

**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 an  
enforcement order  
pursuant to Section  
314(1)(f)(ii) of the Act

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

**Appellants**

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

**Respondent**

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**APPLICATION FOR AN ENFORCEMENT ORDER UNDER  
SECTION 314(1)(f)(ii)**

**Dated 15 June 2018**

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**MACALISTER TODD PHILLIPS**

Barristers, Solicitors, Notaries  
3<sup>rd</sup> Floor, 11-17 Church Street  
Queenstown 9300  
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Solicitor Acting: J E Macdonald

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## **APPLICATION FOR ENFORCEMENT ORDER**

**To:** The Registrar  
Environment Court  
Christchurch

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

- a. An enforcement order to direct the Respondent to comply with its obligations under Clause 10 of the First Schedule to the Act by reinstating the notified Low Density Residential zoning (“LDRZ”) over part of the land described below.

**2. The location for which the enforcement order is sought is:**

- a. 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”).

**3. The name and address of the person against whom the enforcement order is sought is:**

Queenstown Lakes District Council  
10 Gorge Road  
Queenstown

**4. 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.

- 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”.<sup>1</sup>

**5. 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.

**6. We apply for the order to be made on the following terms and conditions:**

- a. That the LDRZ over part of the Land as notified, be reinstated.

**7. Further relief sought by Applicants:**

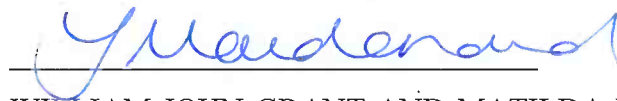
- a. Costs.

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<sup>1</sup> Refer Decision (Report 17-5), Section 3.20 on page 5

**8. 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

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

**Names and addresses of persons to be served with a copy of the  
Application for Declaration and Enforcement Order:**

1. Queenstown Lakes District Council  
10 Gorge Road  
Queenstown  
E: [dpappeals@qldc.govt.nz](mailto:dpappeals@qldc.govt.nz)
  
2. Remarkable Heights Limited  
C/-Clarke Fortune McDonald & Associates  
PO Box 553  
Queenstown 9348  
E: [ngeddes@cfma.co.nz](mailto:ngeddes@cfma.co.nz)
  
3. Queenstown Airport Corporation  
C/-Mitchell Partnerships Limited  
PO Box 489  
Dunedin 9054  
E: [kirsty.osullivan@mitchellpartnerships.co.nz](mailto:kirsty.osullivan@mitchellpartnerships.co.nz)