

Notice to Environment Court of appeal on decision on application concerning resource consent, transfer of water permit or discharge permit, certificate of compliance, or esplanade strip

*Sections 121, 127(3), 132(2), 136(4)(b), 137(5)(c), 139(12), and 234(4),
Resource Management Act 1991*

**To: The Register
Environment Court
Auckland, Wellington, or Christchurch**

We, **Keep Halfway Bush Semi-Rural Incorporated**, appeal a decision on the following matter:

Re-zoning of 33-49 Dalziel Road to Large Lot Residential under the 2GP District Plan

Members of Keep Halfway Bush Semi-Rural Incorporated made submissions on that application.

We received notice of the decision on **7 November, 2018**.

The decision was made by **Dunedin City Council**

I am not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.

The decision we are appealing is:

The re-zoning of 33-49 Dalziel Road to Large Lot Residential

The land affected is:

33-49 Dalziel Road

The reasons for the appeal are as follows:

1. We believe the Dunedin City Council was unable to provide a fair hearing regarding the re-zoning of this land due to bias. There have been a number of resource consent applications for development of this land since 2010. Decisions made by the council on these previous consents show the council has a bias towards the land being used for residential activity. We therefore do not believe submitters opposing the zone change to large-lot residential received a fair hearing. Historical consents which support the council's pre-determined intent to allow residential activity on this land include:

- a) The owners of this land sort permission to subdivide their rural land into nine 2ha Lots. Only a few submissions were received, all of which supported the rural-residential sized lots. However, during the hearing process (of which no submitters attended) the hearing committee requested some of the Lots be reduced to sizes as small as 0.2ha. Approval was granted after the changes in Lot size had been made. The resource consent application was not re-notified and many members of the public who received the original submission were unaware of the lot size changes until a subsequent application by the developer a few years later. Based on the original application of rural residential sized titles, few residents submitted on this, and none were in opposition, mainly because the 2ha sized properties were in keeping with other properties in the area. However, a number of residents have expressed they would have opposed the application had they been informed of the significant reduction in lot size for some of the titles. It is also likely that these smaller lot sizes became the catalyst for the DCC to re-zone the land to large-lot residential in the 2GP Plan, rather than rural residential (which would have been more likely if the lot sizes had remained at 2ha).
- b) In May 2014 the council approved a request from RPR Properties Ltd to connect the rural zoned land to reticulated water and waste water services. Justification for this "*unusual decision*" was because "*the council believed the area would be good for urban expansion*" (Paul Freeland, DCC Planner, ODT 6 May, 2014).
- c) SUB-2016-45 and LUC-2016-245 where they permitted a boundary adjustment change which allowed Lot 2 to be reduced from 2.915ha to 0.248ha and reduced Lot 3 in size from 0.486 ha to 0.2020 ha, which constitutes a significant change in the subdivision. This should have been publicly notified in a manner that identified that the application was for significantly more than a "boundary adjustment" and was actually seeking to create small residential lots in a rural area.

2. The DCC has not fully considered the impact the new zoning will have on established land owners or the community. According to the Resource Management Act 1991, under "Sustainable Management", they need to manage/protect resources in a way, or rate, which enables people and communities to provide for their social, economic and cultural wellbeing. . ." We don't believe the DCC has acknowledged this requirement. Areas where we believe the DCC has failed to acknowledge a "more than minor" impact on our community include:

- a) The "more than minor" impact re-zoning the land to large-lot residential would have on established businesses in the area. In particular, the significant affect created from increased housing immediately across the road from an alpaca breeding farm and a farmstay holiday home business. Concerns on increased dogs wandering around the area, leading to potential dog attacks on stock,

as well as the decreased semi-rural setting could significantly impact on both businesses.

- b) The "more than minor" impact re-zoning the land to large-lot residential would have on established lifestyle block owners in the area. Many are concerned about their loss of privacy and lifestyle. There is genuine concern that increased housing will negatively affect traffic, noise and light pollution, water run off, bird wildlife, historical features in the area and the visual aesthetics of the current landscape. There is also concern that livestock will be susceptible to dog attacks due to the increased number of dogs as a result of increased urbanisation. The DCC have failed to acknowledge this impact in their decision, yet when the developers sort to subdivide the land into a further 34 lots (SUB2015-54 and LUC 2015-291) in 2015, DCC land planner Lianne Darby, made the following comments in the consent hearing report (29th October, 2015):
"declining consent would, however, preserve the more rural-residential character of the subject sites in line with the land to the north and west" (pp199), and "...proposed subdivision and residential use of the new lots will have adverse effects on amenities which are moderate. ... The effects will not only be visually, but will impact on the lifestyle quality of the adjacent rural-residential development in a manner not anticipated by any of the residents of the rural-residential zone at the time of purchase..." (pp213).
- c) The "more than minor" impact re-zoning the land to large-lot residential would have on the general public who use the area for recreational purposes. This includes walking, running, cycling and horse-riding. There is also a risk that increased urbanisation will reduce potential grazing areas for horses, which could have a negative affect on the near by pony club.

We seek the following relief:

The re-zoning of 33-49 Dalziel Road to Rural-Residential

We attach the following documents to this notice:

- (a) a copy of our submissions
- (b) a copy of the relevant 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.

*These documents constitute part of this form and, as such, must be attached to both copies of the notice lodged with the Environment Court. The appellant does not need to attach a copy of a regional or district plan or policy statement. In addition, the appellant does not need to attach copies of the submission and decision to copies of this notice served on other persons if the copy served lists these documents and states that copies may be obtained, on request, from the appellant.

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Angela Ruske (President of Keep Halfway Bush Semi-Rural Incorporated)

Angela Ruske

Date 14 December, 2018

Address for service of appellant:

Angela Ruske, 42 Dalziel Road, Halfway Bush, Dunedin, 9010

Telephone: 021452111

Fax/email: ruske@stonebarn.co.nz

Contact person: Angela Ruske, President of Keep Halfway Bush Semi-Rural Incorporated.

Note to appellant

You may use this form to lodge an appeal.

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

You must lodge the original and 1 copy of this notice with the Environment Court within 15 working days of receiving notice of the decision. 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 authority that made the decision within 15 working days of receiving notice of the decision.

You must also serve a copy of this notice on the applicant or consent holder, on every person who made a submission on the application or review of consent conditions, and (if the decision relates to a restricted coastal activity) on the Minister of Conservation within 5 working days of lodging it 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

How to become party to proceedings

You may be a party to the appeal if,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, you 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, you 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 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 relevant application (*or* submission) and (*or or*) the relevant decision (*or* part of the decision). These documents may be obtained, on request, from the appellant.

*Delete this paragraph if these documents are attached to copies of the notice served on other persons.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

List of names **and addresses** of persons to be served with a copy of this notice:

1. 2GP Appeal, Dunedin City Council, PO Box 5045, Dunedin 9054
2. RPR Properties PO Box 4421, Mosgiel 9053
3. Robert McTaggart, 17 Three Mile Hill Road, Dunedin 9010
4. Peter Mortimer, 37 Dalziel Road, Halfway Bush, Dunedin 9010
5. Rachel Mortimer, 37 Dalziel Road, Halfway Bush, Dunedin 9010
6. Steven McPherson, 53 Dalziel Road, Halfway Bush, Dunedin 9010
7. Sonia McPherson, 53 Dalziel Road, Halfway Bush, Dunedin 9010
8. Greg Ward, 2 Dalziel Road, Halfway Bush, Dunedin
9. Trevor Millar, 5 Three Mile Hill Road, Dunedin 9010

KEEP HALFWAY BUSH SEMI-RURAL INCORPORATED

Members who made a 2GP Submission on the 2GP District plan rezoning of 33-49 Dalziel Road:

Name	Original Submission Number
Angela Ruske	1012
Alice Wouters	628
Chris Rietveld	838
Murray & Aniko Fiora	134
Doug & Lesley Ramsay	295
Lynn Gipp	231
Alexander Findlater	952

	Further Submission Number
A. Wouters & C. Rietvied	2256
Doug & Lesley Ramsay	2103
Lisa & Brent Wooltorton	2165
Valerie Dempster	2419
Jody & Michael Hazlett	2064
Lindsay Robertson	2066

All Members:

A Ruske	A Findlater
A Wouters	B Wooltorton
D Ruske	L Wooltorton
C Rietveld	L Hayes
R Warren	M Fiora
C Werner	A Fiora
T Phillips	V Dempster
S Hill	K Findlater
M Hill	B Rietveld
D Ramsay	
L Ramsay	
M Hazlett	
J Hazlett	
S Warren	
L Wilson	
A Wilson	
L Robertson	
M Thorburn	
A Thorburn	
L Gipp	
B Kendall	
B Kendall	