

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-

Under	the Resource Management Act 1991 (RMA)
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	FII Holdings Limited
	Appellant
And	Queenstown Lakes District Council
	Respondent

Notice of Appeal

19 June 2018

Appellant's solicitors:

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To The Registrar
Environment Court
Christchurch

- 1 FII Holdings Limited (**FII**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 FII made a submission (#847) and further submission (#1189) on the PDP.
- 3 FII is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 FII received notice of the decision on 7 May 2018.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decisions appealed relate to:
 - (a) Chapter 3 Strategic Direction;
 - (b) Chapter 4 Urban Development;
 - (c) Chapter 16 Mixed Business Use;
 - (d) Chapter 27 Subdivision;
 - (e) Planning Map 31a.
- 7 Reasons for appeal

Frankton North Specific Issues

- 8 FII owns land legally described as Sec 3 and 5 SO 502556, held in CFR 806429 (**Site**), adjacent to SH6 Frankton-Ladies Mile Highway. The Site was notified as Medium Density Residential Zoning (**MDR**) through the PDP, and has been retained as such in the Council's Decisions. FII submitted generally on the notified zoning of its Site and the surrounding land also included in the MDR zoning, and on submissions which sought alternative zonings (#717, #751, #177 #399).
- 9 A broad range of submissions were lodged to the PDP seeking alternative zoning outcomes for the Site and adjacent land, within the Urban Growth Boundary and zoned MBU / MDR to the north of SH6 (collectively referred to as **Frankton North**) as indicated coloured orange and red in **Appendix B**. Those submissions sought a range of outcomes from Rural Zone, to alternative zoning which provides for residential, light industry, service activities, trade based suppliers,

and storage, through any mixture of Low, Medium, or High Density Residential, Industrial, Mixed Business Use, or Local Shopping Centre Zones.

- 10 In the course of hearings on the Frankton North Land, FII worked constructively with adjacent landholder submitters to present a joint proposal to Council which involved a comprehensive site-specific set of provisions for Mixed Business Use Zoning, including a structure plan to establish vehicle access to and within the zone and specific subdivision rules. FII therefore has broad standing in respect of seeking or supporting notified and alternative zonings of its site and the Frankton North land.
- 11 The Council's Decision in part accepted this relief; however the FII Site has not been rezoned from MDR as originally notified. This Decision is contrary to the Submitter's expert evidence produced, seeking a specific Frankton North Mixed Business Use Zone. The Council's Decision is considered to be an inefficient and ineffective use of the Site as it does not provide for mixed commercial activities, for which there is a current and projected shortfall of zoning across the District.
- 12 Among other concerns, the Council's Decision referred to a concern for rezoning the Frankton North land Mixed Business Use as undermining the viability and functioning of the Frankton Commercial areas. Mechanisms to address these concerns can be included in any subsequent rezoning of the Frankton North land, such as by including limitations on ground floor areas so as to reduce impacts on other large format retail in Frankton, if that is considered necessary or appropriate.
- 13 The Council's PDP Decision fails to adequately provide for the higher order provisions of the PDP, the operative and proposed RPS, Part 2 of the Act, and therefore is not the most effective and efficient zoning having regard to the requisite section 32 assessment.
- 14 Without derogating from the generality of the issues identified above, FII now seeks the following outcomes in the PDP:
 - (a) Rezoning of the Site and surrounding Frankton North land to enable further residential density and / or mixed commercial and activities, through a rezoning to Mixed Business Use, or other zoning which would achieve similar outcomes;
 - (b) Consequential amendments to the provisions of the above zone chapters to provide a site-specific regime for the Site and the Frankton North land, including by way of structure plan and associated subdivision rules; and

- (c) Consequential amendments to any strategic and higher order provisions of the PDP so as to support and give effect to the ultimate Frankton North zoning; and
- 15 The particulars of this relief sought by FII are further set out in Appendices **A B, and C** to this Appeal.
- 16 The rezoning relief as set out in this Appeal is considered to provide for a more efficient and effective development regime for the Frankton North land, which will positively contribute to the District's projected shortfall in commercial zoned land and current housing affordability and supply issues. This relief better achieves:
- (a) The higher order provisions of the PDP, proposed and operative Regional Policy Statements;
 - (b) Section 32 of the Act;
 - (c) Part 2 of the Act.

Chapter 3 Strategic Direction

- 17 Chapter 3 provides for the overarching strategic direction for resource management in the Queenstown Lakes District. The nature of Chapter 3 applying as higher order provisions to all other provisions of the PDP means that FII interests are affected by Chapter 3.
- 18 Significant changes to the content and structure of Chapter 3 have occurred between the notified PDP version and the decisions version. FII therefore considers that its appeal on this chapter is significantly broad and not limited in scope to original policies and objectives listed.
- 19 FII opposes those provisions of Chapter 3 which do not provide for efficient and effective urban development, and which do not provide sufficiently for the social, economic, and cultural wellbeing of people and communities.
- 20 The specific provisions of Chapter 3 and the relief sought by FII are set out in **Appendix A** to this Appeal.

Chapter 4 Urban Development

- 21 Chapter 4 provides for 'hard' urban edges by ensuring a transition to adjacent rural zones is provided for within a UGB. This is opposed on the basis that land zoned for development within a UGB should be used for that purpose and not unnecessarily constrained.

- 22 The specific provisions of Chapter 4 and the relief sought by FII are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision

- 23 FII is in particular concerned with the removal of a controlled activity subdivision status for residential and business zoned land. Controlled activity status is critical to the successful development and completion of subdivision within developable zones (including Mixed Business Use, Township, Special, and residential). These are zones which are anticipated for further subdivision and development, and therefore subdivision should be enabled to achieve the purpose as land use change is expected. These are zones in which the anticipated level of effects for the Zone have been considered and accepted at a local and District Wide level.
- 24 The specific provisions of Chapter 27 and the relief sought by FII are set out in **Appendix A** to this Appeal.

Further and consequential relief sought

- 25 FII seeks alternative, consequential, or additional relief to that set out in this appeal necessary to give effect to the matters raised generally in this appeal and FII's PDP submission and further submission.

Attachments

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

Appendix A – Relief sought

Appendix B – Location of Frankton North Land

Appendix C – Proposed Frankton North Structure Plan

Appendix D - A copy of the Appellant's submission and further submission;

Appendix E - A copy of the relevant parts of the decision; and

Appendix F - A list of names and addresses of persons to be served with this notice.

Dated this 19th day of June 2018



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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).

Advice

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