

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

IN THE MATTER	of an Appeal pursuant to Clause 14 of the First Schedule to the Resource Management Act 1991
BETWEEN	FOODSTUFFS SOUTH ISLAND LIMITED Appellant
AND	QUEENSTOWN LAKES DISTRICT COUNCIL Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT OF AN APPEAL ON A
DECISION ON PLAN CHANGE 19**

**ANDERSON LLOYD
LAWYERS
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To: The Registrar
Environment Court
Christchurch

1. Foodstuffs South Island Limited ("Appellant") appeals the decision on the following matter:
 - a. Plan Change 19; Frankton Flats ("Plan Change") to the Queenstown Lakes District Council Partially Operative District Plan ("District Plan").
2. The Appellant made a submission and further submissions on the Plan Change.
3. The Appellant received notice of the decision on 6 October 2009.
4. The decision was made by Commissioners J G Matthews, A R Watson and I C Munroe, acting as independent Commissioners appointed by the Queenstown Lakes District Council ("Respondent").
5. The decision is in respect of the proposed re-zoning of an area of the Frankton Flats, Queenstown, located between State Highway 6 and the Queenstown Airport, from Rural General to a proposed new mixed use urban zone.
6. The specific parts of the decision that the Appellant is appealing are:
 - a. Those parts of the decision that relate to:
 - i. The zoning of land in the vicinity of the Eastern Arterial Road ("EAR") and the prospect of large format retail occurring;
 - ii. The location of the EAR; and
 - iii. The requirement for an outline development plan in Activity Area E.
7. The reasons for the appeal are as follows:
 - a. The Appellant has an interest in land located within Activity Area E2 and part of Activity Area E1. The land is currently owned by Shotover Park Limited, it is approximately 22,000m² in area and located approximately 200m from State Highway 6

("Subject Site"). The Subject Site is dissected by the EAR shown on the Plan Change decision Structure Plan, which prevents large format retail effectively occurring on site.

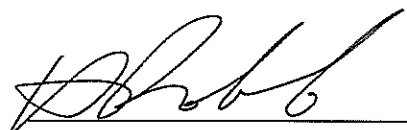
- b. The Plan Change decision concludes that there is an identified shortfall in land zoned for large format retail and states that:
 - i. The prospect of large format retail occurring within the Frankton Flats Special Zone (B) would be entirely appropriate; and
 - ii. Aside from its appropriateness in Activity Area C large format retail would be appropriate in Activity Areas D and E.
- c. The plan change provisions and location of the EAR do not adequately reflect the appropriateness of large format retail in Activity Area E as anticipated by the Plan Change decision. The provisions are overly prescriptive and greater flexibility is required to enable effective and efficient use of the available land resource. Refinement of the Plan Change provisions as set out in the Appellant's relief would address this issue.
- d. The EAR alignment has been agreed to by the majority of relevant land owners and the New Zealand Transport Agency ("NZTA") which has resulted in a location further to the west than the location on the structure plan. This revised location is included in Appendix 7 of the Notices of Requirement: Glenda Drive Roundabout and Associated Roads prepared for the NZTA and QLDC by Beca Infrastructure Limited, dated 29 October 2009 ("Notices of Requirement"). The Notices of Requirement have been lodged with the Respondent. The Appellant supports this revised location which has practical advantages in terms of locating the EAR so as to minimise interference with title and ownership boundaries while enabling efficient and sustainable development of the land resource.
- e. Requiring an outline development plan process for Activity Area E is unnecessary. The decision discusses the need for an outline development plan when considering Activity Area E. The Commissioners agreed with the evidence given that there

is no need for the outline development plan process in this Activity Area subject to clear subdivision requirements.

- f. The amended land use controls requested in the Appellant's relief are the most appropriate way of achieving the overall plan change objectives.
 - g. Those parts of the Respondent's decision under appeal are contrary to Part 2 of the Resource Management Act 1991.
8. The Appellant seeks the following relief:
- a. That the structure plan is amended to:
 - i. Include the Subject Site wholly within an activity area that enables large format retail; and
 - ii. Locate the EAR alignment further to the west at the location shown in Appendix 7 of the Notices of Requirement.
 - b. That the plan change provisions are amended to enable large format retail within the Subject Site, specifically that:
 - i. Objective 10, and related policies are amended to recognise the appropriateness of large format retail in providing higher value use of the Subject Site;
 - ii. Rule 12.20.3.7 Table 1 – is amended so that "other retail" with a gross floor area more than 500m² per retail outlet is a controlled or limited discretionary activity within the Subject Site;
 - iii. The Subject Site is exempt from the control over continuous building length - Rule 12.20.5.2(iii);
 - iv. The Subject Site is exempt from the control over nature and scale of activities - Rule 12.20.5.2(viii)(c); and
 - v. Section 14.2, Rule 14.2.4.1 – delete Clarification of Table 1B. The carparking standards for the use intended should be a minimum requirement not a maximum requirement.

- c. Delete the requirement for an outline development plan process for Activity Area E.
 - d. Any such alternative or consequential relief to the Plan Change provisions considered necessary or appropriate to address the issues and concerns raised in this appeal.
9. The Appellant attaches the following documents to this Notice:
- a. A copy of the relevant decision;
 - b. A copy of the Appellant's submissions;
 - c. A list of the names and addresses of persons to be served with this Notice.

Date: 18 October 2009



Signed by the Appellant's solicitor and duly authorised
agent Anderson Lloyd Lawyers

V J Robb

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Advice to recipients of copy of Notice of Appeal*How to become a party to the proceedings*

You may be 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 timing requirement (see Form 38).

How to obtain copies of the documents relating to the appeal

The copy of this Notice served on you does not attach a copy of the Appellant's submission or the decision appealed. The documents may be obtained, on request, from the Appellant.

ADVICE

If you have any questions about this Notice, contact the Environment Court Unit of the Ministry of Justice in Auckland, Wellington or Christchurch.