

**IN THE ENVIRONMENT COURT  
CHRISTCHURCH REGISTRY**

**ENV-2018-CHC-71**

**I MUA I TE KŌTI TAIAO O AOTEAROA**

**IN THE MATTER**

of the Resource Management Act  
1991

**AND**

**IN THE MATTER**

of an appeal under Schedule 14  
of Schedule 1 of the Act

**BETWEEN**

**FRED VAN BRANDEBURG**

**Appellant**

**AND**

**QUEENSTOWN LAKES  
DISTRICT COUNCIL**

**Respondent**

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**APPLICATION FOR WAIVER OF TIME PERIOD FOR FILING SECTION 274  
NOTICE**

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**Dated: 7 December 2018**

**TODD & WALKER law**  
LAWYERS | NOTARY PUBLIC

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**To:** The Registrar  
Environment Court  
Christchurch

1. Mark Smith and Ann Tillson ("**Smith and Tillson**") apply pursuant to section 281 of the Resource Management Act 1991 ("**Act**") for a waiver of the time period for filing a notice under section 274 of the Act of a person's wish to be party to proceedings ("**section 274 notice**").
2. The section 274 notice relates to an appeal by Fred van Brandenburg ("**Appellant**") against a decision of the Queenstown Lakes District Council ("**Council**") on its Proposed District Plan ("**Plan**").
3. The application for waiver is made on the following grounds:
  - a. Smith and Tillsons' interest in the appeal relates to the amendments sought by the Appellant to Rules 9.5.1.3 and 9.5.3.3 of the Plan ("**Rule**"), which impose height restrictions on buildings in the High Density Residential Zone south of Frankton Road. Specifically, the Rule restricts buildings in this location from exceeding the height above sea level of the nearest point on Frankton Road.
  - b. The wording of the Rule differs from the equivalent rule in the Operative District Plan ("**ODP**") and extends the scope of the height restrictions to properties that were previously exempt from the rule under the ODP, including land owned by Smith and Tillson.
  - c. The effect of the change in wording is to prevent any development on some sites within the area captured by the Rule as such sites are already the same or similar height above sea level as the nearest point on Frankton Road.
  - d. Smith and Tillson did not anticipate the extension of the restrictions and are not sure whether it was made deliberately by the Council or as result of an error due to the change in wording. This is especially as the Section 32 analysis did not assess any extension of the height restrictions from the ODP rule, and the Council's Section 42A Report recommended the ODP rule be retained.
  - e. In the circumstances Smith and Tillson consider a waiver of time to file their section 274 notice is appropriate.
  - f. Further, no other parties will be unduly prejudiced by the late filing of the section 274 notice as it will not disrupt the course of the appeal given mediation is not scheduled to be held until February 2019.

Dated this 7<sup>th</sup> day of December 2018

A handwritten signature in black ink, appearing to be 'BL' followed by a flourish.

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Signed for Mark Smith and Ann Tillson  
by their solicitor and duly authorised agent  
Graeme Morris Todd/Benjamin Brett Gresson