

**Before the Hearings Panel**

**In the Matter** of the Resource Management Act 1991 (**Act**)

**And**

**In the Matter** Stream 15 – Visitor Accommodation Variation for Stage 2 of the Proposed District Plan (the ‘Stage 2 PDP’)

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**Statement of Primary Evidence of Nicholas Colyn Grala on behalf of Coherent Hotel Limited**

**Dated 6 August 2018**

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## **Introduction**

1. My full name is Nicholas Colyn Grala. I am employed at Harrison Grierson as the Planning Manager of the Company's Auckland office. I hold a Bachelor of Planning from the University of Auckland and I am a full member of the New Zealand Planning Institute and a member of the Resource Management Law Association.
2. I have over ten years' planning experience in district and regional planning. Details of my relevant and recent experience are contained in **Attachment 1**.
3. I prepare this statement on behalf of Coherent Hotels Limited (the 'Submitter') who made a submission on the extent of the Visitor Accommodation ('VA') sub-zone as well as the VA provisions that were contained within Stage 2 PDP (Submitter reference 2524).
4. The Submitter owns, develops, and manages a number of hotels across New Zealand and, of relevance to this hearing, owns a number of properties in Fernhill. Included in these properties are the Aspen Hotel as well as a number of other sites that are either vacant or contain single dwellings. It is expected that the latter will be developed for either an extension to the Aspen Hotel or as a new, standalone, hotel in the future.
5. I am familiar with the Fernhill area to which the submission relates and visited the site in June 2017 as part of the hearings held on Stage 1 of the Proposed Plan.
6. I record that I have read and agree to abide by the Environment Court's Code of Conduct for Expert Witnesses as specified in the Environment Court's Practice Note 2014. This evidence is within my area of expertise, except where I state that I rely upon the evidence of other expert witness as presented to this hearing. I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed.

### **Scope of Evidence**

7. My statement of evidence will address the extent of the VA sub-zone and amendments to the VA provisions that were put forward by the Submitter in its submission to the Stage 2 PDP. It provides:
  - a. A description of the site;
  - b. A summary of the submission;
  - c. Reasons to accept the extent of the VA subzone sought in the submission and as recommended within the Section 42a Report;
  - d. Reasons why a building restriction area is not an appropriate limitation to apply to the site;
  - e. Support for the approach that the Stage 2 PDP has adopted for managing VA; and
  - f. Reasons to make amendments to the VA provisions that are additional to those that have been adopted within the Section 42a Report.
  
8. In preparing my evidence I have read the following:
  - a. The relevant documents associated with the substantive hearings on relevant PDP chapters (to ensure I have considered matters of integration and consistency in the context of recommended changes to PDP provisions);
  - b. Primary statements and Section 42a Reports prepared on behalf of Queenstown Lakes District Council:
    - i. Section 42a Report on Visitor Accommodation dated 23 July 2018 and prepared by Ms Amy Bowbyes;
    - ii. Section 42a Report on Visitor Accommodation Sub Zones - Mapping dated 23 July 2018 and prepared by Ms Rosalind Devlin;
  - c. Further submission of Barbara Fons (2793).

## The Site

9. The submission related to seven properties in Fernhill that I collectively refer to as 'the Site'. They comprise of:
  - a. 139 Fernhill Road, Fernhill;
  - b. 10, 12, 14 & 16 Richards Park Lane; and
  - c. 18 & 20 Aspen Grove.
  
10. The largest of the properties is situated at 139 Fernhill Road and accommodates the Aspen Hotel on the northern portion of the property while the southern portion is vacant and undeveloped. The remaining six properties are smaller lots that are either vacant or contain single dwellings. All properties are owned by the Submitter and are contiguous with each other.
  
11. The Submitter is currently in the process of developing a concept design to establish a new hotel on the portion of the Site that is not occupied by the Aspen. Although they are in the early stages of this process, it is likely that the hotel will be separate from the Aspen but would utilise its back of house facilities such as housekeeping, laundry and catering.
  
12. The Site was rezoned to Medium Density Residential ('MDR') under the Decisions version of the Stage 1 PDP<sup>1</sup>. No appeals were lodged with the Environment Court opposing this rezoning and so I am of the view that this zoning is now beyond appeal and can be treated as operative<sup>2</sup>.
  
13. Stage 2 PDP (as notified) applied the VA sub zone to a portion of the Site comprising the properties at 139 Fernhill Road and 18 Aspen Grove. I presume this is because it reflected the existing use (Aspen Hotel) on 139 Fernhill Road, which was established<sup>3</sup> in the mid 1980's and has been operating from the property ever since (with numerous legally established

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<sup>1</sup> With the exception of the property at 18 Aspen Grove, which is zoned Low Density Residential and was not included in the submissions to rezone the site because it was not in the ownership of the submitter at the time that Stage 1 of the Proposed District Plan was notified in 2015.

<sup>2</sup> I have reviewed the zone mapping appeals to the Stage 1 PDP and I have also reviewed the updated zone map 34 that denotes any appeals. Neither found any appeals on the zoning of the site.

<sup>3</sup> QLDC records show that building consent was granted for the hotel in 1986 (Reference 2910912600-3-1)

additions and alterations along the way). Today, the Aspen Hotel includes 73 rooms, conference facilities and an on-site restaurant and bar<sup>4</sup> and has recently been renovated.

### **Submission Summary**

14. The submission was supportive of the approach that the Stage 2 PDP has taken of separating the treatment of VA activities from Homestay activities and Residential Visitor Accommodation ('RVA') on the basis that they all have a different character, operation and have the potential to generate different environmental effects.
  
15. The support of this approach then cascaded down to providing partial support for the objectives and policies for VA but also seeking amendments to:
  - a. Further separate the issues and effects associated with RVA and Homestays from the issues and effects associated with VA activities;
  - b. Reflect the significance of VA activities that was identified within the Section 32 Evaluation;
  - c. Give effect to the high order objectives and policies contained in (i.e. the policy direction set by) Chapter 3 – Strategic Direction of the PDP; and to
  - d. Implement the policy direction set by the National Policy Statement on Urban Development Capacity 2016 (the 'NPS-UDC').
  
16. The submission also sought to extend the VA sub zone to all of the Site. The submission stated that this was considered appropriate because:
  - a. It would provide an opportunity for a large site that is in single ownership to be redeveloped for VA on an integrated basis.
  - b. It would be a logical extension of the proposed VA sub-zone (which is already located over a portion of the Site under the notified Stage 2 PDP) to the north and east.
  - c. VA within the VA sub-zone is still subject to the underlying zone

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<sup>4</sup> <http://www.aspenhotelnz.com>

standards (including bulk and location controls) that will ensure that any VA development would not inappropriately affect the residential character of the surrounding Fernhill area.

- d. An extension of the VA sub zone would assist in protecting the legally established and existing use of the Site<sup>5</sup>.
  - e. The Site is not located within any landscape protection overlays under either Stage 1 PDP or Stage 2 PDP.
  - f. The Site is located within the Urban Growth Boundary.
  - g. It would be consistent with the Strategic Direction of the PDP by:
    - i. Implementing the goals, objectives and policies under Section 3.2 of Chapter 3 (Strategic Direction) of the PDP<sup>6</sup> by positively contributing towards the Queenstown economy;
    - ii. Implementing objective 3.2.1.4 and policy 3.2.1.4.1 of Chapter 3 (Strategic Direction) of the PDP by allowing the opportunity for tourism activities.
17. I support the reasoning put forward by the submission in terms of the policy approach taken to VA in Stage 2 PDP, the VA provisions and the extent of the VA sub zone. The remaining sections of my statement will expand on these reasons with reference to the recommendations put forward by Ms Bowbyes and Ms Devlin in their respective s42a Reports.

#### **VA sub-zone mapping**

18. Ms Devlin has considered the submission in two parts; the first is the retention of the VA sub-zone over the two properties that were included in the notified version of Stage 2 PDP (Reference 2524.1); and the second is the extension of the VA sub-zone over the remaining properties that comprise the Site (Reference 2524.2). Ms Devlin has recommended that both submission parts (i.e. the retention and the extension) be accepted.

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<sup>5</sup> A hotel as identified within Issue 7 of Queenstown Lakes District Proposed District Plan Section 32 Evaluation.

<sup>6</sup> As contained within the Strategic Direction Section 42a Report because the decisions version of the Stage 1 Proposed District Plan had not been released at the time the submission was made.

19. In reaching that view, Ms Devlin has identified five parameters that she identified as a useful guide in assessing requests for the VA sub-zone<sup>7</sup>. Although a specific assessment of these parameters was not included within the s42a Report I am of the view that the retention and extension of the VA sub-zone sought in the submission meets these parameters. I have included these parameters along with a reason why, in my view, each are achieved as **Attachment 2** of my statement.
20. For these reasons, along with the reasons I have set out in paragraph 16, I agree with Ms Devlin that it is appropriate for the VA sub-zone to be extended to include all of the Site.

#### **Building Restriction Area**

21. Ms Devlin has recommended that a Building Restriction Area ('BRA') of 4.5m be applied to a portion of the southern Site boundary adjoining the neighbouring properties of 18 Richards Park Lane and 22 Aspen Grove<sup>8</sup>. Ms Devlin has stated that this is necessary in order to maintain residential character due to the underlying zone interface that exists between the Site and these neighbouring properties<sup>9</sup>. I note here that only the neighbouring site at 18 Richards Park Lane is zoned Low Density Residential – the other neighbouring site at 22 Aspen Grove is zoned MDR, the same zoning as the Site.
22. BRA is a planning control that is already established (but not defined) within the decisions version of the Stage 1 PDP (applied through the planning maps). It would be implemented by Rule 8.5.16 contained within the MDR chapter and requires that *"No building shall be located within a building restriction area as identified on the District Plan Maps"*. It would mean that locating any

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<sup>7</sup> Ms Devlin s42a Report, paragraphs 3.2

<sup>8</sup> Ms Devlin s42a Report, paragraphs 39.6 – 39.11

<sup>9</sup> Ms Devlin s42a Report, paragraph 39.9

building (or part of a building) within 4.5m of that portion of the southern Site boundary would infringe the rule, requiring a resource consent as a Non Complying activity. It effectively increases the building setback requirement along that portion of the Site boundary from 1.5m (the MDR setback requirement prescribed by Rule 8.5.8 of Stage 1 PDP<sup>10</sup>) to 4.5m. It also escalates any non-compliance from Restricted Discretionary to Non Complying.

23. I also note that because the BRA is implemented by an MDR rule it would apply to both VA development and residential development. This is a relevant consideration because one of the reasons Ms Devlin gave in her report for recommending a BRA was that *"the effects of visitor accommodation development on an adjoining site could be quite different to residential development, in regard to residential character"*<sup>11</sup>. I do not agree that a rule that applies equally to both VA and residential development is an effective approach to managing the differences between the two forms of development.
24. In my view, a more effective approach has already been taken in both Stage 1 and 2 PDP of distinguishing the two types of activities. It does this by applying a Permitted activity status for residential units<sup>12</sup> and a Restricted Discretionary activity status for VA<sup>13</sup>.
25. Discretion is then restricted to *'the location, nature and scale of activities... and the external appearance of buildings'*<sup>14</sup> that would ensure that sufficient consideration will need to be given to zone interface, boundary treatment and residential character as part of any resource consent application made for VA development on the Site. Ms Devlin and I seem to be in agreement that the matters of discretion for VA are an effective method of addressing interface issues because in her report she states that<sup>15</sup>:

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<sup>10</sup> No appeals have been lodged on this rule and so it can now be treated as operative.

<sup>11</sup> Ms Devlin s42a Report, paragraph 39.9

<sup>12</sup> Rule 8.4.10 of the MDR Chapter of the Stage 1 PDP (Decisions Version) – up to 4 residential units on a site

<sup>13</sup> Rule 8.4.29 of the Stage 2 PDP (as notified) – for VA within the VA sub-zone

<sup>14</sup> Rule 8.4.30 contained within Appendix 1 of Ms Bowbyes s42A Report

<sup>15</sup> Ms Devlin s42a Report, paragraph 39.3



*“...I do not know the extent of adverse effects that could be generated in regard to adjoining neighbours but I would anticipate that this would be suitably addressed through the resource consent process via the matters of discretion for location, nature and scale of activities, and design measures to limit the impact on adjoining residential activities, should a VASZ expansion be approved. Visitor accommodation within a VASZ in the MDRZ would require a restricted discretionary resource consent pursuant to notified Rule 8.4.30. Despite the limits on notification pursuant to notified Rule 8.6.2.3, I consider the matters of discretion should ensure a good outcome for neighbours”*

26. In addition, in my opinion Ms Devlin’s acknowledgement that there is no evidence currently available as to the potential extent of adverse effects which might be generated with regard to adjoining neighbours (coupled with the wide range of resource management responses available to manage potential effects on neighbours) emphasises why imposition of a blanket no build line on the Site is not the most appropriate way to achieve the purpose of the Act, or the objectives of the PDP.
27. There are other established PDP controls that manage the interface (and therefore residential character) between the Site and neighbouring properties. These include bulk and location controls within the MDR zone that restrict building height, building coverage, height in relation to boundary, boundary setback and building length. Again, these apply equally to residential development as well as VA development, which means that the bulk and location of buildings that both forms of development can achieve (as of right) would be the same. In that context, different activities do not change the built form interface controls and that common built form expectation does not justify the imposition of a BRA restriction. That is because the PDP responds to the differing nature of a VA activity, by imposing additional matters of assessment and control (which will involve a considered and comprehensive response to the particulars of any given application). This is a more nuanced and appropriate method for managing potential interface effects.

28. In summary, I am of the view that applying a BRA restriction to the Site is unnecessary because there are already PDP provisions that more appropriately and effectively manage the issue of residential character. I support extension of the VA sub-zone to include all of the Site without the imposition of a BRA.

### **VA Provisions**

29. The Submitter made submissions on the VA provisions within both the MDR and LDR zone because, at the time of preparing the submission, decisions had yet to be released on the rezoning they had sought as part of Stage 1 PDP. The decisions have since been released and the Submitter was successful in achieving the MDR zone they sought for the Site.<sup>16</sup>

30. Because a small portion of the Site (comprising 18 Aspen Grove) is zoned LDR, the VA provisions within both the LDR and MDR zone remain applicable. I will cover both in the remainder of my statement (although I note they are largely the same).

31. I support the approach that Ms Bowbyes has taken in retaining the approach for VA within Stage 1 PDP, which recognises that VA is fundamentally different from RVA and Homestays and so warrant a different planning response.

32. Ms Bowbyes has recommended that a number of the submission points made by the Submitter be accepted, which I also support. For completeness, the provisions where I support the recommendations put forward by Ms Bowbyes<sup>17</sup> are:

#### Definitions

- a. The definition of *Residential Visitor Accommodation*
- b. The definition of *Homestay*

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<sup>16</sup> The exception being the property at 18 Aspen Grove. This property was not owned by the Submitter when submissions on Stage 1 PDP were prepared in 2015, and therefore wasn't included in the submission. Accordingly, that property has remained LDR. As already noted in this statement, it is now owned by the Submitter.

<sup>17</sup> Ms Bowbyes s42a Report, Appendix 1

- c. The definition of *Visitor Accommodation*

Low Density Residential

- a. The additional text in the zone purpose (section 7.1)
- b. Objective 7.2.8
- c. Policy 7.2.8.1
- d. Policy 7.2.8.2
- e. Objective 7.2.9
- f. Policy 7.2.9.1
- g. Policy 7.2.9.2
- h. Policy 7.2.9.3
- i. Rule 7.4.17 – Visitor Accommodation in the Low Density Visitor Accommodation Sub-Zone is a Restricted Discretionary activity.
- j. Rule 7.4.17 – Matters of restricted discretion
- k. Rule 7.14.18 Visitor Accommodation outside of the Medium Density Visitor Accommodation Sub-Zone is a Non Complying Activity.

Medium Density Residential zone

- l. The additional text in the zone purpose (section 8.1)
- m. Objective 8.2.14
- n. Policy 8.2.14.1
- o. Policy 8.2.14.2
- p. Objective 8.2.15
- q. Policy 8.2.15.1
- r. Policy 8.2.15.2
- s. Policy 8.2.15.3
- t. Rule 8.4.30 – Visitor Accommodation in the Medium Density Visitor Accommodation Sub-Zone is a Restricted Discretionary activity.
- u. Rule 8.4.30 – Matters of restricted discretion
- v. Rule 8.4.31 Visitor Accommodation outside of the Medium Density Visitor Accommodation Sub-Zone is a Non Complying Activity.

- 33. The only remaining area of disagreement between the recommendations put forward by Ms Bowbyes and the submission is whether the provisions should recognise the importance of VA to the district.

34. The submitter sought an amendment to the text being added at the end of the Zone Purpose for the LDR and MDR chapters, along with new supporting policies. The rationale for these inclusions was to reflect the importance of providing VA in appropriate locations (as identified within the Section 32 Evaluation), to give effect to the high order objectives and policies contained in Chapter 3 – Strategic Direction of the Proposed Plan; and to implement the policy direction set by the National Policy Statement on Urban Development Capacity 2016 (the ‘NPS-UDC’).
35. Ms Bowbyes does not believe that this is necessary because it parrots Objective 3.2.1 that is contained within Chapter 3 – Strategic Direction within Stage 1 PDP. Objective 3.2.1 aims for *“The development of a prosperous, resilient and equitable economy in the District”*. It is then implemented by a suite of supporting policies, including Policy 3.2.1.1 that requires *“The significant socioeconomic benefits of well designed and appropriately located visitor industry facilities and services are realised across the District.”*
36. I do not think it is accurate to effectively suggest that the new text adds nothing (allegedly by virtue of simply repeating a higher order objective). The purpose of the Strategic Direction chapter reads as a standalone chapter within the District Plan that is then implemented by the more detailed chapters that follow, stating that *“... the principal role of Chapters 3 - 6 collectively is to provide direction for the more detailed provisions related to zones and specific topics contained elsewhere in the District Plan...”*<sup>18</sup>. In my opinion giving effect to this higher level strategic objective requires that appropriate context is given as to why Visitor Accommodation is provided for in a Residential zone. The wording I support identifies the basis for provision of Visitor Accommodation. I don’t agree with Ms Devlin that the VA provisions should exclude key messages if they are already identified in the Strategic Direction chapter. In my view the opposite should occur.

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<sup>18</sup> Section 3.1 – Purpose of Chapter 3 – Strategic Direction within the Stage 1 PDP (Decisions Version)

37. Having further considered the relief sought by the Submitter and the amended provisions that Ms Bowbyes has proposed in Appendix 1 of her s42a Report (which I largely support), I believe that the most appropriate way of recognising the importance of VA to the District would be to briefly express this in the zone purpose. This would achieve the balance that Ms Bowbyes is wanting to achieve for VA and the underlying residential zones, whereby the primary intent is to encourage residential development to occur but to also enable VA development in appropriate locations.
38. This would result in the Zone Purpose for the LDR and MDR zone being amended as follows (additions underline, deletions in strikethrough):

#### 7.1 Zone Purpose

...

Well designed and appropriately located visitor accommodation has an important role in the district, providing socioeconomic benefits and contributing to a prosperous, resilient and equitable economy. Visitor accommodation is anticipated in the Lower Density Suburban Residential Visitor Accommodation Sub-Zones shown on planning maps. The sub-zones are located in residential areas, and applications for visitor accommodation activities and associated development must address matters that impact on residential amenity, including character, traffic and noise effects  
..."

#### 8.1 Zone Purpose

...

Well designed and appropriately located visitor accommodation has an important role in the district, providing socioeconomic benefits and contributing to a prosperous, resilient and equitable economy. Visitor accommodation is anticipated in the Medium Density Residential Visitor Accommodation Sub Zones shown on planning maps. The sub-zones are located in residential areas, and applications for visitor accommodation activities and associated development must address matters that impact on residential amenity, including character, traffic and noise effects..."

## **Conclusion**

39. I support the approach that Stage 2 PDP has taken of separating the treatment of VA activities from Homestay activities and RVA on the basis that they all have a different character, operation and have the potential to generate different environmental effects.
40. In my view it is appropriate for the VA sub zone to be applied to the entirety of the Site because it possesses all the necessary attributes; best meets the purpose of the Resource Management Act 1991 and gives effect to the strategic direction of the District Plan.
41. I do not agree that it is necessary to apply a BRA to the Site because there are already District Plan provisions that more effectively manage the issue of residential character.
42. I am largely supportive of the VA provisions but consider that minor amendments are necessary to the zone purpose and policies to better implement the strategic direction of the District Plan and to improve the linkages between the objectives and policies.



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**Nicholas Colyn Grala**

Date: 6 August 2018

## **Attachment 1 – Relevant Recent Experience**

Harrison Grierson: 2006 to present – Senior Planner and Planning Manager

Recent projects of relevance include

- Expert planning witness for Mercury through the Board of Inquiry process for NZTA's East-West Link proposal. This included assisting in the preparation of the submission, representing Mercury through mediation and expert conferencing and preparing and presenting evidence at the hearing.
- Lead planner for the comprehensive residential development at Pt England that Ngati Paoa are undertaking as part of their Treaty of Waitangi Settlement. The project is very complex, involving its own Central Government legislation and balancing the needs of Ngati Paoa, local residents and various stakeholders.
- Lead planner for the McWhirter / Westgate development. The project comprises the comprehensive development of a 16ha site that is expected to deliver approximately 230 homes.
- Lead planner for the development of the Karaka North Village. The project is expected to deliver approximately 460 homes within a rural village setting.
- Lead planner in the regeneration of the Housing for Older Persons (HfOP) portfolio within Auckland. The project has involved providing planning advice and consenting strategy on 25 of the HfOP sites and most recently the redevelopment of the HfOP apartment building in Henderson.

## Attachment 2 – VA sub-zone parameters

Parameter	Comment
<i>Generally prevent very small sub-zones or single parcel subzones which result in 'spot-zoning</i>	<p>The proposed extent of the VA sub-zone is contiguous with, and therefore a continuation of, the Fernhill VA sub-zone.</p> <p><b>Achieved</b></p>
<i>Prevent and remove small sub-zones where they do not reflect the existing land use (for example, a site that has been developed for residential purposes)</i>	<p>The proposed extent of the VA sub-zone will cover all of the site, which includes the Aspen Hotel (legally established approximately 30 years ago). Although it includes a number of smaller properties that contain single residential dwellings, these all adjoin the larger site and would be demolished in order to establish a new hotel or extension to the existing hotel.</p> <p><b>Achieved</b></p>
<i>Prevent and remove small sub-zones where these are historic and are now considered inappropriately located for visitor accommodation activities (for example, semi-rural locations where a former motel has been demolished but the site has not been redeveloped)</i>	<p>The proposed extent of the VA sub-zone covers the Medium Density Residential and Low Density Residential zones rather than in a rural zone. It also reflects the current established land use on the site and in the surrounding Fernhill area.</p> <p><b>Achieved</b></p>
<i>Retain or reinstate sub-zones that apply to large areas in appropriate locations, whether developed or not (for example, the large Fernhill sub-zones)</i>	<p>The proposed extent of the VA sub-zone seeks to retain and expand the VA sub zone within Fernhill.</p> <p><b>Achieved</b></p>
<i>Retain or reinstate sub-zones that reflect existing lawfully established visitor accommodation activities where the underlying zone would create future non-compliances for substantial existing businesses (for example, established motels in the Lower Density Suburban Residential zone where activities would become non-complying)</i>	<p>The proposed extent of the VA sub-zone will include the Aspen Hotel (legally established approximately 30 years ago).</p> <p><b>Achieved</b></p>