

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Local Government Act (Auckland Transitional Provisions) Act 2010 ("**LGATPA**") and the Resource Management Act 1991 ("**RMA**")

AND of an appeal under section 156(1) of the LGATPA

AND of Hearing Topic 065 - Definitions

BETWEEN K VERNON
ENV-2016-AKL-000243
Appellant

AND AUCKLAND COUNCIL
Respondent

Principal Environment Judge L J Newhook sitting alone under section 279 of the RMA.

In Chambers at Auckland

CONSENT ORDER

[A] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

(1) the appeal is allowed subject to the amendments set out in this order;

[B] Under s 285 of the Resource Management Act 1991, there is no order as to costs.



REASONS

Introduction

- [1] This appeal relates to the proposed Auckland Unitary Plan. This consent order resolves the appeal in part as it relates to the definition of height in Chapter J.1.4.
- [2] In making this order the Court has read and considered the appeal and the joint memorandum of counsel in support of this draft consent order dated 19 July 2017.
- [3] The following parties have an interest in the parts of this appeal to be resolved by this order, and have signed the memorandum of the parties requesting this order:
- (a) Drive Holdings Limited;
 - (b) Housing New Zealand Corporation;
 - (c) Kiwi Property Group Limited;
 - (d) Kiwi Property Holdings Limited;
 - (e) Laurent Enterprises Limited;
 - (f) New Zealand Association of Radio Transmitters Incorporated;
 - (g) North Eastern Investments Limited;
 - (h) Ports of Auckland Limited;
 - (i) Proarch Consultants Limited
 - (j) Stride Holdings Limited;
 - (k) Stride Property Limited;
 - (l) The National Trading Company of New Zealand Limited; and
 - (m) UP Management Limited.
- [4] The Court is making this order under s 279(1)(b) of the RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297 of the RMA.
- [5] The Court understands for present purposes that:



- (a) All parties to the proceeding who have an interest in the matters to be resolved by this order have executed the memorandum requesting this order; and
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements of the RMA, including in particular Part 2.

Order

[6] Under section 279 of the RMA, the Court orders, by consent, the following amendments to the definition of height:

Height

Height is the vertical distance between the highest part of a building and or structure and a reference point. The reference point outside the coastal marine area is ground level unless otherwise stated in a rule. The reference point inside the coastal marine area is mean sea level. Height rules or standards are always a maximum unless otherwise stated in a rule or standard.

The exclusions below apply both outside and inside the coastal marine area.

Any reference in the exclusions below to 'zones' includes a reference to any precinct that applies to relevant parts of those zones. The exclusions apply to any such precinct, unless a specific exclusion is varied by the precinct.

Excludes:

(1) in all zones, projections (other than those listed in (2)-(4) below) that are up to: do not exceed

- (a) 2m in width on any elevation; and
- (b) 1.5m above the maximum permitted activity height or the daylighting standard for the site, whichever is the lesser height;

(2) in all zones:

- (a) steeples, spires, minarets and similar structures on places of worship that do not exceed 2m in width on any elevation or 4m above the maximum permitted activity height for the site;
- (b) chimneys that do not exceed 1.1m in width on any elevation or that exceed 1.5m above the permitted activity height for the site;
- (c) flagpoles, masts, lighting poles, aerials or antennas that do not exceed:
 - (i) one third of the maximum permitted activity height for the site; or
 - (ii) 300mm in diameter; or
 - (iii) the footprint of the building.



(d) handrails or transparent safety barriers that do not exceed 1.5m above the permitted activity height for the site;

(e) solar panels and solar hot water heating systems;

(f) guy wires.

(3) the following projections:

~~(2)~~ • lift wells;

~~(3)~~ • lift towers;

~~(4)~~ • elevator and stair bulkheads;

~~(5)~~ • roof water tanks;

~~(6)~~ solar panels;

~~(7)~~ solar hot water heating systems;

• machinery rooms; or

• plant, including cooling towers, air-conditioning units, including any access walkways and any screening directly associated with the plant;

Provided that:

(a) in business zones, Terraced Housing and Apartment Building zone and the special purpose zones:

(i) the projection does not exceed the greater of either 3m above maximum permitted activity height for the site or an additional 20% of the maximum permitted activity height for the site, up to a maximum of 6m; and

(ii) the cumulative area of the projections does not exceed an area measured in a horizontal plane equal to 15% of the area of the roof to the storey immediately below such structures.

(b) in all other zones:

(i) the projection does not exceed 1.5m above the maximum permitted activity height for the site; and

(ii) the cumulative area of the projections does not exceed an area measured in a horizontal plane equal to 10% of the area of the roof to the storey immediately below such structures.

(4) in the Coastal - Minor Port Zone, Coastal - Ferry Terminal Zone, Coastal - Defence Zone, industrial zones, Port precinct (including the Auckland War Memorial Museum Viewshaft Overlay) and Gabador Place precinct:

• cranes;

• derricks;

• cargo stacking and lifting devices;



- conveyors.
- (8) wind turbines;
- (9) cooling towers and air conditioning units;
- (10) cranes;
- (11) derricks;
- (12) cargo stacking and lifting devices;
- (13) conveyors;
- (14) machinery rooms;
- (15) guy wires; or
- (16) chain link or other open or transparent fences.
- (17) steeples, spires, minarets and similar structures on places of worship that do not exceed 2m in width on any elevation or 4m above the maximum permitted activity height for the site;
- (18) chimneys that do not exceed 1.1m in width on any elevation or that exceed 1.5m above the permitted activity height for the site;
- (19) flagpoles, masts, lighting poles, aerials or antennas that do not exceed:
 - (i) one third of the maximum permitted activity height for the site; or
 - (ii) 300mm in diameter; or
 - (iii) the footprint of the building.

[7] The appeal by K Vernon in relation to the definition of height is now resolved.

[8] There is no order as to costs.

DATED at Auckland this *25th* day of *July* 2017.



L J Newhook
L J Newhook
Principal Environment Judge