

In the Environment Court of New Zealand  
Christchurch Registry

I Te Koti Taiao o Aotearoa  
Ōtautahi Rohe

**ENV-2018-CHC-**

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Under	the Resource Management Act 1991 ( <b>RMA</b> )
In the matter of	An appeal under clause 14(1) of Schedule 1 of the RMA in relation to the proposed Queenstown Lakes District Plan
Between	<b>Wayfare Group Limited</b>
	Appellant
And	<b>Queenstown Lakes District Council</b>
	Respondent

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**Notice of Appeal – Wayfare Group Limited**

**Queenstown Lakes District Council Proposed District Plan Stage 2**

7 May 2019

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**Appellant's solicitors:**

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**To** The Registrar  
Environment Court  
Christchurch

- 1 Wayfare Group Limited (**Wayfare Group**) appeals against part of the decision of Queenstown Lakes District Council on Stage 2 of the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Wayfare Group Limited is the parent company of subsidiaries Real Journeys Limited, Go Orange Limited, Te Anau Developments Limited and Cardrona Alpine Resort Limited.
- 3 Wayfare Group Limited's subsidiaries made the following submissions and further submissions on Stage 2 of the PDP and Wayfare Group Limited is the successor to these submissions:
  - (a) Real Journeys Limited submission #2466 and further submission #2760;
  - (b) Go Orange Limited submission #2581 and further submission #2752;
  - (c) Te Anau Developments Limited submission #2494; and
  - (d) Cardrona Alpine Resort Limited #2492 and further submission #2800.
- 4 Wayfare Group Limited is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 5 Wayfare Group Limited received notice of the decision on 21 March 2019.
- 6 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 7 The parts of the decisions appealed relate to:
  - (a) Chapter 25 - Earthworks;
  - (b) Chapter 29 - Transport;
  - (c) Chapter 31 - Signs;
  - (d) Chapter 38 – Open Space and Recreation; and
  - (e) Visitor Accommodation Variation.
- 8 The reasons for appeal and general relief sought are summarised below. The specific provisions and the relief sought by Mt Christina are set out in **Appendix A** to this Appeal.

## Chapter 25 - Earthworks

- 9 Wayfare Group requests the proposed earthworks provisions be amended as required to:
- (a) Avoid overlap with the functions of the regional council specifically the Regional Water Plan, in particular Rule 13.5. This includes deleting proposed standards 25.5.12, 25.5.13 and 25.5.14.
  - (b) Permit day-to-day farming activities in the Rural General zone, including: cultivation, planting, fencing, maintenance and upgrading of access tracks, creation and maintenance of firebreaks, installation of culverts, clearance of drains, burying underground power cables, waterlines and installation of stock water troughs, installation of irrigation systems including buried waterlines, clearance of exotic vegetation, bores and geotechnical investigations, including test pits, composting and burying of waste, including cleared vegetation, works within the bed of any lake or river, including but not limited to the clearance of debris, maintenance and repair of existing infrastructure.
  - (c) Provide for the construction of walking and cycle trails in any zone.
  - (d) All earthworks activities undertaken in relation to the operation of Ski Activities in the Ski Area Sub Zones, including the making of tracks for summer recreation activities should be exempt from requiring resource consent. This exemption should also apply to earthworks undertaken for the purpose of constructing, maintaining or upgrading private roads and parking areas associated with accessing Ski Area Sub Zones.

### *Summary of reasons*

- 10 The Otago Regional Council and their administration of the Regional Water Plan play an important role in managing activities within and around waterbodies which may adversely affect water quality and other environmental values. Some of the proposed earthwork standards overlap and do not integrate with the operative Regional Water Plan provisions.
- 11 Additionally, the Regional Plan permits the disturbance of the bed of any river for the purpose of clearing any material that has accumulated as a result of a storm event in order to maintain the flood carrying capacity of the bed of the river and the repair or maintenance of any defence against water constructed or placed by artificial means (for example refer Regional Water Plan rule 13.5.1). It is also a permitted activity in the Regional Water Plan to alter or reconstruct any defence against water (other than on the bed of any lake or river) providing

there is no permanent change to the scale, nature or function of the defence against water.

- 12 It is not uncommon for earthworks to be required to protect buildings and structures from flooding and rock falls and Wayfare Group contends that resource consent for such activities should not be required within 10 metres of a water body.
- 13 The Otago Regional Council has specific duties and functions to specifically manage discharges and disturbances to waterbodies. Wayfare Group contends it unreasonable for QLDC to require resource consent for these activities when the Otago Regional Council does not because the Regional Council recognises that defences against water are important in Otago as they mitigate flood and erosion hazards.

#### *Farming Activities*

- 14 Wayfare Group's subsidiaries owns a 155 hectare Walter Peak property located at Beach Bay on Lake Wakatipu, 13km from Queenstown, which includes the Colonel's Homestead, surrounding buildings and a rural demonstration amphitheatre. This land holding is effectively a small farm and is managed as such. The Wayfare Group use this location to operate mainly dining and farm experiences serviced by the vintage steamship, the "TSS Earnslaw".
- 15 It is appropriate for day-to-day farming activities to be undertaken without any need of resource consent. In this regard it would be highly inefficient for any small farming operation or rural land holding to be subject to the resource consent process.

#### *Providing for walking and cycling trails*

- 16 Wayfare Group supports the establishment of walking and cycle trails, including expansion of the existing trail networks. These trails are an important recreational asset to the district and the district plan should facilitate the ability for trails to be used, maintained, upgraded and extended in all zones without much regulatory burden.

#### *Providing for recreation activities*

- 17 As part of its subsidiaries' rafting operations, Wayfare Group is required to undertake earthworks within and along the beds of rivers. This is often required to be undertaken to address actual or potential risks to people or infrastructure. Wayfare Group considers earthworks associated with its operations should be provided for as permitted, controlled or restricted discretionary activities.

#### *Ski Area Sub Zones*

- 18 One of Wayfare Group's subsidiaries, Cardrona Alpine Resort Limited (**CARL**), operates Cardrona Ski Area in the Cardrona Ski Area Sub Zone.
- 19 Traditionally, the District Plan excluding Ski Area Sub Zones from the earthworks rules. This approach was accepted to enable the development of ski areas recognising their importance in contributing to the social and economic well-being of the community. Wayfare Group opposes the dilution of this effective and efficient approach.
- 20 It is exceedingly important for small communities to build year-round employment and economic growth. The operation of Cardrona Alpine Resort will continue to help support the economic growth and job opportunities for Queenstown and Wanaka. With over 335,000 visitors per annum and 700 employees, this is not a small contribution for the local area. Significant pressures face the ski/snowboarding industry with rising costs of operation; increasing expectations from guests; increased safety requirements and changes to legislation; the fast-paced nature of changing trends; climate change pressures, and the need to look at more unique products to ensure financial viability in the future.
- 21 Cardrona Alpine Resort is now a successful summer destination for sightseeing, carting, accommodation operations, and mountain biking which requires the development of trails. Summer operations have continued to grow leading to further economic growth for the district and employment opportunities.
- 22 Ski Area Sub-Zones are identified on the Planning Maps and skiing activities provided for in recognition of their regional (and potentially national) economic importance. The identified ski areas anticipate and provide for the kinds of activities traditionally carried out within ski/snowboarding fields. Those activities, of necessity, include 'terraforming' the landscape involving extensive earthworks. Such earthworks are an integral and essential aspect of the construction, operation, and maintenance of ski/snowboarding areas. Cardrona is a ski field today because of the ability of its highly respected and decorated founders being able to develop and modify the terrain. The volume of earthworks can be substantial on an annual basis – over 100,000m<sup>3</sup>.
- 23 The quality, safety, efficient use of water, and snow coverage of the ski area slopes starts with good earthworks. The better the terrain is managed through continuous improvement the more efficient CARL can be using the snow and ensuring guests have the best experience they can. CARL has a very tight window of opportunity and it is difficult to predict the specifics of what needs to be done until the ski season is over and the snow clears before the summer season begins.

- 24 Any limitation or inability to conduct earthworks over a very short summer working season can severely limit our ability to make safety modifications, improvements, and development of new features.
- 25 The specific provisions of Chapter 25 and the relief sought by Wayfare Group are set out in **Appendix A** to this Appeal.

### **Chapter 29 - Transport**

- 26 Wayfare Group requests the chapter (and any other district plan provision that may be applicable to transport) be amended as required to ensure:
- (a) All transport services and associated infrastructure is provided for and not discouraged. This includes providing equally for both public and private transport services. The different modes of transport should be articulated, particularly: land transport; inclusive of walking access and the cycle trails network; and water transport; particularly passenger transport services.
  - (b) Private roads and carparks associated with accessing Ski Area Sub Zones are recognized as important and integral parts of the local transport network and are able to be used, maintained, upgraded and extended without a discernible regulatory burden.
- 27 Wayfare Group seeks retention or inclusion of provisions which support or promote activities and development that will reduce congestion in the Queenstown CBD, for example provisions which seek to avoid campervans circulating and parking in the CBD.
- 28 Wayfare Group also requests that the proposed Transport provisions be amended to:
- (a) Recognise the role and benefits of passenger transport services (including private coaches or buses) in supporting the transportation of visitors throughout the district and reducing vehicle movements.
  - (b) Ensure coaches and buses can provide pick up and drop off services to Visitor Accommodation Activities and Residential Visitor Accommodation Activities.

### *Summary of reasons*

- 29 Wayfare Group's subsidiary Real Journeys Limited (**Real Journeys**) has been providing transportation services in the southern region since 1954 and the Queenstown Lakes District for almost 50 years. The company has significant investment in its transport fleet and supporting infrastructure. Real Journeys also has numerous commercial recreation and tourism ventures in the district,

the majority of which are totally reliant on private land, road, water and air transport services.

- 30 The district is suffering from an inadequate transportation system and associated transport infrastructure. As demand for the resort's activities increases it is inevitable that transport activity and infrastructure demands will be required to be maintained, upgraded and extended. It is essential that all types of transport services and associated infrastructure (both public and private) be provided for and not limited by unnecessary or inefficient regulation.
- 31 The transport provisions concentrate on the road network and do not satisfactorily recognise the benefits or provide for other means of transport, including the provision of cycling and walking (including the trails network), air and water transport and their associated infrastructure. Specific recognition of and provision for each of these modes of transport should be articulated in the Transport chapter.
- 32 Wayfare Group's subsidiaries own the Convelle Wharves in Queenstown Bay. These jetties are currently utilised by vessel operators for water taxi purposes, guided fishing tours and lake tours.

*Real Journeys' background – A key stakeholder in the district's transport network*

- 33 In 1954 Les and Olive Hutchins began operating the Manapouri-Doubtful Sound Tourist Company, running four day excursions to and from Doubtful Sound. In 1966 Les and Olive acquired Fiordland Travel Ltd, with its Te Anau Glow-worm Caves and Milford Track Lake Transport operation and began trading as Fiordland Travel Limited. Continued expansion followed with the purchase of the vintage steamship "TSS Earnslaw" in Queenstown in 1969 and with the establishment of cruises in Milford Sound in 1970. In 1974 a launch was relocated to Doubtful Sound and the company commenced operating coaches on the Wilmot Pass enabling Doubtful Sound cruises to re-commence after the completion of the Manapouri Power Station. In 1984 a luxury coach service was introduced linking Queenstown to the company's Manapouri, Te Anau and Milford Sound excursions which over the decades has expanded to service both day and overnight excursions in Fiordland and the Stewart Island ferries.
- 34 Since 2002 Fiordland Travel Ltd has operated all its tourism excursions under the 'Real Journeys' brand and in 2006 changed its company name to Real Journeys Limited. In 2004 Stewart Island Experience was established and the company commenced operating ferry services to Stewart Island. In 2013 Real Journeys launched the Go Orange brand; purchased Cardrona Alpine Resort and the 155 hectare property at Walter Peak which Real Journeys previously leased. Then in 2015 Real Journeys purchased the International Antarctic Centre in Christchurch and in 2016 Real Journeys took over 100% ownership of

Queenstown Rafting and purchased Kiwi Discovery which are now operated under the Go Orange brand. Further in 2018 Go Orange purchased the Lake Wakatipu Water Taxi and Ferry business and Thunder Jet, extending the scope of the Go Orange water-based activities in Otago

- 35 Wayfare Group remains a private, family owned company and is now the largest tourism operator in the region with operational bases in Christchurch, Milford Sound, Te Anau, Manapouri, Queenstown, Wanaka and Stewart Island. The company operates 24 vessels and approximately 45 coaches across the group. Real Journeys employs about 540 staff during the peak summer months and in excess of 1000 staff across the Wayfare Group. 950,000 passengers travelled with Real Journeys in the last 12 months, and 1.5 million across the group.

#### *Transport considerations*

- 36 The coach tours, shuttle buses and courtesy coaches operated by companies such as Real Journeys / Go Orange need to be adequately recognised in the District Plan because these vehicle operations significantly reduce traffic congestion especially in and around Queenstown.
- 37 Shuttle services to the ski fields will become increasingly important as it is impossible to fit chains to many modern cars therefore to go skiing some people must travel via coach.
- 38 This market is undergoing a very rapid shift away from travelling in coaches towards Free Independent Travellers (FIT) (non-tour) with many more visitors travelling around New Zealand in rental vehicles which is a shift away from touring coaches.
- 39 In this context operators such as Real Journeys who endeavour to get visitors to travel via coach rather than rental car should be valued and acknowledged in this planning framework.
- 40 One particular concern to Wayfare Group is that the traffic congestion especially in and around Queenstown is slowing down traffic speed and making the coach journey between Queenstown and Milford Sound or Manapouri longer. If the travel delays caused by traffic congestion are not addressed this will compromise the ability to operate coach tours ex Queenstown and to and from Milford Sound / Manapouri which in turn, will exacerbate traffic congestion by putting more rental vehicles on the road.
- 41 The PDP provisions concentrate on the road network and do not satisfactorily recognise the benefits or provide for other means of transport, including the provision of cycling and walking (including the trails network), air and water

transport and their associated infrastructure. Specific recognition of and provision for each of these modes of transport should be articulated in the Transport chapter.

- 42 Nevertheless it is also essential that this planning framework provides for sufficient parking (which is perceived as safe and reliable) for visitors to the District in centres such as Queenstown or Wanaka. Otherwise visitors will use their rental vehicles to tour the region and access attractions rather than opting to use the types of shuttle bus services or coach tours operated companies such as Real Journeys; which will in turn increase traffic congestion across the District.
- 43 Wayfare Group's subsidiaries have a long tradition of providing door-to-door services including pick up, delivery and drop off between the airport or bus stop, place of accommodation, and destination/activity. This service reduces the dependence on individual vehicles using the transport network and benefits visitors by avoiding the need for them to rent vehicles. The benefits of this existing service and consequences (including costs on existing passenger service operators) do not appear in the new transport provisions.
- 44 The specific provisions of Chapter 29 and the relief sought by Wayfare Group Limited are set out in **Appendix A** to this Appeal.

### **Chapter 31 - Signs**

- 45 Wayfare Group requests amending the signage provisions to ensure that:
- (a) The objectives and policies recognise the general intent of signage is to be conspicuous, and thus signs will often appear in contrast to buildings or structures upon which signage is located.
  - (b) Health and safety, interpretive, and sponsorship signage associated with MICE<sup>1</sup> is enabled.
  - (c) Signage is provided for as a permitted activity on private land where it is not visible from a public space or neighbouring property.
  - (d) Signage within a reserve to be provided for (as a permitted or controlled activity subject to standards).
  - (e) Signage (in particular directional, interpretive, sponsorship, temporary) relating to the operation and management of the "TSS Earnslaw" and her associated infrastructure to be permitted subject to standards and

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<sup>1</sup> MICE (M eetings, I ncentives, C onferences, E vents), a commonly used term in the tourism industry

managed as controlled or restricted discretionary activities if those standards are breached.

- (f) All signage in Ski Area Sub Zones be provided for (as a permitted activity) where it is not visible from a public space or neighbouring property.
- (g) All signage in Ski Area Sub Zones be provided for (as a permitted or controlled activity subject to standards) where it is visible from a public space or neighbouring property.
- (h) All signage (in particular directional, interpretive, sponsorship and temporary signage) located outside Ski Area Sub Zones but relating to activities within the Ski Area Sub Zones be permitted subject to standards and managed as controlled or restricted discretionary activities if those standards are breached.
- (i) The Assessment Matters are deleted.

- 46 The proposed objectives and policies frustrate the key purpose of signage which is to draw peoples' attention and be visually conspicuous to be effective. Consequently, in many instances signage is not compatible with the character of the site, buildings and surrounding environment. The proposed objectives and policy should be more balanced by recognising this.
- 47 The provisions are too uncertain or onerous in places. For example it can be argued that all signage adversely affects the visual amenity of the surrounding environment.
- 48 It is not efficient or necessary to impose signage controls where signage cannot be seen in the public realm or from neighbouring properties. Similarly, numerous signs are required for health and safety purposes (particularly around construction activities) and this type of signage should not require resource consent.
- 49 Interpretive signage plays an important role alongside directional and other signage provided for. Similarly, sponsorship signage can have reasonably important local socioeconomic and community benefits. These benefits should be recognised and provided for.
- 50 CARL is a private resort area where signage is necessary to inform and direct its visitors. The majority of signage cannot be seen from public or neighbouring locations and therefore should not be of concern to members of the public or neighbours. Signage which is visible to public or neighbouring areas should be provided for and not discouraged.

- 51 The proposed Assessment Matters are problematic in that they serve no real purpose. They create uncertainty and inefficiencies in the administration of the district plan. The Assessment Matters are not necessary (let alone the most appropriate) method for implementing the purpose of the RMA or any district plan objective.
- 52 The specific provisions of Chapter 31 and the relief sought by Wayfare Group Limited are set out in **Appendix A** to this Appeal.

### **Chapter 38 – Open Space and Recreation**

- 53 Wayfare Group requests that the proposed Open Space chapter and District Plan framework be amended as follows:
- (a) Delete or significantly amend the Chapter to create a simpler framework, for example one or two zones with only a few objectives and policies and methods which provide for a range of open space and recreation activities as either permitted, controlled or discretionary activities.
  - (b) Recognise the benefits of and provide for commercial recreation and transport activities in all open space zones. Ensure these activities are not discouraged.
  - (c) Permit or control the ongoing use, maintenance and upgrading, of existing infrastructure located within the Open Space zone.

#### *Summary of reasons*

- 54 Wayfare Group has considerable investment in, and relies to a large extent, on the district's reserves network. Wayfare Group has ongoing relationships with the Crown and QLDC in relation to numerous reserves in the Queenstown Lakes District. Wayfare Group administers some reserves in the District on behalf of the Crown.
- 55 Wayfare Group is concerned about the level of inefficiencies the proposed open space framework will introduce. The proposed new provisions will unnecessarily introduce new costs and uncertainties, and make it more difficult to undertake certain activities and development, in the district's reserves network. There is insufficient justification in the s32 evaluation as to why this new approach is the most appropriate for implementing the purpose of the RMA.
- 56 All public reserves are (or at least must be) administered in accordance with the Reserves Act. The requirements of the Reserves Act are not (and cannot to the best of our knowledge) be ignored or trumped by provisions in the District Plan. Effectively, under the Reserves Act no person can do anything on the Council's Reserves without QLDC's (and therefore the community's best interests)

permission / support. Council has the ability to manage all of the issues raised in the Chapter outside the RMA process, for example buildings, activities, earthworks, and landscaping. However the proposed chapter takes the reserve management process to an entirely different and unnecessarily prescriptive level.

- 57 Real Journeys operates the "TSS Earnslaw" and her associated infrastructure at the Kelvin Peninsula and in Queenstown Bay. This infrastructure and Real Journeys' ability to use, operate, maintain and upgrade it would appear to be directly affected by the proposed provisions. The proposed provisions potentially also directly affect the ability to transfer (load and unload) passengers and goods.
- 58 The "TSS Earnslaw" Slipway is traversed by an unformed road. The extent to which road reserves are managed in this Chapter is not clear.
- 59 Another of Wayfare Group's subsidiaries (Go Orange Limited, formerly Queenstown Rafting) operates commercial recreation activities in and along the margins of rivers. This activity is directly affected by the proposed provisions. Go Orange has numerous concessions and permits to operate within river margins and the proposed provisions appear to add another layer of administration.
- 60 The framework creates inconsistency with the way in which reserves administered by the Crown are managed. Wayfare Group observes that the majority of the district's reserve land is administered by the Crown, including most of the district's marginal strips.
- 61 There are insufficient reserves and Council parks in the district to warrant this chapter. The proposed framework is also inconsistent with the approach that Real Journeys requested on the whole District Plan (Stage 1) to provide a new Water Chapter. Much of the Council's reserve land is not afforded protection under s.6 of the RMA. Unlike the District's lakes and rivers, which QLDC supports a Rural Zoning, most of the land subject to the proposed open space chapter is not recognised as being ONL. We observe the Nature Conservation Zone could be problematic as most of the marginal strips vested with the Council are developed areas such as parks with already low conservation values. It will be difficult to protect something that is hardly present.
- 62 Wayfare Group does not understand QLDC's unwillingness to provide a dedicated framework to one of the district's most valuable resources (waterbodies), which have considerable resource management issues requiring management under the RMA, yet afford a specific chapter for its relatively small reserves network.

63 The specific provisions of Chapter 38 and the relief sought by Wayfare Group Limited are set out in **Appendix A** to this Appeal.

#### **Visitor Accommodation Variation**

64 Wayfare Group requests that the proposed Residential Visitor Accommodation (**RVA**) (and if required Transport) provisions be amended to:

- (a) Recognise the role and benefits of passenger transport services (including private coaches or buses) in supporting the transportation of visitors throughout the district and reducing vehicle movements.
- (b) Ensure coaches and buses can provide pick up and drop off services to VA and RVA – for example delete the clauses restricting the daily coach or bus trips or make this a controlled activity standard.

#### *Summary of Reasons*

65 Wayfare Group's subsidiaries have a long tradition of providing door-to-door services including pick up, delivery and drop off between the airport or bus stop, place of accommodation, and destination/activity. This service reduces the dependence on individual vehicles using the transport network and benefits visitors by avoiding the need for them to rent vehicles. The benefits of this existing service and consequences (including costs on existing passenger service operators) do not appear to have been considered in the Visitor Accommodation Variation provisions.

66 The specific provisions of the Visitor Accommodation Variation and the relief sought by Wayfare Group Limited is set out in Appendix A to this Appeal.

#### **Further and consequential relief sought**

67 Wayfare Group Limited opposes any further provisions and seeks alternative, consequential, or necessary additional relief to that set out in this appeal and to give effect to the matters raised generally in this appeal and Wayfare Group's subsidiaries' submissions.

#### **Attachments**

68 The following documents are **attached** to this notice:

- (a) **Appendix A** – relief sought
- (b) **Appendix B** - A copy of the Appellant's submission and further submissions;
- (c) **Appendix C** - A copy of the relevant parts of the decision; and

- (d) **Appendix D** - A list of names and addresses of persons to be served with this notice.

Dated this 7<sup>th</sup> day of May 2019

*Maree Baker-Galloway*

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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 (or) the decision (or 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 in Christchurch.