

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

THE NATIONAL TRADING COMPANY OF NEW ZEALAND LIMITED

Re: Topic 065 - Definition of "Height"

Dated this *31* day of *October* 2016

ELLIS GOULD
LAWYERS
AUCKLAND

REF: Douglas Allan

Level 17 Vero Centre
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AUCKLAND

**Notice of wish to be party to proceedings under section 274 RMA by The
National Trading Company of New Zealand Limited**

1. The National Trading Company of New Zealand Limited (“NTC”), wishes to be a party 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. NTC has an interest in the proceedings that is greater than that of the general public in that:
 - (a) It owns and manages land throughout the Auckland Region subject to a range of centre and other zones that is variously occupied by existing supermarket developments or is intended to be developed or redeveloped to accommodate additional or enlarged supermarkets in accordance with the underlying zonings.
 - (b) The changes sought in the Appeal to the definition of “*height*” will significantly alter the ability of NTC to include functional and aesthetic elements on its supermarkets and other structures 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 NTC when developing or redeveloping landholdings to accommodate supermarkets and wider developments.
3. NTC 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 NTC’s submission because it seeks a reduction in the height limit practically available in the Business zones.
4. NTC is not a trade competitor for the purposes of section 308C or 308CA of the RMA.

5. NTC 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. NTC 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. NTC agrees to participate in mediation or other alternative dispute resolution of the proceedings.

**Signed for and on behalf of The National
Trading Company of New Zealand Limited
by its 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