

**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 a submission on the Proposed District  
Plan  
**BY** **TUCKER BEACH RESIDENTS (#2802)**

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**SUBMISSIONS ON BEHALF OF TUCKER BEACH RESIDENTS**

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**Dated: 26 July 2018**

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LAWYERS | NOTARY PUBLIC

**MAY IT PLEASE THE PANEL:****Introduction**

1. These submissions made on behalf of The Tucker Beach Residents Society Incorporated (“TBR”) in respect of a proposal filed by the Middleton Family Trust (“Middletons”) to “upzone” part of a property known as Queenstown Hill Station.
2. Those parts of the Station to be upzoned are located at the western end of Tucker Beach Road near Queenstown. The land is currently zoned Rural General in the Queenstown Lakes District Operative District Plan (“ODP”) and proposed by Council to be zoned as Rural in the Council’s Proposed District Plan (“PDP”) as notified and Wakatipu Basin Rural Amenity Zone in the Council’s Variation of the PDP.
3. Queenstown Station is one of the largest remaining true farms in the Wakatipu Basin stretching from Tucker Beach Road right across to above the residential area known as the Commonage above the Queenstown urban area and bordering the Business zone on the eastern side of Gorge Road, the urban area of Arthurs Point and above the urban development on the northern side of the majority of Frankton Road.
4. It is a fact that the Middleton family have been quietly rezoning and/or developing their land at Tucker Beach since the 1980’s. Indeed, a number of the members of the TBR reside on land previously subdivided or developed through resource consents by the Middletons.
5. The latest proposal to upzone some of the only flat paddocks of Queenstown Hill Station take their development aspirations to a new level again.
6. It should also be noted that the land to be rezoned is “shoehorned” between an Outstanding Natural Landscape (“ONL”) which is over the majority of Queenstown Hill Station and the Shotover River which is commonly accepted to be an Outstanding Natural Feature (“ONF”).

**TBR**

7. The TBR is an incorporated society incorporated on the 11th day of June 2018 as is confirmed by Mr Healy who will give evidence on behalf of the TBR. He will also

confirm TBR currently has approximately 90 members, all of whom live or own property in the Tucker Beach area.

8. The Middletons have made an application pursuant to section 41C of the Resource Management Act 1991 ("**Act**") to strike out the TBR submission. The Commissioner had directed, on the 23<sup>rd</sup> of July 2018, that TBR has until the 30<sup>th</sup> of July 2018 to respond to that application. Given that, we are in an unusual situation of having to make these submissions and present evidence not knowing if the TBR involvement in these proceedings will be deemed to be lawful.
9. TBR will make formal application in its submissions in response to the strike out application that it is a successor to the Tucker Beach Residents submission.
10. The reason the TBR was incorporated was that, as is often the case, a large number of its members as residents and land owners at Tucker Beach had no idea or notice of the Middleton proposal to upzone parts of Queenstown Hill Station. Obviously, such proposal was not part of Councils original PDP as first notified or the Wakatipu Basin Variation to the PDP. The only way residents or land owners would know of the submission is if they trolled through the large number of submissions filed in respect of the Proposed District Plan or heard of it by word of mouth.
11. Indeed, it was the latter that occurred but unfortunately too late. A number of residents sought to file late individual further submissions but their application to file out of time was declined by the Commission in a minute from the Chair dated the 2<sup>nd</sup> day of June 2018.
12. The alternate course of action would have been for them to simply all provide lay evidence in support of the submission filed in the name of James Canning Muspratt. That would simply have had the effect of extending the hearings.
13. Should for any reason the TBR application to be a successor be declined then application is now made for the evidence of the TBR to be accepted as evidence in support of the Muspratt submission which in such case will still be valid.
14. Obviously if your decision on the upzoning is appealed then at the very least, TBR will be entitled to be a Section 274 party to any such appeal.

## ACTIVITY STATUS

15. Other than the proposal to upzone itself, one of the major concerns of TBR is the provision of the proposed new Tucker Beach Residential Precinct (and what it is understood to be the alternative Low Density Residential Zoning) and the submission of the Middletons in respect of the Precinct that residential activity in all zone be a permitted activity, subject only to residential buildings being a Controlled Activity.
16. As the Commissioners will be acutely aware given such if the upzoning and submission on the Residential Precinct Zone is accepted and subject only to any appeal rights, this will likely be the last time parties such as TBR or its members will be able to have any input into development arising from such zoning.
17. Given such proposed status, your consideration of the unzoning and related submissions is critical, as if you confirm such, subsequent development cannot be declined. To that end you must be totally and unequivocally satisfied that you have all the information before you that enables you to justify a decision to upzone the land. This is especially the case in terms of being satisfied you have all the information before you that these new zones can be serviced as has been proposed.
18. It would not be a sound and valid decision for you to leave that consideration for later as has been suggested by my friend Ms Macdonald at paragraph 26 of her submissions to you in support of the Middleton submission.
19. In terms of activity status, it is also important to note that in terms of both upzonings sought, the rules provided for the right to have a residential flat as well as a residential unit on each lot created as a result of the upzoning. It is clear from the Section 32 analysis submitted with the submission, the submission itself and the evidence you have heard in support of the submission, (especially in terms of servicing and traffic effects arising from such rezoning) that this has been overlooked or ignored.
20. Such proposed rules could have the effect of doubling the servicing requirements or, at the very least, significantly increasing them.

## SERVICING

21. TBR is concerned whether you have before you the information you would require to justify a decision to upzone parts of Queenstown Hill Station.
22. In particular my client is concerned that Tucker Beach Road, or at least significant parts of the same, are not able to be widened to adequately cater for the likely vehicle movements that would arise from such upzoning.
23. Given such concerns TBR sought advice from a qualified traffic engineer to comment on whether their concerns were justified. Attached to Mr Healy's evidence is a report they have received from Carriageway Consultancy. The report confirms TBR's concerns about the adequacy of Tucker Beach Road to cater for the increased number of vehicle movements likely to arise from the upzoning. It also raises real concern as to the ability for the road to be upgraded and in particular widened to cater for such traffic.
24. I accept, given the author of the report is not here today to present the same or be questioned, the extent of the weight that can be given to the report is limited.
25. The only reason Mr Carr is not being called as an expert is due to the fact that by the time the residents realised the impact of the upzoning submission of the Middletons, and then had their applications to present late further submissions declined it was then too late to have Carriageway instructed and meet the timetable for filing expert evidence.
26. Suffice to say if you agree to the upzoning and the TBR concerns as confirmed by Carriageway are subsequently confirmed, it may well be that land zoned for the particular use cannot in fact be serviced. Where would that leave things not only in terms of the use of this land but in an overall planning sense for the District as if you are satisfied by the balance of the evidence supporting the rezoning that there was a need for the same you may very well have made different decisions on applications to zone other land.
27. In this respect it is surprising to TBR that the Council has used information on the inability of other roading infrastructure in the District to justify recommendations declining numerous other submissions for rezoning when it has not undertaken sufficient investigations in respect of Tucker Beach Road in respect to the Middleton's submission to upzone part of Queenstown Hill Station.

28. Given the above submission and the evidence you are to hear, it is submitted that contrary to Ms Macdonald's submission, the adequacy of roading is not undisputed and it is submitted you do not have sufficient servicing information available to support the rezoning and it would be totally inappropriate for you to leave such detailed investigations until a later consenting stage, as it would then be too late to do so.

#### **SUITABILITY OF LAND FOR URBAN DEVELOPMENT – VISUAL EFFECTS**

29. It is submitted that there has been a totally inadequate assessment of the effects the development shoe horned into the western corner of Tucker Beach will have on the visual amenity enjoyed by the residents of the Tucker Beach environs and users of the Tucker Beach Reserve and Shotover River (see Shotover Jets letter).

30. If such a proper assessment had been undertaken it would become immediately obvious that the proposal is contrary to the decisions version of the Strategic Directions provision of the PDP.

31. Further, such development as envisaged by the upzoning proposal is not supported by the findings of the Wakatipu Basin Landscape Study which it is submitted is the very foundation of the Wakatipu Basin Variation to the PDP. In this regard the TBR fully supports the evidence of Ms Gilbert given it is based on an overall assessment of the development potential of the Basin as a whole.

32. It is simply not correct for Ms Macdonald to suggest, as she has in her submission, that the reality is that the development which will result from the upzoning shall:

- a. **Avoid** (emphasis mine) inappropriate development and impacts on landscaping values (para 3);
- b. That flat topography automatically means such land is suitable to absorb development (para 32);
- c. That confinement of the development will avoid effects on the ONL (para 32) (noting there is no submission as to the effect on the ONF);
- d. Visual effect will be a "low degree, when assessed against existing development" and that zoning yet to be built on" (para 36); and

- e. "Development will read as a **logical** and **reasonably well mitigated** (emphasis mine) extension to existing zoning".

33. In respect of d above the existing Zoning is Rural Lifestyle and there is little of such zoning yet to be built on.

#### **URBAN GROWTH BOUNDARY**

34. It is proposed that there will be an Urban Growth Boundary ("**UGB**") in the location of the boundary of the Residential Precinct.

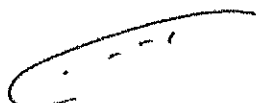
35. It is submitted given the size and location of the proposed Residential Precinct the UGB will be contrary to the Objectives and Policies of the Decisions Version of the PDP Urban Development chapter.

36. Specifically, the UGB will not be accord with the Objective for UGBs to be consistent with constraints on development of the land such as its topography, the need to make provision for the location and efficient operation of infrastructure, and the need to avoid sporadic urban development in rural areas. If the upzoning is approved for the reasons suggested then you may as well link eastern end of Tucker Beach Road and allow urban development of the land in between.

37. Further the UGB will be contrary to the Policy of defining UGBs that enable the logical and sequenced provision of infrastructure to and community facilities in new areas of urban development, and for UGBs to avoid Outstanding Natural Landscapes and Features.

#### **CONCLUSION**

38. It is submitted for the reasons given above and with regard to the further matters raised in the evidence of Mr Healy that the submission of the Middletons should be rejected.



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G M Todd/B B Gresson

Counsel for Tucker Beach Residents Society Incorporated