

BEFORE THE ENVIRONMENT COURT

ENV2018-CHC-

IN THE MATTER of the Resource Management Act 1991 ("Act")

AND

IN THE MATTER of an Appeal pursuant to Clause 14(1) to Schedule 1 of the Act

BETWEEN **ARNOLD ANDREW MIDDLETON, ISABELLE GLADYS MIDDLETON, WEBB FARRY NOMINEES LIMITED and STEWARD LESLIE PARKER as trustees of THE MIDDLETON FAMILY TRUST**

Appellant

A N D **QUEENSTOWN LAKES DISTRICT COUNCIL**

Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST
DECISION ON PROPOSED PLAN UNDER CL14(1) SCHEDULE 1**

Dated this *7th* day of *May* 2019

MACALISTER TODD PHILLIPS

Barristers, Solicitors, Notaries

3rd Floor, 11-17 Church Street

Queenstown 9300

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Telephone: (03) 441 0125 Fax: (03) 442 8116

Solicitor Acting: J E Macdonald

NOTICE OF APPEAL

To: The Registrar
Environment Court
Christchurch

[1] Name and address of Appellant:

Arnold Andrew Middleton, Isabelle Gladys Middleton, Webb Farry
Nominees Limited and Steward Leslie Parker as trustees of The
Middleton Family Trust (“Appellant”)

C/-Macalister Todd Phillips
Level 3, 11-17 Church Street
Queenstown 9300

Attn: Jayne Macdonald

[2] The Appellant appeals the decision (“Decision”) of the Queenstown
Lakes District Council (“Respondent”) on Stage 2 – Wakatipu Basin
Variation to the Queenstown Lakes Proposed District Plan (“Plan”).

[3] The Appellant made submissions on the Plan (Submission #2332).

[4] The Appellant filed submissions to Stage 1 of the Plan, seeking that its
land, and certain adjacent land, as described in its submission, be zoned
a combination of Rural Residential and Low Density Residential. Part
of the Appellants land sought to be zoned was subsequently included
with the Wakatipu Basin Variation, and submissions from Stage 1 in
respect of that land, deferred to Stage 2. In its Stage 2 submission, the
Appellant sought that its land be zoned Tucker Beach Residential
Precinct (“TBRP”).

- [5] The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
- [6] Notice of the Decision was received on or about 21 March 2019.
- [7] The Appellant appeals against the Decision in its entirety.
- [8] The reasons for the appeal are as follows:
- [a] The Respondent erred in its findings that there was insufficient information related to traffic volume and roading upgrades to Tucker Beach road that might be required as a result of allowing the submission. The decision on this matter is not supported by expert evidence called by both the Appellant and the Respondent.
 - [b] The Respondent erred in its findings that there was insufficient information provided with respect to servicing. The evidence for Respondent was inconsistent with advice provided by the Respondent's chief engineer in the lead up to the hearing of Stage 1 submissions. The decision failed to have due regard to the fact that necessary extensions to services would be funded by the subsequent developer.
 - [c] The Decision failed to give sufficient weight to the positive effects of the relief sought, including orientation of the land to solar gain, that the land is easily serviceable and will provide a large number of residential dwellings capable of contributing to the District's housing demands. The land sought to be rezoned is one of the few undeveloped areas remaining in Queenstown that can be connected to major infrastructure and is easily accessible to public transport connections and the urban area of the Frankton Flats.

[d] The Respondent erred in preferring the evidence of its landscape architect over that of the Appellant with respect to landscape, visual and urban design effects.

[e] While the Respondent finds that the National Policy Statement on Urban Development Capacity has been given effect to through decisions on Stage 1 of the PDP¹, the Decision is inconsistent with the Respondents recent reporting with respect findings of a shortfall of feasible capacity on lower band priced housing². Furthermore, recent studies prepared for the Council³ indicate that while overall there will be sufficient supply of dwellings, the number of residential units delivered to the market in the lower value bands (i.e. under \$600,000.00) will not meet predicted demand;

[f] The Respondent erred in its findings that the proposal would not give effect to the Partially Operative Regional Policy Statement 2019, or the strategic directions chapter of the Proposed District Plan.

[9] The Appellants seek the following relief from the Court:

The Decision be overturned and that the relief sought in the submission be granted.

[10] Additional relief

In addition to the specific relief set out above, the Appellant seeks the following relief:


¹ At [13], Report 18.2

² Report for Expression of Interest for a Special Housing Area: Laurel Hills dated 21 February 2019 (for meeting of 7 March 2019).

³ Housing and Business Development Capacity Assessments, 2017.

[a] Such further or other relief as may be just or necessary to address matters raised in the submissions and this appeal; and

[b] Costs.



Arnold Andrew Middleton, Isabelle Gladys Middleton,

Webb Farry Nominees Limited and Steward Leslie Parker as

Appellant by their solicitor and duly authorised agent JAYNE ELIZABETH

MACDONALD

Date:

C/-Macalister Todd Phillips, Level 3, 11-17 Church Street, PO Box 653,
Queenstown 9348

Telephone: 03 441 0127

Fax/email: 03 442 8116 / jmacdonald@mactodd.co.nz

The following documents are attached to this notice:

[a] A copy of the submission;

[b] A copy of the relevant part of the Decision;

[c] Any other documents necessary for an adequate understanding of the appeal;

[d] A list of names and addresses of persons to be served with a copy of this notice.

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or further submission on the matter of this appeal.

To become a party to the appeal, you must-

[a] within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the Appellant; and

[b] within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the Appellant's submission or the part of the Decision appealed. These documents may be obtained, on request, from the Appellant.

Advice

If you have any questions about this notice, contact the Environment Court at Christchurch.

Environment Court
Christchurch Registry
282 Durham Street
Central City
Christchurch

Postal address:

PO Box 2069

DX: WX11113

Christchurch

Telephone and fax numbers:

Telephone: (03) 365 0905

Fax: (03) 365 1740

Names and addresses of persons to be served with a copy of the Notice of Appeal

[1] Queenstown Lakes District Council
10 Gorge Road
Queenstown
E: dpappeals@qldc.govt.nz

[2] Oasis in the Basin Association
PO Box 213
Queenstown
E: oasisinthebasin@gmail.com

[3] James Muspratt
C/- P O Box 124
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E: ben@toddandwalker.com

[4] Tucker Beach Residents Society Incorporated
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