

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2016-AKL-000243

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

A N D

IN THE MATTER of an appeal under section 156 of the **LGATPA** against a decision of the Auckland Council on a recommendation of the Auckland Unitary Plan Independent Hearings Panel ("**Hearings Panel**") on the proposed Auckland Combined Plan ("**Unitary Plan**")

BETWEEN **K Vernon**

Appellant

A N D **Auckland Council**

Respondent

**NOTICE OF WISH TO BE PARTY TO PROCEEDINGS UNDER
SECTION 274 OF RMA**

**KIWI PROPERTY GROUP LIMITED and KIWI PROPERTY HOLDINGS
LIMITED**

Re: Topic 065 - Definition of "Height"

Dated this *3rd* day of *October* 2016

**ELLIS GOULD
LAWYERS
AUCKLAND**

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48 Shortland Street, Auckland
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AUCKLAND**

REF: Douglas Allan

**Notice of wish to be party to proceedings under section 274 RMA by Kiwi Property
Group Limited and Kiwi Property Holdings Limited**

1. Kiwi Property Group Limited and Kiwi Property Holdings Limited (“**Kiwi**”), wish to be parties to that part of the Notice of Appeal ENV-2016-AKL-000243 dated 15 September 2016 by K Vernon to the Environment Court (“**the Appeal**”) against the decision of the Auckland Council on the Auckland Combined (Unitary) Plan (“**the Unitary Plan**”) that concerns Topic 065 – Definitions and in particular the Unitary Plan definition of “*height*”, being paragraphs 1 to 6, 75 to 98, and 112 of the Appeal.
2. Kiwi has an interest in the proceedings that is greater than that of the general public in that:
 - (a) Kiwi owns and manages land throughout the Auckland Region subject to a range of centre and other zones that is variously occupied by existing retail and commercial developments or is intended to be developed to accommodate additional or enlarged developments in accordance with the underlying zonings.
 - (b) The changes sought in the Appeal to the definition of “*height*” will significantly alter the ability of Kiwi to include functional and aesthetic elements on its developments that exceed the nominal maximum heights in the relevant zones.
 - (c) The changes sought in the Appeal will therefore impact adversely on the flexibility available to Kiwi when developing or redeveloping landholdings.
3. Kiwi made submissions about the subject matter of the proceedings in that it lodged submissions on the Unitary Plan that, amongst other relief, generally supported the Business zone objectives, policies and rules, including in relation to height. The effect of the Appeal is contrary to the relief sought in Kiwi’s submissions because it seeks a reduction in the height limit practically available in the Business zones.
4. Kiwi is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
5. Kiwi is interested in and opposes all aspects of the Appeal relief relating to the definition of “*height*”, being the relief sought in paragraphs 94 to 98 and 112 of the Appeal. Kiwi seeks retention of the Council’s decision regarding the definition of “*height*”.

6. The definition of "*height*" in the Council's decision is appropriate in terms of section 32 of the RMA and is consistent with the purpose, principles and provisions of the RMA. Amending the definition as sought in the Appeal is unnecessary and counter-productive, will compromise the sustainable management of resources and is contrary to the Council's strategy for accommodating growth and for intensifying development in Auckland.
7. Kiwi agrees to participate in mediation or other alternative dispute resolution of the proceedings.

**Signed for and on behalf of Kiwi Property Group Limited and
Kiwi Property Holdings Limited
by their solicitors and duly authorised agents Ellis Gould:**



D A Allan

Date: this *3rd* day of *October* 2016

Address for Service of Section 274 Party: The offices of **Ellis Gould, Solicitors**, Level 17, The Vero Centre, 48 Shortland Street, Auckland (PO Box 1509, Auckland, 1140), DX CP22003, Phone: 09 307-2172, Facsimile, 09 358-5215. **Attention: D A Allan**, Email: dallan@ellisgould.co.nz