

BEFORE THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY

No. RMA

IN THE MATTER OF The Resource Management Act 1991

AND

IN THE MATTER OF An appeal under clause 14 of the First
Schedule to that Act in respect of
decisions issued by the Queenstown
Lakes District Council on Proposed
Plan Change 16 to the Operative
Queenstown Lakes District Plan.

BETWEEN Firth Industries, a division of
Fletcher Concrete and Infrastructure

Referrer

AND Queenstown Lakes District Council

Respondent

NOTICE OF APPEAL TO ENVIRONMENT COURT
AGAINST DECISIONS ON PROPOSED PLAN CHANGE 16
TO THE OPERATIVE QUEENSTOWN LAKES DISTRICT
PLAN PURSUANT TO CLAUSE 14(1)
OF THE FIRST SCHEDULE TO THE
RESOURCE MANAGEMENT ACT 1991

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TO: The Registrar,
Environment Court
Christchurch.

We, Firth Industries, a division of Fletcher Concrete and Infrastructure (“Firth Industries”), appeal against **parts of a decision** of the Queenstown Lakes District Council (“the Council”) on Proposed Plan Change 16 to the Operative Queenstown Lakes District Plan.

1. Firth Industries made submissions on Plan Change 16 to the Queenstown Lakes District Plan. A copy of the relevant parts of the Queenstown Lakes District Council’s Decisions are attached as *Annexure A*. A copy of the relevant parts of Firth Industries’ submissions and written statement tabled at the Council hearing are attached as *Annexure B*.
2. Firth Industries received notice of the decisions on 8 February 2010.
3. The decisions were made by the Queenstown Lakes District Council.
4. The parts of the decisions that Firth Industries is appealing are as follows:

(a) Issue 5: The Appropriateness of the Structure Plan – the Layout, Green Space and Roding

The decision on Issue 5 **rejects** Firth Industries submissions points 16/11/1, 16/11/2 and 16/11/3. Firth Industries sought that the location of the ‘New Arterial Road’ where it intersects with Ballantyne Road be shifted either to the northern-most or southern-most boundary of the Plan Change area on Ballantyne Road. If this relief was not granted, then Firth Industries sought that:

- (a) no access be permitted from Ballantyne Road into the Plan Change area; or

(b) that the Plan Change be rejected.

The decision rejects the submission points on the basis of a specially commissioned Traffic Assessment Report (see *Annexure C*) which investigated the traffic impacts of the intersection location. The Traffic Assessment Report concluded that the intersection point can remain in its current position (+/- 20m). This is on the basis that safety issues can be adequately mitigated through careful intersection design in consultation with both Firth Industries and the adjacent landowners. The decision confirms the Council Officers recommendation that limited notification be enabled regarding the design of the intersection of the main arterial and Ballantynes Road in order to ensure an 'optimal outcome' is achieved.

(b) Issue 6(f): The Appropriateness of provisions relating to the non-notification of various resource consent applications.

The decision on Issue 6(f) **accepts in part** Firth Industries submission point 16/11/4 to make any 'consequential amendments' that give effect to the Firth Industries submission. The Issue 6(f) decision addresses Firth Industries concerns about the intersection location and design, plus, as notified in the proposed plan change, Outline Development Plans and Comprehensive Development Plans do not require public input or service on affected parties.

The Council's decision is correct in presuming that Firth Industries believes this is the last opportunity to have input into the location and design of the intersection onto Ballantyne Road. The decision amends the non-notification clause (recommended in Council Officers Report) for the following reasons:

- (a) to enable limited notification of Outline Development Plans¹ where they adjoin land beyond the zone or propose that a road extend beyond the zone, such that others may be affected by the location or design of the intersection; and
- (b) to clarify that it is only restricted discretionary (not non-complying) Outline Development Plans² that are subject to the non-notification clause.

5. The specific reasons for the appeal are as follows:

(a) Issue 5: The Appropriateness of the Structure Plan – the Layout, Green Space and Roading.

See reasons listed for Issue 6(f) which relates more specifically to the reason for Firth Industries appeal.

(b) Issue 6(f): The Appropriateness of provisions relating to the non-notification of various resource consent applications.

The Council's decision agrees with Firth Industries that the non-notification clause should be made clearer (pg 69). However, the 'reformatted' wording contained in the amended plan change document (Appendix 2 to Council Decision) still does not provide certainty for those landowners on the opposite side of Ballantyne Road that the actual and potential effects of the new intersection on their properties can or will be considered. I

¹ This should also apply to Comprehensive Development Plans which also require a restricted discretionary activity consent.

² This should also apply to Comprehensive Development Plans which also require a restricted discretionary activity consent. The amended PC16 text includes both in the non-notification clause.

7. Firth Industries seeks the following relief:

- (a) **Issue 5: The Appropriateness of the Structure Plan – the Layout, Green Space and Roading; and**
- (b) **Issue 6(f): The Appropriateness of provisions relating to the non-notification of various resource consent applications.**

In relation to the two above decisions, that:

- (i) Clauses 12.26.3.3(c)(ii)(b); 12.26.4.8(iii)(b)(ii); 12.26.5.7(iii)(a)(ii); 12.26.6.7(iii)(a)(ii); and 12.26.7.6(iii)(a)(ii) in the plan change **be amended (*see italics and underlined*) to read**, “....Proposes that a collector road connect to adjoining land (including roads) beyond the Three Parks Zone, in respect of roading and intersection design. *This includes land on the other side of a road that directly adjoins the Three Parks Zone.*”; and/or
- (ii) **There may, however, be other methods of achieving the stated relief.**

8. Firth Industries attaches the following documents to this notice:-

- (a) A copy of the relevant aspects of the Queenstown Lakes Council’s Decisions attached as Annexure A.
- (b) A copy of the relevant parts of the Firth Industries submissions attached as Annexure B.
- (c) A copy of the Traffic Assessment Report commissioned by the Queenstown Lakes District Council in response to Firth Industries submission as Annexure C.
- (d) List of names and addresses of persons to be served with a copy of this notice attached as Annexure D.

DATED at Christchurch this 22 day of March 2010.



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Firth Industries, a division of
Fletcher Concrete and
Infrastructure by its duly
authorised agents Resource
Management Group Limited

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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may become a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 30 working days after this notice was lodged with the Environment Court.

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 Annexures A, B and C. These documents may be obtained, on request, from the referrer.

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington or Christchurch.

Annexure A

Queenstown Lakes District Council's Decisions

Annexure B

Firth Industries Submissions and Written Statement

Annexure C

*Copy of the Traffic Assessment Report commissioned by Queenstown Lakes
District Council in response to Firth Industries submission*

Annexure D

List of names and addresses of persons served with a copy of this notice