

BEFORE THE ENVIRONMENT COURT

ENV-2018-CHC-

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

AND

IN THE MATTER of an application for a
declaration pursuant to
Section 311 of the Act

BETWEEN **WLLIAM JOHN
GRANT AND
MATILDA
MARGARET GRANT**

Appellants

AND **QUEENSTOWN
LAKES DISTRICT
COUNCIL**

Respondent

APPLICATION FOR DECLARATION UNDER SECTION 311

Dated 15 June 2018

MACALISTER TODD PHILLIPS

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APPLICATION FOR DECLARATION

To: The Registrar
Environment Court
Christchurch

1. We, William John Grant and Matilda Margaret Grant, apply for:

- a. A declaration that the Respondent lacked jurisdiction to rezone part of the land (as described below) from Low Density Residential (“LDRZ”) to Rural.

2. The background to this Application is as follows:

- a. The Applicants make this application in relation to the decision made by the Queenstown Lakes District Council (“Respondent”) on the Queenstown Lakes Proposed District Plan (“Plan”) in response to Submission 347 lodged by Remarkable Heights Limited (“Decision”).
- b. The Applicants are trustees of the trusts that own the land located (amongst other places) at the top of Middleton Road, Queenstown and contained in Computer Freehold Register 227983. The full extent of the Applicants’ landholding is described in the Affidavit of Bruce Dearsley Grant. The land the subject of this application is legally described as Section 30 Block XXI Shotover Survey District (“Land”).
- c. Under the notified Plan the zoning of the Land was split between Rural and LDRZ. No submissions or further submissions were lodged in respect of the Land and/or its zoning under the Plan.

- d. Submission 347 was lodged by Remarkables Heights Limited seeking that all of its land, which is adjacent to the Land, be rezoned to LDRZ. In granting the relief requested in Submission 347, and notwithstanding that no submissions or further submissions were lodged in respect of the zoning of the Land, the Respondent made the decision to re-zone the entirety of the Land, Rural, as a “consequential alteration”.¹

3. The grounds for this Application are:

- a. The Respondent lacked jurisdiction to rezone part of the Land from LDRZ to Rural.
- b. No submissions or further submissions were lodged in respect of the Land and/or its zoning under the notified Plan.
- c. The relief granted by the Decision went beyond what was reasonably and fairly raised in Submission 347.
- d. The ability of the Respondent to make “consequential alterations” pursuant to Clause 10(2)(b)(i) of Schedule 1 to the Act did not extend to re-zoning the Land.
- e. There are issues of procedural fairness to be observed. The change in zoning of part of the Land was not raised in any submission and potentially interested parties such as the Applicants had no opportunity to be heard on any rezoning.

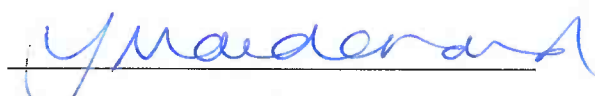
4. The Applicants seek the following relief from the Court:

- a. A declaration that the Respondent lacked jurisdiction to rezone part of the Land from LDRZ to Rural.
- b. Costs.

¹ Refer Decision (Report 17-5), Section 3.20 on page 5

5. We attach the following documents:

- a. an affidavit in support of the Application;
- b. a copy of submission 347;
- c. a copy of further submission 1340;
- d. a copy of the relevant part of the Respondent's decision;
- e. a list of names and addresses of persons to be served with a copy of this Application.



WILLIAM JOHN GRANT AND MATILDA MARGARET GRANT as
Applicants by their solicitor and duly authorised agent JAYNE
ELIZABETH MACDONALD

Date: 15 June 2018

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