreational activities.

The two stated objectives of the RVZ are "Visitor accommodation ...within appropriate locations that maintain or enhance the values of ONLs ", and "Buildings and development... where landscape character and visual amenity are maintained or enhanced".

At the time of my original submission, the rules for the zone were very inadequate to support these lofty objectives. This led to the conclusion reached by the landscape architect in the QLDC section 32 Report for the RVZ, Helen Mellsop, who stated : "More stringent controls over the location, density, height, external appearance and landscaping of buildings would be required to ensure that development within the zones was successfully absorbed within the landscape. "(p 41). There were also no guidelines on how to determine where exactly these RVZ should be located or how they should be selected.

This led me to suggest in my original submission that the RVZ is just another carve-out and a planning cop-out: rather than explaining how, and why and where the proposed visitor activities could be conducted without detriment to landscape and amenity, the special zone just defined this to be so, and having done so, it could allow these activities as permitted or controlled activities. The objectives and policies of the proposed RVZ simply stated that development in the identified sites will be sympathetic to the environment, but they did not provide an explanation of why this is the case, and why these sites, rather than other possible sites, are singled out for the special zoning.

Since making my original submission, QLDC has tried to address this problem by suggesting that RVZs need to be identified through landscape assessments which identify and select only the low to moderately sensitive areas of an ONL as candidates for RVZs.

This approach is flawed. The landscape does not discriminate between Visitor buildings in a RVZ and residential or other types of buildings outside the RVZ. Landscape assessment can therefore provide no rationale for treating visitor buildings separately and preferentially over other buildings, or development in a RVZ differently from outside RVZ. In other words, either all buildings located in low and moderately sensitive parts of an ONL should be able to benefit from the permissive planning provisions afforded to visitor buildings, or all buildings in such areas should be subject to the general planning provisions that apply of the Rural General zone. To suggest a separate landscape assessment for visitor buildings introduces inconsistency and contradiction in the District

contradicted by other statements Mrs Lucas has made in the past in which she claimed that the landscape at Matakauri had been transformed by existing buildings. It is also contradicted by other landscape architect's evidence which Christine has presented, stating that Matakauri's buildings had a significant adverse effect on landscape quality and rural amenity.

Either way, the point made by commissioners is that such a large building coverage needs to be the subject of proper assessment beyond the limited matters of control such as landscaping and building size that are available to QLDC for Controlled Activities. This level of building coverage in the Rural Lifestyle zone needs to be able to be declined or properly controlled through a Discretionary consent process.

The second reason given by commissioners to reject the proposed 2500sqm building density rule (rule 22.5.13) is that no justification has been provided for differential building density for visitor accommodation buildings compared to building density for the surrounding Rural Lifestyle zone: "The rule creates inconsistency with other provisions in the Rural Lifestyle zone ... No evidence has been provided to justify the differentiation between allowable coverage in the VASZ versus that allowable elsewhere in the Rural Lifestyle zone."

As explained earlier, a landscape assessment cannot provide a justification for such a differentiation. It can give guidance on the level of development but not the type of development. The landscape does not differentiate between visitor accommodation buildings and residential buildings. In the absence of evidence demonstrating special qualities of the Matakauri site which make it less sensitive than the neighbouring sites, either all the sites in the area would have to be allowed the higher 2500 square meter building density of the RVZ or they would all, including Matakauri need to stick with the prevailing 1000 square meter density of the Rural Lifestyle zone.

B) Effects on rural amenity

Matakauri lodge is not an isolated Rural site. It is in a rural living zone with about 100 residential properties within a 1.5km radius. It is adjacent to and in direct line of sight of a popular Reserve, carpark and picnic area which sees hundreds of visitors every day in summer. And it is adjacent to Lake Wakatipu where it is seen by hundreds of visitors every day (eg the TSS Earnslaw and the Real Journey catamaran). It is therefore necessary to consider effects of Visitor activity on adjacent sites other than Landscape effects. For example the effects of guests, vehicles, restaurant patrons, goods deliveries, staff, associated commercial and recreational activities. The potential for adverse effects from visitor activities in the Rural lifestyle zone is recognized by the District Plan and therefore they are required to be assessed. By contrast, in the RVZ's these activities are assumed to take place in a remote location with few if any adverse effects on neighbours. The RVZ consequently has no framework for assessing such effects and they are generally a permitted activity with very little control.

The planning provisions for effects on rural amenity in the RVZ, like those for built form, are therefore inconsistent with the planning provisions for the Rural Lifestyle and this renders the RVZ unsuitable for the Matakauri site.

Matakauri lodge describes the general area it is located in as having a special sense of naturalness or wildness. I agree with this assessment. It seems untenable to me to suggest that the proposed scale of visitor activities for Matakauri Lodge as a RVZ with at least 2500 square meters of buildings, public dining and other uncontrolled commercial and recreation activities, informal airport, staff, goods deliveries, and other associated vehicle movements will not erode this natural wild character of the area. But even if we assume this is not the case, and accept Mrs Lucas' statement

that all this development has no adverse effect on the special character of the area, it follows that other nearby sites in the area with similar landscape sensitivity could and should also be allowed development on a similar scale. But if this were to happen, then there can not be a shadow of doubt that the landscape and amenity of the area would be destroyed.

I am therefore led to the conclusion that to rezone Matakauri Lodge as RVZ whilst retaining the lower density of development of the Rural Lifestyle zone for the surrounding sites is to enshrine a parasitic relationship between Matakauri and its surrounding zone, in which it alone is allowed to breach the rules that protect that environment, whilst benefitting from the adherence to these rules by the surrounding sites.

I can understand that visitor industry wishes to have a level of planning certainty and permitted activity status in rural zones. But I concur with the commissioners of stage 1 who rejected the idea that the permitted development can be set at a level far in excess of that of other comparable activities of the zone they are located in. I also concur with them that the planning framework and zoning which provide for the permitted visitor activity need to be those that already prevail for the surrounding zone rather than a separate, parallel and preferential framework in conflict with the prevailing existing provisions and zoning. In the case of Matakauri, the problem is not that the planning provisions of the Rural Lifestyle zone discriminate unfairly against visitor accommodation. Rather it is the unrealistic expectation of its owners who seek continuous growth far beyond the density envisaged for the Rural Lifestyle the property is located within. I suspect the same is true for many of the other applicants in Rural-zoned ONL who have sought to be re-zoned as RVZ. It is hard to avoid the conclusion that the RVZ is being used by such people as a vehicle to by-pass the provisions of the District Plan. It should not be allowed to be used in this way. The only place I can see for the RVZ is for properties such as Walter Peak and Arcadia which have a history of visitor activity going back far before the RMA and can be considered relics of history, and as such, can be legitimately treated as exceptions to the District Plan. For all new aspirants the door to the RVZ should be firmly closed, and they should be made to use the planning provisions that everyone else has to use.

Finally, Matakauri's Planning consultant, Mr Freeman in support of RVZ zoning for Matakauri has stated that the planning provisions for Visitor accommodation in the Rural lifestyle zone have become tougher or less permissive than in the operative district plan. He states for example that visitor accommodation buildings in the operative district plan were a controlled activity whereas in the proposed district plan they are discretionary. This is incorrect. In the operative district plan buildings are a controlled activity only if they comply with all the site and zone standards. Site standard xx states that the maximum gross floor area of any non residential building can not exceed 100sqm. A visitor accommodation building in excess of 100sqm is therefore not a controlled activity in the ODP.

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Plan: on Rural ONL land the District plan provisions state “the applicable activities are inappropriate in almost all locations and successful applications will be exceptional cases”. By contrast, in the RVZ it is envisaged that visitor industry will be a permitted activity and buildings a controlled activity on all low to moderate sensitive parts of the ONL; that is far from being exceptional; it opens the flood gates for development of the ONL .

I am therefore led back to the conclusion that despite QLDC’s attempt to do so, there is in fact no proper justification for the RVZ. It is the result of a planning approach based on putting different activities in different boxes or zones, with little regard for the relationships or consistency or coherency of their overall arrangement. It seems to me the correct role of planning is to provide a means to protect common interests, assets and attributes that are shared by an area, zone or community and which individuals are incapable of protecting when acting individually. In this approach integrity of the zone is achieved by consistency of the planning provisions, not separate treatment for separate “boxes” .

I turn now to Matakauri’s request to be rezoned as Rural Visitor Zone.

Matakauri lodge is not on land classified as ONL in the Rural zone. It is in a Rural Lifestyle Zone, surrounded by rural lifestyle and rural residential properties interspersed with pockets of a popular Department of Conservation Recreation Reserve and adjacent to a popular boating area of Lake Wakatipu . This location exacerbates the problem of inconsistencies and conflicts of the RVZ with the surrounding zone.

a) Landscape and building density

Building density in the rural lifestyle zone is limited to a 1000 square meter building platform per allotment. Matakauri lodge seeks a “bespoke” RVZ building density of 2500 square meters, five times greater than QLDC’s current provision in the RVZ and two and a half times the allowable building footprint of the Rural Lifestyle zone.

This proposed building density of 2500 square meters is the same as that requested by Matakauri in the rural lifestyle subzone submission in stage 1 of the PDP. So this question of building density has already been traversed by the commissioners’ decision to decline the sub zone.

The commissioners first reason for rejecting this building density was as follows:

In Paragraphs 41 to 44 the commissioners state in relation to Rule 22.4.10 (which provides for visitor accommodation buildings in a VASZ, as a controlled activity):

“In a practical sense, the application of this rule ...in relation to Matakauri lodge would enable a further 576 square meters of building coverage subject only to conditions that would appear to enable some control on the size and shape of individual buildings and require landscaping. Looking at the strategic policies (in chapters 3 and 6) it is clear that the provision for visitor accommodation outside the urban areas is contemplated only where they would protect, maintain or enhance landscape quality character and visual amenity values. This rule does not enable consideration of any of those characteristics..... we are satisfied that a controlled activity status for such visitor accommodation would be inappropriate. In our view only by having the ability to refuse consent with the council be able to achieve the policies of the PDP when considering applications for visitor accommodation in the VASZ.”

Matakaurii lodge has commissioned a landscape report by Rebecca Lucas suggesting the site is able to absorb more development than at present. But as explained by Christine Byrch, this is