

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2016-AKL-000232

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 pursuant to section 156(3) 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 Unitary Plan ("**Unitary Plan**")

BETWEEN **BUNNINGS LIMITED**

Appellant

A N D **AUCKLAND COUNCIL**

Respondent

**AMENDED NOTICE OF INTENTION TO BECOME AN INTERESTED PARTY
PURSUANT TO SECTION 274 OF THE RMA BY THE NATIONAL TRADING
COMPANY OF NEW ZEALAND LIMITED**

27 October 2017

**ELLIS GOULD
LAWYERS
AUCKLAND**

REF: D J Sadlier

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TO: The Registrar
Environment Court
AUCKLAND

1. **THE NATIONAL TRADING COMPANY OF NEW ZEALAND LIMITED** (“**NTC**”) gives notice under section 274 of the RMA that it wishes to be a party to these proceedings, being *Bunnings Limited v Auckland Council* (ENV-2016- AKL-000232) (“**the Appeal**”).
2. The Appeal is in respect of the decision of Auckland Council (“**the Council**”) on recommendations of the Auckland Unitary Plan Independent Hearings Panel (“**Hearings Panel**”) on Proposed Plan Hearing Topic 081 – Rezoning and Precincts (Geographical Areas) (“**Recommendation**”), specifically the decision on the part of the Recommendation relating to Redhills Precinct plan (“**Precinct Plan**”) (“**the Decision**”).
3. The Recommendation was the subject of an application for judicial review by the Appellant, Bunnings Limited, which challenged the Hearings Panel’s failure to identify its Recommendation as being outside the scope of submissions on the Unitary Plan. NTC was an intervener in the judicial review proceedings, which were resolved by the High Court in *Bunnings Limited v Auckland Unitary Plan Independent Hearings Panel* [2017] NZHC 2141. The High Court made a declaration that the Recommendation in relation to the Precinct Plan was outside the scope of submissions, and set aside that part of the Recommendation accordingly. This has triggered appeal rights to the Environment Court under section 156(3) of the LGATPA.
4. The Appellant filed a notice of appeal¹ with the Environment Court on 16 September 2016, prior to the High Court’s decision. NTC filed a section 274 notice in respect of that notice of appeal on 3 October 2016. The Appellant has subsequently filed an amended notice of appeal² which reflects the course of events over the past year and updates its relief

¹ Notice of Appeal to the Environment Court by Bunnings Limited dated 16 September 2016.

² Amended Notice of Appeal to the Environment Court by Bunnings Limited dated 10 October 2017.

sought. NTC files this amended section 274 notice further to the Court's directions of 25 October 2017, in light of Bunnings' amended appeal.

5. NTC is a person who made primary and further submissions on the Unitary Plan ("**Unitary Plan**").
6. NTC is also a person who has an interest in these proceedings that is greater than the interest the general public has for a number of reasons, including (without limitation):
 - (a) Foodstuffs North Island Limited is one of two regional buying co-operatives that collectively operate throughout New Zealand. Its members operate supermarkets and grocery outlets throughout the North Island under the Pak'n Save, New World and Four Square brands. NTC is the property holding company for those outlets and is a wholly owned subsidiary of Foodstuffs.
 - (b) NTC owns the Pak'n Save supermarket at 17-19 Fred Taylor Drive ("**Supermarket**") referred to in paragraph 13 of the Appellant's notice of appeal. The Supermarket has two vehicle accesses, from Tawhia Drive and from Te Oranui Way.
 - (c) The Precinct Plan provides for an arterial road connection through Redhills Precinct connecting into the Fred Taylor Drive / Don Buck Road / Te Oranui Road intersection, which may affect the level of service of that intersection and/or necessitate changes to the way that intersection operates.
 - (d) Any reduction in accessibility to, or level of service of, the Fred Taylor Drive / Don Buck Road / Te Oranui Road intersection, will have direct and significant effects on the operation of the Supermarket, and the ability of NTC to comply with conditions of resource consents for the Supermarket.
7. NTC is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
8. NTC is interested in the Appeal in its entirety.
9. NTC supports the relief sought in the Appeal because:

- (a) If the relief sought in the Appeal is granted, and the Decision is disallowed or modified as sought in the Appeal, the Decision will:
- (i) Achieve the sustainable management of natural and physical resources and will be otherwise consistent with the purpose and principles of the RMA;
 - (ii) Will in those circumstances enable people and communities to provide for their social, economic and cultural wellbeing; and
 - (iii) Will provide for the efficient use and management of natural and physical resources.

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

DATED at Auckland this 27th day of October 2017

**THE NATIONAL TRADING
COMPANY OF NEW ZEALAND
LIMITED** by its solicitors and duly
authorised agents Ellis Gould



D J Sadlier

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