

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKAURAU ROHE**

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

AND

IN THE MATTER of an appeal under Clause 14 of Schedule 1 of the RMA
against the decision of Waikato District Council on the
Waikato District Plan

BETWEEN **S AND K QUIGLEY AND THE QUIGLEY FAMILY
TRUST**

Appellants

AND **WAIKATO DISTRICT COUNCIL**

Respondent

(Continued next page)

**NOTICE OF APPEAL AGAINST DECISION ON WAIKATO PROPOSED
DISTRICT PLAN**

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NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON PROPOSED PLAN

Clause 14(1) of First Schedule, Resource Management Act 1991

To: The Registrar
Environment Court
Auckland

NAME OF APPELLANT

- 1 Stuart and Katrina Quigley (submission numbers 947 and 955 respectively) and Quigley Family Trust (submission number 989) appeal against a decision of Waikato District Council on the Waikato Proposed District Plan (**PDP**).
- 2 The relevant decision is:
 - (a) Decision Report 28O – Zoning – Rest of District (**Decision**)

APPELLANT'S SUBMISSION

- 3 The Appellants made submissions on the PDP seeking rezoning of a 29.0021 hectare property from Rural Zone to either Country Living Zone or Village Zone.

TRADE COMPETITION

- 4 The Appellants are not trade competitors for the purposes of section 308D of the Resource Management Act 1991.

DATE ON WHICH NOTICE OF DECISION RECEIVED BY APPELLANT

- 5 The Appellants received notice of the decision on 17 January 2022.

NAME OF DECISION MAKER

- 6 The decision was made by Waikato District Council.

THE DECISION

- 7 The decision being appealed is identified above. The Appellants appeal against the part of the Decision relevant to the Appellant's property, in particular:
- 8 Zoning decision – Glen Massey
 - (a) Lot 20 DP 431591 to remain Rural Zone under the PDP.

REASONS FOR APPEAL

- 9 The Appellants made submissions (#947, #955 and #989) on the PDP in relation to the area of land located at 233 Wilton Collieries Road, Glen Massey. The property is legally described as Lot 20 DP 431591 (**Property**) and is 29.0021 hectares in size.
- 10 The original submission by the Appellants requested that the Property is re-identified on the PDP Planning Maps from Rural Zone to either Country Living Zone or Village Zone.
- 11 However, upon receipt of the s 42A Framework Report, the Appellants decided to focus on rezoning the Property as Country Living Zone in order to ensure an efficient use of the land resource.

General reasons for appeal

- 12 The general reasons for the appeal are that the Decision:
- (a) will not promote the sustainable management of resources, will not achieve the purpose of the RMA and is contrary to Part 2 and other provisions of the RMA;
 - (b) imposes an outcome that is not consistent with the expert evidence provided by the Appellants in support of their submission; and
 - (c) does not enable the social, economic and cultural wellbeing of the local community and in particular, the Appellants.

Particular reasons for appeal

- (d) In particular, the Decision is appealed because it disregards matters such as that:
 - (i) the proposal will support an existing village by concentrating appropriate residential development and is a better option for those seeking a rural lifestyle than allowing for ad hoc and scattered subdivision throughout the Rural zone;
 - (ii) the existing village has both Country Living Zone and Village Zone already in the vicinity of the Property;
 - (iii) the establishment of a Country Living Zone on this Property will assist with reducing demand pressures on other rural land in the wider area to the northwest of the district; and

- (iv) the Property comprises only low class (Class 6) soils and together with its hilly contour is unsuitable for horticultural and/or highly productive agriculture activities. The soil classification of 6 on its own is identified as having low suitability for pastoral grazing and production forestry. When combined with the steep and rolling terrain, it is largely considered to be unsuitable.
- 13 It is noted that an 18 lot staged subdivision consent has previously been approved for the Property and 2 of those 18 lots have already been created. The balance of that subdivision consent subsequently lapsed while the Appellants were undertaking post-approval discussions with Council that were undertaken in good faith that they would not prevent undertaking the balance of the consented development.
- 14 Furthermore, the Decision fails to take into account that:
- (a) the rezoning proposal aligns with the Waikato Regional Policy Statement (**WRPS**):
 - (i) a Country Living Zone is the preferred form for Glen Massey in order to complement the existing local community. Such an approach would be consistent with the positive environmental, social, cultural and economic outcomes which Objective 3.12 seeks to achieve;
 - (ii) in terms of Objective 3.12(a) and (b) the potential exists for positive biodiversity outcomes to be achieved and for natural character to be maintained through the slope stabilisation revegetation plantings. Country Living development is largely self-sufficient in terms of infrastructure requirements. The extensive road frontage available to the site provide a unique opportunity to ensure that access onto the public road network can be designed to have the best possible transportation outcome;
 - (iii) the proposal is consistent with Policy 6.17(a) of the WRPS on the basis that Glen Massey is located outside of the Waikato Basin where demand for rural residential development is strongest due to its proximity to Hamilton City and easy commuting distances. Establishment of a Country Living Zone

- will assist with reducing demand pressures on other rural land in the wider Ngaruawahia area;
- (iv) the rural residential lots will be largely self-sufficient in terms of 3 waters infrastructure. Glen Massey village provides existing infrastructure/amenities such as a school; and
 - (v) the proposal aligns with the principles in Section 6A (*New Development principles*) of the WRPS as:
 - (1) The Property is adjacent to an existing village that has a primary school and is adjacent to Glen Massey village. Therefore, it will be connected to existing development and social infrastructure by road. Future development will be self-sufficient with regards to three waters services.
 - (2) The rezoning will not compromise the safe, efficient and effective operation of Wilton Collieries Road. There is sufficient capacity within the road formation to accommodate current vehicle movements as well as the additional demand associated with Country Living development of the site.
 - (3) Water requirements for a future subdivision of the site can be met by rainwater harvesting on a lot-by-lot basis.
 - (4) A Country Living zoning would promote a compact urban form, design and location.
 - (5) By concentrating development in this location, pressure is reduced on surrounding rural areas, which help preserve wider surrounding rural character values.
 - (b) the rezoning proposal is consistent with the principles of Future Proof Strategy. In particular, it is consistent with principles for growth management and implementation in rural areas. The development of approximately 20 more or less rural residential lots at Glen Massey under a Country Living Zone is not of a scale or location that will compromise the Future Proof settlement pattern;
 - (c) the proposal is generally consistent with the relevant objectives, policies and strategic direction in the PDP;

- 15 Overall, the Decision fails to consider that the proposal intends to provide for planned rural residential development around an existing village which would be consistent with the objectives in the PDP and other higher-order planning documents such as the WRPS.

RELIEF SOUGHT

- 16 The Appellants seek that:
- (a) the Property be rezoned from Rural Zone to Country Living Zone or Village Zone (as an alternative); and
 - (b) any additional or consequential changes required to give effect to the relief sought in this appeal.

ATTACHED DOCUMENTS

- 17 The following documents are **attached** to this notice:
- (a) a copy of the Appellants' submissions (marked **A**);
 - (b) a copy of the Decision relevant to the Appellants' Property (marked **B**);
 - (c) a copy of the full decision on Zoning – Rest of the District (marked **C**);
 - (d) a list of names and addresses of persons to be served with a copy of this notice (marked **D**).

Dated at Hamilton 28th day of February 2022



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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 a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- 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
- 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 and 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 in Auckland.

Persons to be served with a copy of this notice

- 1.