

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-071

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 **Fred Van Brandenburg**
Appellant

And **Queenstown Lakes District Council**
Respondent

Amended Notice of Appeal

~~19 June 2018~~ 15 February 2019

Appellant's solicitors:

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**anderson
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To The Registrar
Environment Court
Christchurch

- 1 Fred Van Brandenburg appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Fred Van Brandenburg made a submission (#520) on the PDP.
- 3 Fred Van Brandenburg is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 Fred Van Brandenburg 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 9 High Density Residential;~~
 - (b) Chapter 27 Subdivision;
 - ~~(c) Planning Map 32.~~
- 7 Reasons for appeal

Background

- 8 Fred Van Brandenburg has an interest in land located at 595 Frankton Road, Queenstown, legally described as Lot 1 DP 12665 held in CFR OT15C/1071 (**Site**). The Site is zoned High Density Residential – Subzone A in the Operative Plan, and High Density Residential under the PDP.
- 9 Fred Van Brandenburg sought in his submission to the PDP, amendments to objectives and policies of the HDR Zone to enable a more efficient and effective planning regime for HDR proposals. Specific provisions were sought in respect of the Site which were contained in the ODP and which reflect the nature of consented development existing for the Site.
- 10 This relief has not been included in the PDP Decision and is appealed for the reasons set out in **Appendix A** below.

Further and consequential relief sought

11 Fred Van Brandenburg opposes any further provisions inconsistent with this appeal 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 Fred Van Brandenburg's PDP submission.

Attachments

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

- (a) **Appendix A** – relief sought
- (b) **Appendix B** - A copy of the Appellants' submission;
- (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 ~~19th day of June 2018~~ 15th day of February 2019



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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.

Provision (PDP decision version)	Reason for appeal	Relief sought
Chapter 9 High Density Residential		
<p>Policy 9.2.3.2</p> <p>Ensure the amenity values of neighbours are adequately maintained.</p>	<p>The decision version of policy 9.2.3.2 is in contradiction of the objective 9.2.3 and earlier policy 9.2.3.1, which both envisage appropriate and further development within the HDR Zone. There is no expectation that amenity values of neighbours should be maintained in the HDR Zone, where those are subject to change particularly on unbuilt sites. If the policy is to be retained it would be better amended so as to adequately manage adverse effects on amenity values with respect to specific identified standards and design limitations.</p>	<p>Delete policy 9.2.3.2</p>
<p>Rule 9.5.1.3</p> <p>Within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall not exceed the height above sea level of the nearest point of the road carriageway centreline</p>	<p>The amended Rule 9.5.1.3 partially achieves the relief set out by the Submitter in its submission, however does not recognise the development intentions of the original ODP Rule. The Rule should also be limited to apply only in the same areas as under the ODP Rule, namely from Cecil Paper Road to the Site.</p>	<p>Amend Rule 9.5.13 as follows:</p> <p>Within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall <u>not exceed more than one story in height above the height above sea level of the nearest point of the <u>Frankton road carriageway centreline, limited to a length of 16m parallel to the Road.</u></u></p> <p>(noncompliance status – RD)</p>
<p>Rule 9.5.3.3</p>	<p>The amended Rule 9.5.3.3 partially achieves the relief set out</p>	<p>Amend Rule 9.5.3.3 as follows:</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
<p>Within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall not exceed the height above sea level of the nearest point of the road carriageway centreline</p>	<p>by the Submitter in its submission, however does not recognise the development intentions of the original ODP Rule. The Rule should also be limited to apply only in the same areas as under the ODP Rule, namely from Cecil Paper Road to the Site.</p>	<p>Within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall not exceed more than one story in height above the height above sea level of the nearest point of the <u>Frankton road carriageway centreline, limited to a length of 16m parallel to the Road.</u></p> <p>(noncompliance status – RD)</p>
<p>Notification 9.6.2</p>	<p>The above site specific exceptions in the ODP also included non-notification specific provisions, which have not been carried through into the PDP. These are sought to be re-included.</p>	<p>Add the following:</p> <p><u>9.6.2.3 Development in respect of Rules 9.5.1.3 and 9.5.3.3 shall not be publicly notified. In forming an opinion as to whether any adjoining properties are adversely affected, any adverse effects permitted by the development consented under RM040624 and RM081099 may be disregarded, whether or not these consents have lapsed.</u></p>
<p>Chapter 27 subdivision</p>		
<p>Rule 27.5.7 all subdivision defaults to RDA activity status</p>	<p>Subdivision within urban zones is anticipated and should be enabled through chapter 27, subject to appropriate matters of reserved control. Requiring RDA subdivision rather than controlled will result in a disconnect between the rules</p>	<p>Amend Rule 27.5.7 to a default controlled activity status for all zones unless otherwise specified.</p> <p>Zones to be included in a controlled activity status include;</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
	applicable to the Zone and the purpose of the Zone.	1. Lower Density Suburban Residential Zone; 2. Medium Density Residential Zone; 3. High Density Residential Zone; 4. Town Centre Zones; 5. Arrowtown Residential Historic Management Zone; 6. Large Lot Residential Zone; 7. Local Shopping Centre; 8. Business Mixed Use Zone; 9. Airport Zone – Queenstown. <u>10. Township Zones;</u> <u>11. Rural Residential;</u> <u>12. Rural Lifestyle.</u>
<p>Rule 27.10</p> <p>Applications for all controlled and restricted discretionary activities shall not require the written approval of other persons and shall not be notified or limited notified except:</p> <p>a. where the site adjoins or has access onto a State Highway;</p>	<p>The protection of the State Highway is adequately achieved through separate policies which assure its efficient and safe functioning. The application of this policy could be broader for notification than just to NZTA.</p>	<p>Amend Rule 27.10 as follows:</p> <p>Applications for all controlled and restricted discretionary activities shall not require the written approval of other persons and shall not be notified or limited notified except:</p> <p>a. where the site adjoins or has access onto a State Highway;</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
Planning Map 32 and 37 Queenstown		
	Any amendments required consequentially to the annotation of planning maps 32 and 37, identifying the application of site specific rules 9.5.13 and 9.5.3.3 above, should be included.	Amend planning maps 32 and 37 consequentially as necessary.

Appendix B - A copy of the Appellant's submission;

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

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