

TO THE REGISTRAR  
ENVIRONMENT COURT  
CHRISTCHURCH

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

**AND**

**IN THE MATTER** of clause 14 Schedule 1 of the Act

**AND**

**IN THE MATTER** of a decision on Plan Change 50 to the  
Queenstown Lakes District Council  
District Plan

**BETWEEN** KELSO INVESTMENTS LIMITED

**AND** CHENG'S CAPITAL INVESTMENTS  
LIMITED

**Appellants**

**AND** QUEENSTOWN LAKES DISTRICT  
COUNCIL

**Respondent**

- 1) **KELSO INVESTMENTS LIMITED** and **CHENG'S CAPITAL INVESTMENTS LIMITED** (the "appellants") appeal against a decision of the Queenstown Lakes District Council (the "Council") on Plan Change 50 to the Queenstown Lakes District Council District Plan. The decision adopts a Report and Recommendation of the Commissioners appointed by the Council to hear submissions and further submissions on Plan Change 50.
- 2) The appellants made submissions on Plan Change 50.
- 3) The appellants are not trade competitors for the purposes of section 308D of the Resource Management Act 1991.
- 4) The appellants received notice of the decision on 6 July 2015.
- 5) The decision was made by the Council.
- 6) The decision that the appellants are appealing is:

That part of the recommendation set out at paragraph 7.22 of the Commissioners Report and Recommendation subsequently adopted by the Council as part of its decision.

7) The reasons for the appeal are as follows:

- a) That the Council erred in law in accepting the Commissioners' recommendation that the submissions made by the appellants were not on the Plan Change and the recommendation that there was no jurisdiction to consider the appellants submissions.
- b) That the aforesaid error in law;
  - i) was based on an incorrect analysis of the law;
  - ii) resulted in inconsistent decision making by the Commissioners in that they accepted other submissions relating to land outside the area of the Plan Change were on the Plan Change;
  - iii) was based on an incorrect finding that the land the subject of the Plan Change had not been considered in the section 32 report for the Plan Change;
  - iv) in part arose:
    - (aa) from the Commissioners finding that the submitter did not address the status quo brought about by the proposed Plan Change.
    - (bb) given an incorrect finding that the land the subject of the submissions cannot reasonably be said to fall within the ambit of the Plan Change.
    - (cc) from a finding that there was a real risk that persons directly or potentially directly affected by the proposed Plan Change would be denied an effective response to the submissions.
- c) That the Commissioners were wrong in finding that:
 

*"...the current zoning of the blocks of land is potentially inappropriate particularly given that the principles are breadth of Plan Change 50..."*
- d) That if the Commissioners had not recommended the submission be rejected then this might have affected the recommendation the Commissioners made and the decision of Council to rezone other land Queenstown Town Centre Zone.
- e) That the findings and recommendations of the Commissioners and the Council decision has not resulted in sound resource management planning.
- f) That having reached the findings and made the recommendations that they did at paragraph 7.25 of the Report and Recommendation, the Commissioners should have adjourned the hearing of submissions and further submissions on Plan Change 50 until the zoning of the blocks the subject of the submission were addressed or until the Review of the District Plan that is due to be notified within a short period from the date that the decision was notified.

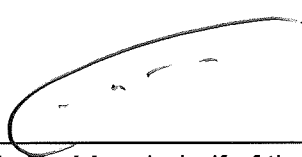
8) The appellants seek the following relief:

- a) That the appellants' submissions be accepted as being on Plan Change 50 and the land identified in the appellants' submissions on the Plan Change be rezoned Queenstown Town Centre Zone; or

- b) That the decision on Plan Change 50 to rezone any land Queenstown Town Centre Zone be reversed; or
- c) That the decision on Plan Change 50 be reversed so as to enable the merits of the rezoning of the land the subject of Plan Change 50 to be considered as part of the forthcoming review of the Queenstown Lakes District Council Operative District Plan which is due to be notified in August 2015; and
- d) An order for costs.

9) I attach the following documents to this notice:

- a) a copy of the appellants' submissions and further submissions;
- b) a copy of Plan Change 50 as notified comprising;
  - o the relevant s32 evaluation report,
  - o the proposed District Plan maps,
  - o the proposed District Plan provisions;
- c) a copy of the relevant decision;
- d) a list of names and addresses of persons to be served with a copy of this notice.




---

**Graeme Morris Todd** on behalf of the appellants

Date: 14<sup>th</sup> August 2015

Address for service of appellants:

At the offices of

GTODD LAW

3<sup>rd</sup> Floor, 36 Shotover Street

Queenstown 9300

Telephone: 03 441 2743

Fax: 03 441 2976

email: [graeme@gtoddlaw.com](mailto:graeme@gtoddlaw.com)

Contact person: Graeme Morris Todd

### **Note to appellant**

You may appeal only if—

- you referred in your submission or further submission to the provision or matter that is the subject of your appeal; and
- in the case of a decision relating to a proposed policy statement or plan (as opposed to a variation or change), your appeal does not seek withdrawal of the proposed policy statement or plan as a whole.

Your right to appeal may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.

The Environment Court, when hearing an appeal relating to a matter included in a document under section 55(2B), may consider only the question of law raised.

You must lodge the original and 1 copy of this notice with the Environment Court within 30 working days of being served with notice of the decision to be appealed. The notice must be signed by you or on your behalf. You must pay the filing fee required by regulation 35 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

You must serve a copy of this notice on the local authority that made the decision and on the Minister of Conservation (if the appeal is on a regional coastal plan), within 30 working days of being served with a notice of the decision.

You must also serve a copy of this notice on every person who made a submission to which the appeal relates within 5 working days after the notice is lodged with the Environment Court. Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address, and date of service for each person served with this notice.

However, 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).

### **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 (or or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.