

**BEFORE THE ENVIRONMENT COURT**

**ENV-2018-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** **RITCHIE KERR  
TRUST**

**Appellant**

**AND** **QUEENSTOWN  
LAKES DISTRICT  
COUNCIL**

**Respondent**

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**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST  
DECISION ON PROPOSED PLAN UNDER CL 14(1) SCHEDULE**

**1**

**Dated 13 June 2018**

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**MACALISTER TODD PHILLIPS**

Barristers, Solicitors, Notaries

3<sup>rd</sup> Floor, 11-17 Church Street

Queenstown 9300

P O Box 653, DX ZP95001, Queenstown 9348

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:**

Ritchie Kerr Trust  
c/o Macalister Todd Phillips  
Level 3, 11-17 Church Street  
Queenstown 9300  
Attn: Jayne Macdonald

2. Ritchie Kerr Trust (“Appellant”) appeals the decision (“Decision”) of the Queenstown Lakes District Council (“Respondent”) on the Queenstown Lakes Proposed District Plan (“Plan”).
3. The Appellant is a person who made a submission on the Plan. The Appellant’s submission sought the rezoning of the land located at 50 Peninsula Road, Kelvin Heights Queenstown contained in Computer Freehold Register OT19A/282 (“Land”) from Rural to Low Density Residential (“Submission”).
4. The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
5. Notice of the decision was received on 7 May 2018.
6. The Appellant appeals against the Decision in its entirety.
7. **The reasons for the appeal are as follows:**

[a] The Respondent erred in preferring the planning and engineering evidence of the Respondent over that of the Appellant.

[b] The Respondent erred by not accepting the evidence of the Appellant’s engineering geologist that the risks associated

natural hazards are very low to extremely low. The Appellant's engineering geologist considered the Land to be suitable for a range of zoning options and demonstrated that any risks associated with natural hazards with could be appropriately mitigated. There was therefore no evidential basis for the Respondent's findings on natural hazard risks/effects.

[c] The Respondent erred by not adopting a consistent approach to the rezoning of land in the vicinity of the Land. The Land has the same urban character and shares many characteristics with the land located directly across Peninsula Road (to the North), which the Respondent rezoned from Rural to Low Density Residential, notably:

- [i] the Land is located in close proximity to existing established urban areas;
- [ii] the Land adjoins a Low Density Residential Zone to the West (and now to the North);
- [iii] the land fronts Peninsula Road and Kawarau Bridge; and
- [iv] traditional rural activities are unlikely to be viable on this relatively small site.

[d] The Respondent erred by not following its landscape architect's evidence. The Respondent's landscape architect's evidence was that if the relief requested by Submissions 533 and 661 (in relation to the land located directly across the State Highway to the North of the Land) was granted (which it was), then the effects of granting the relief requested in the submission would be insignificant.

[e] As a consequence of the errors above, the Respondent erred in its determination that the Submission be rejected and the existing Rural zoning be retained.

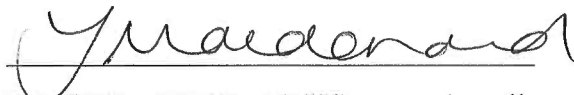
**8. The Appellant seeks the following relief from the Court:**

The Appellant seeks that the Land be zoned Low Density Residential in accordance with the Submission

**9. Additional Relief**

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

- a. such further or other relief as may be just or necessary to address matters raised in the Submission and this appeal; and
- b. Costs.



RITCHIE KERR TRUST as Appellant by its solicitor and duly authorised agent JAYNE ELIZABETH MACDONALD

Date: 13 June 2018

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 (with a copy of the submission opposed by the further 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

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