

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Hearing Stream 15

**REBUTTAL EVIDENCE OF ROSALIND DEVLIN
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

VISITOR ACCOMMODATION SUB ZONES – MAPPING

22 August 2018

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1. INTRODUCTION

- 1.1 My full name is Rosalind Mary Devlin. I am self-employed as a planning consultant.
- 1.2 My qualifications and experience, including experience relating to the Proposed District Plan (**PDP**), are set out in the section 42A report (**42A report**) that I prepared and filed for this hearing, dated 23 July 2018.
- 1.3 Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise except where I state that I am relying on the evidence of another person.

2. SCOPE OF THIS EVIDENCE

- 2.1 My rebuttal evidence is provided in response to the following evidence filed on behalf of various submitters:
- (a) Ms Rebecca Holden for Delos Investments Limited (2616);
 - (b) Mr Sean Dent for Mount Crystal Limited (2450);
 - (c) Ms Bridget Allen for Greenwood Group Limited (2552);
 - (d) Mr Nicholas Grala for Coherent Hotels Limited (2524); and
 - (e) Mr Nicholas Geddes for M & M Hansen (60)
- 2.2 I also confirm that I have read the following statements of evidence and consider that no response is needed:
- (a) Mr Jeffrey Brown for Broadview Villas Limited, T Rovin, and The Escarpment Limited (2222, 2228, 2230);
 - (b) Ms Rebecca Holden for SJE Shotover Limited, Matakauri Lodge Limited, Pounamu Holdings 2014 Limited, Wanaka Kiwi Holiday Park Motels Limited, Manor Holdings Limited, and SJE Shotover Limited (2617, 2611, 2612, 2613, 2614).

- (c) Ms Kim Reilly for Federated Farmers of New Zealand Inc (2540);
- (d) Ms Ainsley McLeod for Airbnb (2390, 2768);
- (e) Mr Mark Chrisp for Bookabach and Bachcare (2302, 2620);
- (f) Mr Anthony MacColl for New Zealand Transport Agency (2538);
- (g) Mr Ben Farrell for MajorDomo, Touch of Spice, NZSIR Luxury Rental Homes Limited (2592, 2600, 2598);
- (h) Mr Christopher Ferguson for Darby Planning LP, Henley Downs Farm Holdings Ltd and Henley Downs Land Holdings Ltd, Mount Christina Limited, Glendhu Bay Trustees Limited, Glencoe Station Limited, Soho Ski Area Limited, Blackmans Creek No.1 LP, Treble Cone Investments Ltd (2376, 2381, 2383, 2382, 2379, 2384, 2373); and
- (i) Mr John Edmonds for Millbrook Country Club Limited (2295).

2.3 My evidence has the following attachments:

- (a) **Appendix 1: S32AA Evaluation.**

3. MS REBECCA HOLDEN FOR DELOS INVESTMENTS LIMITED (2616)

3.1 Ms Holden has filed evidence in relation to the requested Visitor Accommodation Sub-Zone (**VASZ**) over the site owned by Delos Investments Limited at 9 Southberg Avenue, Frankton.

3.2 Ms Holden considers that provision is made within the PDP for the application of a VASZ in appropriate areas within the Lower Density Suburban Residential Zone (**LDSRZ**)¹. I agree, and have further considered the appropriateness of applying a VASZ 9 Southberg Avenue.

3.3 Ms Holden has quoted my s42A report at paragraph 26.6 where I stated “*this site is currently likely to be generally better suited for visitor accommodation rather than residential use*”². I would like to emphasise

¹ Statement of Evidence of Rebecca Dawn Holden on behalf of the following submitters: 2611 – Matakauri Lodge Limited 2612 – Pounamu Holdings 2014 Limited 2613 – Wanaka Kiwi Holiday Park Motels Limited 2614 – Delos Investments Limited 2616 – Manor Holdings Limited 2617 – SJE Shotover Limited Visitor Accommodation Provisions, 6 August 2018, paragraph 3.2.13.

² Ibid at paragraph 3.2.12.

that this reference in my s42A report is only in relation to the current older-style motel units and associated site layout. I did not state that the site *per se* is better suited for visitor accommodation (VA) in the future if the site was to be redeveloped. The site is located within a discrete residential cul-de-sac. In my view, a VA redevelopment in this location may have the potential to amplify adverse effects on social cohesion that could otherwise be moderated or concealed in a different physical setting (e.g. where properties are separated by topography).

3.4 Since filing my s42A report, on 27 July 2018 resource consent RM180192 was approved to re-establish the site for VA purposes. This means the site currently has capacity to absorb a specific level of visitor accommodation activity (18 guests) with associated consent conditions to mitigate and manage adverse effects on the surrounding residential area (for example noise, use of outdoor areas at night-time, on-site parking).

3.5 Although of relevance to the existing environment, the grant of resource consent does not in itself mean that applying a VASZ is either appropriate or inevitable. I consider that the request for a VASZ fails to meet the following PDP rezoning principles³:

- (a) A VASZ should not automatically be determined by existing approvals or uses;
- (b) While the site has capacity to absorb a certain level of VA, this does not mean a VASZ overlay is appropriate;
- (c) The site is a single parcel and the Variation seeks to prevent small site-specific (spot), or sub-zonings;
- (d) The subject site is located in a compact (based on my observations) residential cul-de-sac with potentially inadequate separation between incompatible land uses (residential and VA, with associated adverse effects on social cohesion) should the site be redeveloped for larger-scale VA in the future; and
- (e) I consider that the request is inconsistent with the objectives and policies of the Strategic Direction and Urban

³ Section 42A Report of Rosalind Devlin on behalf of Queenstown Lakes District Council, Visitor Accommodation Sub Zones – Mapping, 23 July 2018, section 4.

Development Chapters of the PDP, which provide for the visitor industry to be located in areas that are consistent with the policy framework of the underlying zone⁴.

3.6 Ms Holden states that a resource consent would be harder to obtain under the PDP without a VASZ applied to the subject site. I agree, and on the basis of my assessment of the circumstances of the subject site, I consider that this is appropriate.

3.7 Given all of the above, I retain my original recommendation on this submission.

4. MR SEAN DENT FOR MOUNT CRYSTAL LIMITED (2450)

4.1 Mr Dent has filed evidence in relation to the requested VASZ over the site zoned MRDZ at 634 Frankton Road, owned by Mount Crystal Limited.

4.2 Mr Dent notes (as I also noted in my s42A report) that the submitter has lodged an appeal seeking that part of the site be rezoned High Density Residential (**HDRZ**)⁵. In the event that the appeal by Mount Crystal is successful and the site rezoned, I agree with Mr Dent that the HDRZ VA framework would be appropriate.

4.3 For the avoidance of doubt, I consider applying a VASZ to the site (if zoned HDRZ) would be inconsistent with the Variation and the PDP framework. The reason for this view is that the HDRZ already anticipates VA, and therefore the policy framework does not require a VASZ as an additional method within that zone typology.

4.4 In regard to a VASZ over the site as zoned MDR, I retain my original recommendation on this submission, which is that VASZ over the site is appropriate.

⁴ Strategic Policy 3.3.1, Policy 4.2.1.4.

⁵ Statement of Evidence of Sean Dent on behalf of Mount Crystal Limited, NZSki Limited, Skyline Enterprises Limited, 6 August 2018, paragraphs 43 – 44.

5. MS BRIDGET ALLEN FOR GREENWOOD GROUP LIMITED (2552)

- 5.1 Ms Allen has filed evidence in relation to the requested VASZ over the site owned by Greenwood Group Limited at 9 Frankton Road, Queenstown.
- 5.2 Ms Allen lists a number of attributes that she considers make the site ideal for VA⁶. Ms Allen mentions that it is a large undeveloped flat site. In response, I note that those attributes also make it ideal for residential development, which is anticipated by the underlying MDRZ, as well as VA.
- 5.3 I agree with Ms Allen's description of the site and surrounds⁷ and accept that it may be possible to contain the effects of VA in this location, with the relevant bulk and location standards and matters of discretion for VA (Notified Rule 8.4.30) ensuring that residential amenity is maintained for the adjoining property to the south.
- 5.4 Ms Allen considers that if the subject site was developed for residential purposes it is unlikely to contribute towards the type of housing supply that is of a key concern to the community due to the high value of the land⁸. In response, I note that while the site might not be developed for 'affordable' housing; additional housing supply in general, and a mix of typologies (including 'high-end' houses), contributes to a diverse community, and would be consistent with the underlying residential zoning.
- 5.5 I agree with Ms Allen that the provision of more hotels and VA may assist in alleviating demand for Residential Visitor Accommodation (RVA) within the residential zones. I note that low intensity RVA and Homestays do not remove housing supply and are therefore anticipated within the residential zones. In my view, potentially alleviating RVA demand elsewhere is not sufficient to support a VASZ over the subject site, if the request does not meet the rezoning principles or the overarching PDP objectives and policies.

6 Statement of Evidence of Bridget Allen on behalf of Greenwood Group Limited, 6 August 2018, paragraph 23.

7 Ibid at paragraph 29.

8 Ibid at paragraph 25.

- 5.6** In terms of the location of the subject site, I note that the adjoining HDRZ, and the nearby Queenstown Town Centre Zone, both enable VA. In my view there is no shortage of land in this location to provide for VA. On the contrary, there are limited areas that provide for primarily residential activities close to the town centre. While applying a VASZ to this site would not preclude residential activities, it would be inconsistent with the primary role of the MDRZ to provide housing supply⁹ and opportunities for medium density housing close to town centres¹⁰.
- 5.7** I have previously stated that I consider this location would be ideal for upzoning to HDRZ¹¹; however, this was in the context of an increased density of housing close to the town centre, and without foreknowledge or consideration of the more enabling provisions for VA within the HDRZ as notified in Stage 2. I consider that VA should not be prioritised over residential development within the residential zones, as intended by the Variation and the PDP Strategic Directions chapter, in particular Policy 3.3.1¹².
- 5.8** The site is a single property 2808m² in area. I note that the Variation seeks to prevent small sub-zonings. Should the Panel determine that the VASZ should be applied to the site, I note that there would be scope within submissions 2448 (Millennium & Copthorne Hotels NZ Limited) and 2474 (Shundi Customs Limited) to extend that VASZ over the adjoining sites zoned MDRZ, between Brisbane and Hobart Streets (approximately 6070m² in total area). In my view, however, a VASZ in this location would reduce the cohesion of the surrounding MDRZ, which consists of only two blocks.
- 5.9** On the basis of the above, I maintain my opinion that a VASZ over this site (and adjoining sites) would not be the most appropriate way to meet the notified policy framework for restricting VA with the MDRZ or the strategic direction of the PDP to provide for the visitor industry at

⁹ Chapter 8 – Medium Density Residential 8.1 Zone Purpose.

¹⁰ Ibid Policy 8.2.1.1.

¹¹ Rebuttal Evidence of Rosalind Devlin on behalf of Queenstown Lakes District Council Group 1C Queenstown Urban – Central, West and Arthurs Point 7 July 2017, paragraph 12.2.

¹² 3.3.1 *Make provision for the visitor industry to maintain and enhance attractions, facilities and services within the Queenstown and Wanaka town centre areas and elsewhere within the District's urban areas and settlements at locations where this is consistent with objectives and policies for the relevant zone.*

locations where this is consistent with objectives and policies for the underlying zone¹³.

5.10 Given all of the above, I retain my recommendation on this submission.

6. MR NICHOLAS GRALA FOR COHERENT HOTELS LIMITED (2524)

6.1 Mr Grala has filed evidence in relation to the requested VASZ extension over the sites at 10, 12, 14 and 16 Richards Park Lane and 20 Aspen Grove¹⁴.

6.2 Mr Grala notes that the 4.5m Building Restriction Area (**BRA**) that I recommended be applied along the southern extent of the extended VASZ would apply to both VA and residential development. That is correct, but it is an unintended outcome of my recommendation to apply a generic rule to a specific situation (I return to this point below).

6.3 Mr Grala notes that if I am to assert that the effects of residential and VA activities are indeed different, then logically the BRA should not need to be applied to residential activities¹⁵. I agree.

6.4 I agree with Mr Grala that adverse effects on residential amenity are appropriately addressed through the Restricted Discretionary activity status for VA within a VASZ¹⁶.

6.5 In relation to the Coherent site however, the submitter has sought that the notified VASZ be extended well into an established residential neighbourhood, and Mr Grala has stated that the submitter is planning either an extension to the Aspen Hotel or a new, standalone, hotel in the future¹⁷. The potential adverse effects created by a hotel located next to residential properties are, in my view, more significant than for example, smaller-scale VA units next to residential properties¹⁸. I have also considered the further submission in opposition to the VASZ extension request, by Barbara Fons (FS2793.1), and the submission

13 Decisions Version Chapter 3 Policy 3.3.1.
14 Statement of Primary Evidence of Nicholas Grala on behalf of Coherent Hotel Limited 6 August 2018.
15 Ibid at paragraph 23.
16 Ibid at paragraph 24.
17 Ibid at paragraph 4.
18 Paragraph 39.9.

from Inga Smith (2361) who sought that the VASZ not be extended over any properties on Richards Park Lane. In my view, the BRA is a necessary counterbalance to ensure that the VASZ extension is appropriate.

- 6.6** I therefore retain my recommendation on this submission subject to amendments to Rule 8.5.16 to avoid unduly restricting residential development within the VASZ (recommended text underlined) and to ensure that the rule is within scope of the Variation:

8.5.16 Building Restriction Area

No building shall be located within a building restriction area as identified on the District Plan Maps.

8.5.16.1 In the Visitor Accommodation Sub-Zone along Richards Park Lane and Aspen Grove, Fernhill, the building restriction area only apply to buildings being used for visitor accommodation.

7. MR NICHOLAS GEDDES FOR M & M HANSEN (60)

- 7.1** Mr Geddes has filed evidence on behalf of Stage 1 submitters M & M Hansen seeking to reinstate a site-specific ODP rule, with certain amendments, over a site on Lake Avenue and Yewlett Crescent, Frankton. The site is zoned LDSRZ, as shown on Stage 1 PDP planning map 33, with a VASZ, as shown on Stage 2 PDP planning map 33.
- 7.2** Mr Geddes notes that “submission 60 is not recorded or addressed as part of the s.42A reporting relating to hearing stream 15¹⁹”. That is correct.
- 7.3** By way of background, submission point 60.3 sought to “*maintain the current rules as outlined in the Operative District Plan regarding height controls for the Low Density Residential Zone of “Old Frankton” in particular*” with additional detail contained within the submission in regard to the site-specific rule.

¹⁹ Statement of Evidence of Nicholas Karl Geddes on behalf of M & M Hansen (#60) 6th August 2018, paragraph 4.2.

- 7.4 Ms Amanda Leith, in her s42A report for Hearing Stream 6, considered submission 60 at paragraphs 10.64 – 10.65 of her report²⁰ and, noting that the VA provisions would be heard in Stage 2, recommended submission point 60.3 be rejected²¹.
- 7.5 The Hearing Panel considered the matter at paragraph 25.3 of Report 9A and determined that submission point 60.3 be rejected²².
- 7.6 The submitter has not filed an appeal on Stage 1 and has not submitted on Stage 2. Ultimately, as a decision was made to reject submission point 60.3, the Council is not required to consider it as part of this hearing.



Rosalind Devlin

22 August 2018

²⁰ Ms Amanda Leith, Section 42A Hearing Report on submissions and further submissions Chapter 7 – Low Density Residential Zone, 14 September 2016, paragraphs 10.64-10.65.

²¹ Ibid at Appendix 2, page 21.

²² Report 9A Report and Recommendations of Independent Commissioners Regarding Chapter 7, Chapter 8, Chapter 9, Chapter 10 and Chapter 11, 29 March 2018, Page 220.

Appendix 1

SECTION 32AA EVALUATION

Richards Park Lane, Fernhill (Coherent Hotels Limited, 2524)

Addition to Rule 8.5.16 shown in underlined text.

	Standards for activities located in the Medium Density Residential Zone	Non-compliance Status
8.5.16	<p>Building Restriction Area</p> <p>No building shall be located within a building restriction area as identified on the District Plan Maps.</p> <p><u>8.5.16.1 In the Visitor Accommodation Sub-Zone along Richards Park Lane and Aspen Grove, Fernhill, the building restriction area shall only apply to buildings for visitor accommodation.</u></p>	NC

Costs	Benefits	Effectiveness and efficiency
The recommended changes to Chapter 8 MDRZ are specific to the land affected by this submission, which creates complexity within the District Plan. The new provision will require a degree of compliance costs for affected landowners within the VASZ.	The proposed change to Chapter 8 will not unduly restrict residential development within the VASZ. The rule will enable the land to be developed for visitor accommodation while ensuring that the residential amenities of adjoining sites are protected.	The change to Chapter 8 achieves the relevant objectives as it does not restrict residential development, while enabling land within the VASZ to be developed efficiently for visitor accommodation purposes.