

**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

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**REPLY OF ROSALIND DEVLIN  
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

**VISITOR ACCOMMODATION SUB-ZONES - MAPPING**

**15 October 2018**

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## CONTENTS

CLAUSE	PAGE
1. INTRODUCTION .....	1
2. COHERENT HOTELS LIMITED (2524), B FONS (FS2793), I SMITH (2361) .....	1

## **1. INTRODUCTION**

- 1.1** My name is Rosalind Devlin. I prepared the section 42A (**s42A**) report for the Visitor Accommodation mapping of Hearing Stream 15. My qualifications and experience are set out in that s42A report dated 23 July 2018.
- 1.2** I have reviewed the evidence filed by other expert witnesses on behalf of submitters, attended part of the hearing on 4 September – 27 September 2018 and have been provided with information from submitters and counsel at the hearing, including reports of what has taken place at the hearing each day.
- 1.3** This reply evidence covers whether a Building Restriction Area (**BRA**) should be imposed on the southern edge of the proposed VASZ extension on Richards Park Lane (Coherent Hotels Limited, 2524; B Fons FS2793; I Smith, 2361).

## **2. COHERENT HOTELS LIMITED (2524), B FONTS (FS2793), I SMITH (2361)**

- 2.1** I have reviewed the Panel's Minute of 28 September 2018 and the submitter's supplementary legal submissions<sup>1</sup> (prepared by counsel for Coherent Hotels Limited, Mr Jeremy Brabant).
- 2.2** Based on my understanding and application of the notification steps under sections 95A and 95B of the RMA, and boundary activities (in my experience both applying for and processing resource consent applications), I agree with Mr Brabant's analysis and conclusions within his supplementary legal submissions. I agree that the proposed BRA at issue would not be a boundary activity as defined in the RMA; as a BRA could be located anywhere within a site or zone and not just along a boundary. I also agree that the range of resource consents likely required for a hypothetical visitor accommodation development on the Coherent (or any) site may not be capable of satisfying the steps for preclusion from notification, and that a subsequent determination of

<sup>1</sup> Legal Submissions on behalf of Coherent Hotels Limited, Dated 20 September 2018 and Supplementary Legal Submissions on behalf of Coherent Hotels Limited – Response to Query from Hearings Panel Dated 27 September 2018.

whether a proposed activity will have or is likely to have adverse effects on the environment that are more than minor (s95A(8)(b)); and decision on whether there are any affected persons (under s95E), would likely be required.

**2.3** My residual concern is that without the additional separation provided by the proposed BRA, a visitor accommodation development, with minor rule breaches, could be located up to 1.5m from the boundaries with adjoining properties, without:

(a) public notification, for two separate reasons:

(i) as the proposal would likely be considered to have adverse effects on the environment that are no more than minor (which would not meet the test under section 95A(8)); and

(ii) as the rule breaches would likely fall within the definition of 'boundary activity' and be precluded from public notification by section 95A(5)(b)(iii) in any event; and

(b) limited notification, as the adverse effects on persons would likely be considered less than minor (under a s95E evaluation).

**2.4** In my view (and experience) there would need to be a fairly significant rule breach (such as building height or recession plane) for either neighbours' approvals or limited notification to be required. As noted in paragraph 2.3(a)(ii) above, public notification is automatically precluded for restricted discretionary, discretionary or non-complying boundary activities.

**2.5** If the submitter's site was better separated by topography from the adjoining residential sites (rather than at the same level as 18 Richards Park Lane and above 20 Aspen Grove); and if Richards Park Lane was not such an 'intimate' neighbourhood in terms of a narrow road (approximately 12m legal road and 7m formed road, estimated from

Council GIS) and relatively small sections (524m<sup>2</sup> – 564m<sup>2</sup>); and if there had been no concerns raised by other submitters both in their submissions and at the hearing (i.e. B Fons FS2793 and I Smith, 2361), then I would have likely reached a different conclusion and not recommended the application of a BRA. Had that been the case, then as with the other requested Visitor Accommodation sub-Zone (**VASZ**) extensions where I have recommended approval, I would not have recommended the additional BRA rules or requirements.

**2.6** In this situation, however, I remain of the view that a BRA for visitor accommodation associated with the requested VASZ extension, will provide necessary relief and separation for adjoining residential sites, while not unreasonably preventing the development and efficient use of the submitter's site. The reason for this view is that, in my opinion, visitor accommodation can result in adverse effects on residential character that are not confined to bulk and location of buildings. I therefore retain my view on the proposed BRA, whether the submitter's site is developed for a hotel or a smaller boutique or 'residential-scale' visitor accommodation proposal.

**2.7** For the avoidance of doubt, I do not recommend that the BRA also apply to residential activities<sup>2</sup> that might be undertaken within the VASZ extension; it would only apply to visitor accommodation. Similarly, to avoid any misunderstandings, my recommendation on the requested VASZ extension is contingent on the BRA.



**Rosalind Devlin**  
**15 October 2018**

<sup>2</sup> In the event that a residential activity is undertaken on the site, for completeness, I note that public notification would be precluded by section 95A(5)(b)(iii) of the RMA.