

## **Hearing 15B: New Special Purpose Zone topic**

### **Matakā Residents Association Incorporated**

#### **SUMMARY STATEMENT OF EVIDENCE OF PETER RAYMOND HALL**

##### **Introduction**

1. I present this planning evidence on behalf the Mataka Residents Association Incorporated (**Matakā**) in relation to Matakā Station.
2. Matakā Station comprises 31 separate titles, 30 of which are for residential use and one of which is owned collectively by Matakā and used for purposes associated with the farm operation including a shearing shed, sheep and cattle yards, various related sheds and outbuildings, a manager's residency and a staff residency. It was established by subdivision consent across two primary consenting stages (2001 and 2004), plus a third (2005) to rationalise some internal lots.
3. Covenants and easements are permanently attached to the Records of Title for all properties on Matakā Station. These legal instruments and the associated rules govern features such as common access, maintenance of roads, the beach lodge, boatsheds and other common facilities.
4. Consent notices apply ongoing obligations on owners of properties at Matakā Station in relation to matters including obligations to preserve landscape areas, prohibitions on the destruction of archaeological sites, requirements for archaeological survey prior to works within proximity to an archaeological site, and conditions on the location and design for houses.
5. The Matakā submission to the Proposed District Plan (**PDP**) sought the insertion of a new Special Purpose Zone for the "Matakā Station Precinct" under 'Part 3 – Area Specific Matters' of the Proposed Plan.

##### **Matakā Station Precinct**

6. I drafted the proposed Matakā Station Precinct provisions (**the Precinct**) included with my evidence at **Attachment One**.
7. I describe in my evidence the Precinct provisions which include the Precinct Plan, and its specific objectives, policies and rules. These are intended to augment the underlying Rural Production zone, and provide outcomes better tailored to the particular mix of farming, residential and conservation activities at Mataka. The Precinct provisions also provide certainty, particularly in relation to the

development of unbuilt residential sites. The same applies to the overlay provisions which apply to Matakā, with the Precinct providing for greater certainty of consenting outcome, with both enabling provisions and particular restrictions, compared to the PDP (including as proposed to be modified in Far North District Council (**Council**) officer's s42A Reports presented to PDP hearings to date).

8. I support the outcome of a bespoke spatial layer for Matakā Station for the reasons I set out in the body of my evidence, including:
  - a. Matakā Station presents a complex arrangement of land uses and ownership structure not practically managed by simply its Rural Production Zone and overlays alone;
  - b. Matakā Station is quite different from other rural-residential lifestyle developments, with its very low density of residential development, land reserved for conservation purposes, and farm operating over the balance of the property. These characteristics warrant an integrated and comprehensive resource management approach for Matakā as a whole;
  - c. Bespoke planning provisions provide appropriate recognition of the existing and consented environment at Matakā, including that established through the previous subdivision consents and conditions to be complied with as required by instruments on the titles. They allow certain PDP provisions to be tailored to reduce consenting burden and risk.
  - d. In addition to enabling land use outcomes, a bespoke planning solution responds to the special values at Matakā and, where appropriate, establishes particular restrictions in response to these. Such measures include limitations on the density of development, location of house sites in areas identified to be appropriate from a landscape perspective and that avoid archaeological sites, and adoption of controls limiting the heights of buildings. Such measures provide certainty as to outcome that the values at Matakā Station will be appropriately managed.
9. Following the analysis as set out in my evidence, I recommend a Precinct rather than the National Planning Standard (**NPS**) alternatives of a special purpose zone or a development area. Mr Wyeth is in agreement that a Precinct is the appropriate method to apply at Matakā.
10. I support the adoption of a precinct as a method and note the following:

- a. The majority of underlying Rural Production Zone provisions (especially objectives and policies) are still applicable and are relevant to Mataka, with the particular exceptions and refinements in rules as proposed to be introduced by the Matakā Station Precinct.
  - b. The Precinct will achieve an “area-specific planning response”, managing an area, activities and development that revises or modifies the policy framework and outcomes sought by the Rural Production Zone.
  - c. Overlays also apply to the Precinct, with any conflict between these layers resolved through the provisions set out.
  - d. The provisions of the Precinct are both more and less restrictive than the underlying Rural Production Zone provisions.
  - e. The Precinct specifies the relationship between the precinct and the Rural Production Zone, including where the Precinct provisions take precedence over the Rural Production Zone, and where the provision of that zone otherwise apply.
11. My evidence describes the proposed Precinct provisions, and I am happy to take the Panel through those or ask any questions. I highlight a few key aspects here:
- a. A Precinct Plan 1 is included which shows the boundary of the Precinct; House sites as referred to in the Precinct Rules and numbered according to the table set out in standard PRECX-S1 Maximum height; the spatial extent of Areas 1, 2 and 3 (the common facilities); key geographic features for ease of reference; and land parcels within and adjoining the Precinct.
  - b. The “Overview Section” for the Precinct describes Matakā Station and its considerable cultural and historic significance. The scale of Matakā Station is described as presenting a significant opportunity to restore ecological values and natural character of this coastal environment at the northern entrance to the Bay of Islands. The purpose of the Precinct is also described in this section as being *“to enable the continued joint management of the land for farming and conservation purposes, while providing for limited residential development and common facilities within identified areas”*.

The Overview section also sets out the ‘mechanics’ of the Precinct provisions in relation to zoning and other spatial layers in the PDP.

- c. Four Objectives and six policies are included in the Precinct. These provide direction for the enhancement and protection of the special values of the place, and how use and development according to the Matakā scheme is properly enabled.
- d. Precinct Rule CON-1 applies a controlled activity to a single residential unit or a minor residential unit on a House Site identified on Precinct Plan 1. This rule recognises that the suitability of these house sites has been confirmed already by comprehensive landscape evaluation, being the DJ Scott Associates assessment for Stage One and the Boffa Miskell assessment for Stage Two.
- e. Specific provision is made for new buildings or structures and alterations and additions in the limited areas mapped as Areas 1, 2 and 3 on Precinct Plan 1. These are the common facility areas at Mataka, being the existing beach lodge building (Area 1) at Matakā Beach, and the existing boat sheds (Area 2) and an area potentially for new boat sheds (Area 3) both at Whale Bay.
- f. Rule PRECX-R4 Earthworks or indigenous vegetation clearance makes specific provision for earthworks and indigenous vegetation clearance within the CE and ONL. This applies in addition to the earthworks rule which apply in Part 2 of the PDP, but in replacement of the earthworks or indigenous vegetation clearance rules which apply in the CE and ONL overlays. have included in Rule PRECX-R4 additional exceptions consistent with those that I sought in my evidence to Hearing 4, namely for: earthworks and vegetation removal for the maintenance of planted indigenous vegetation within domestic gardens; the formation of walking tracks within the limits specified; and for the maintenance or reinstatement of pasture through the removal of the regenerating vegetation species specified.
- g. Specific earthworks and vegetation removal activities associated with the construction of a building or structure and its associated curtilage within a House Site or Area 1, 2 or 3 on Precinct Plan 1, and the associated construction of accessways are provided for as a Restricted Discretionary Activity under Rule PRECX-R9, where these are in the CE or ONL overlays.
- h. Permitted activity rule PRECX-R6 Worker accommodation recognises that provision is necessary for workers living on the Matakā Station property – both permanently and temporarily. This includes farm workers; however, also could

include contractors temporarily working on the construction and maintenance of houses at Matakā Station. In order to avoid a proliferation of workers accommodation units on each of the lots at Matakā it is proposed by way of standard PER-1 to limit the allowance for this worker accommodation to the MRA lot only (Lot 43 DP 363154 on the opposite side of Rangihoua Road).

- i. The Precinct includes rule PRECX-R7 Visitor accommodation as a permitted activity standard. It is the same as that from the Rural Production Zone in respect to the requirement to be within residential units or minor residential units and not exceeding an occupancy of 10 guests per night;<sup>52</sup> however removes the requirement for the visitor accommodation site not to share access with another site. This adaptation of the Rural Production Zone rule is necessary in respect to Matakā due the fact that all sites share accessways within the property.
- j. Maximum height standard PRECX-S1 applies specific height limits to the Matakā Station Precinct. The house sites are specified in the table in standard PRECX-S1, with those house site numbers corresponding to the lot numbers at Matakā. The much higher Rural Production Zone height limits would result in built form inappropriate for the location (more restrictive height limits also apply in the Precinct under this standard to house sites outside of the overlays where in the Rural Production Zone). Relying on the height limits in the ONL and CE would not take into account the assessments done for certain sites, whereby the application of a 5m rolling height limit there would likely trigger a non-complying activity resource consent there under the PDP overlay provisions.

## **Planning Evaluation**

- 12. My evidence from paragraph 222 onwards evaluates the Precinct against the evaluation criteria both for general rezoning requests and for special purpose zone requests from Minute 14 of the Independent Hearings Panel. Although these are not specifically tailored to requests for new Precincts, I have used the criteria for new zoning requests set out in Minute 14 as the basis for analysis of the Matakā Station Precinct.
- 13. In this evaluation I conclude that Matakā Station Precinct is entirely consistent with the PDP strategic direction. Including those strategic objectives for the rural environment which seek to foster and protect rural activities. A particular characteristic of Matakā Station is the compatibility of the farm use with the residential and conservation uses. I also consider that Matakā Station is a model

for the PDP environmental prosperity strategic objectives, whereby in accordance with these, it has fostered a culture of stewardship that increases biodiversity (with a particularly notable density of kiwi), with that outcome secured by obligations on property titles. The Precinct reinforces these outcomes through policies, rules on house site location and assessment matters as I describe.

14. I assess the Precinct against the 'higher order' planning documents (New Zealand Coastal Policy Statement 2010 (**NZCPS**), other relevant National Policy Statements, National Planning Standards 2009 (**NPS**) and Regional Policy Statement for Northland (**RPS**), where I conclude that the Precinct properly gives effect to these as required by s75 (3) of the RMA 1991. I also assess the Precinct against the Proposed Regional Plan for Northland where I conclude that the Precinct is consistent with its provisions as required by s75 (4) of the RMA 1991.
15. Finally, as included at **Attachment Two** to my evidence, I have undertaken an evaluation of the Precinct as required by Section 32AA of the RMA. That evaluation concludes that the objectives of Precinct are the most appropriate way to achieve the sustainable management purpose of the RMA 1991, and that, as compared to the alternative options of doing nothing (ie relying on the PDP as notified), or the PDP as it has variously been proposed to be amended by s42A Officers recommendations to PDP hearings, the proposed Precinct is the most appropriate way to achieve the objectives.
16. In my opinion, the Precinct provides a sound and necessary planning framework for the management of land use and development at Matakā Station. It meets the various RMA statutory requirements, including those applicable to the adoption of alternative spatial layers as set out in the NPS.

## **Section 42A Report and Rebuttal**

17. I have read the s42A report prepared by Mr Wyeth and the technical memo prepared by Ms Absolum.
18. Mr Wyeth supports the inclusion of the Matakā Station Precinct into the PDP, subject to six relatively minor questions, issues and potential amendments as he sets out in paragraph 91 a.-f of the Section 42A Report. The rebuttal evidence I have filed responds to those matters. I include at Attachment One to this rebuttal evidence a markup version of Matakā Station Precinct as has been attached at Appendix 3.2 to the Section 42A Report. In this markup version, I show the amendments explained in this rebuttal evidence as tracked changes highlighted in turquoise. The

areas of difference here between Mr Wyeth and I are very few. In summary the key points are:

- a. I propose new wording to the Notes under the heading "Rules" which achieves the same outcome sought by Mr Wyeth. This applies a separate Note "2", deletes the reference of the Precinct Plan being "indicative", but points to the need to reference the consent notices which apply to the relevant titles, including any conditions of those consent notices relating to building location, design and any associated mitigation (including planting). This same structure has been used to amend the similar note under PRECX-R1 rule CON-1.
- b. I generally agree with the additional wording added to the matter of control in PRECX-R1 and matter of discretion in PRECX-S1 as has been recommended by Ms Absolum and set out in Mr Wyeth's report at paragraph 91c. As set out, the wording should be more specific and apply to "outstanding natural landscapes" rather than "natural landscapes" in general as drafted. Also, for completeness and drafting consistency with the rest of the PDP, I have deleted the word "whether" that precedes this recommended matter of control and discretion as has been recommended in the Section 42A report.
- c. Mr Wyeth addresses this topic at paragraph 91d. of his evidence. Here he accepts the need for a more specific rule for earthworks and indigenous vegetation clearance associated with the construction of a building or structure and its associated curtilage within a House Site and associated access, or where within Area 1, 2 or 3 at Matakā as is provided for under precinct rule PRECX-R9. He has adopted my drafting in this respect. In my original drafting, rule PRECX-R4 set out specific allowances and an activity status for earthworks and indigenous vegetation clearance across the Matakā Station Precinct as a whole which applied separately to the specific provision made for those activities where associated with the construction of a building or structure and its associated curtilage and access. I have reinstated this in the version attached to my rebuttal evidence.
- d. My rule PRECX-R4 differs in two respects from the equivalent in the Section 42A Right of Reply Report to Hearing 4 on the Coastal Environment and Natural Features and Landscape chapters.
  - i. Firstly, in respect to activity status, I have included in rule PRECX-R4 a discretionary activity default (rather than non complying) across the

Precinct where compliance is not met with the earthworks or indigenous vegetation clearance standards set out. I support a discretionary activity default because a non-complying activity status risks applying to very many either reasonably anticipated or innocuous earthworks and vegetation clearance which trigger the standards, I have given some examples of these.

- ii. Secondly, as in my evidence to Hearing 4 on behalf of the submitter group I was representing there (including Matakā), I sought and support the exclusion at Matakā Station for vegetation clearance for maintenance or reinstatement of pasture through the removal of regenerating manuka or kanuka, tree ferns or scattered rushes applying to vegetation less than 10-years old. This is as opposed to the 5-years old cut-off recommended for the equivalent rule in the Section 42A Right of Reply Report to Hearing 4 on the Coastal Environment and Natural Features and Landscape chapters. I note here that the exclusion generally follows that provided for in Rule IB-R1 in the Ecosystems and Indigenous Biodiversity Chapter of the PDP which provides for: "10. The removal or clearance from land which was previously cleared and the indigenous vegetation to be cleared is less than 10 years old". The intent here, as I understand it, is to provide the ability to clear recently colonised land pasture for the purpose of maintaining that as pasture. It would be inefficient to apply one definition of recently colonised (being vegetation less than 10-years old) to some parts of the district and another (being vegetation less than 5-years old) to others.
  
- e. I do not agree with the recommended addition of the word "protect" into precinct objective PRECX-04, as recommended by Mr Wyeth. The more specific direction provided in PRECX-04 as I originally had included it, is that new residential units, minor residential units and buildings or structures for recreation activities are designed "to be integrated with" the characteristics, qualities and values of ONL and natural character of the coastal environment. This reflects the fact that the Matakā scheme is already an appropriate development that preserves and protects the natural character of the coastal environment and protects the ONL. The directive for development "to be integrated with" provides for more particularity in the context of the environment at Matakā Station and is given effect to by the specific controls requiring adherence to the Precinct Plan, policies and rules limiting development, and standards on height, colours and material etc. The



obligations to “preserve and protect the natural character of the coastal environment from inappropriate land use and subdivision”, and “protect the ONL from inappropriate land use and development” are already specified in objectives in the Coastal Environment and Natural Features and Landscape Chapters which also apply.

- f. Mr Wyeth has not included the section in the Overview where in my original drafting I had an explanation of the specific provisions from the Coastal Environment and Natural Features and Landscapes chapters that do not apply in the Precinct. As I understand it, he has deleted this explanation in favour of an equivalent section under the heading the “Notes” which appears with the Precinct Rules.
- g. In my opinion, the inclusion of these exclusions in both the Overview and Rules section is useful and I prefer my original drafting. I have reinstated this in the mark up provisions at Attachment One to by Rebuttal. This is because the Overview section as recommended to be retained by Mr Wyeth has a description as to the relationship between the Precinct and the underlying zone. Logically, it would also have a description as to the relationship between the Precinct and the overlays.
- h. Finally, as I note in my Rebuttal, I do see the need for a general statement as to the relationship between Precincts and other chapters to be included in the PDP. Because there were no Precincts in the PDP as notified, this remains a gap. Logically, this would go in one of two places in Part 1 Introduction and General Provisions: under the existing headings “Applications Subject to Multiple Provisions” and “Relationship Between Spatial Layers”. I understand from Mr Wyeth that officers have identified this gap and will address it in Hearing 17 as a final sweep up matter. I have suggested some wording in my Rebuttal at paragraph 49 of my Rebuttal.