

Dear Parties

ENV-2016-AKL-000190 - The National Trading Company of New Zealand Limited v Auckland Council

Topic: ENV-2016-304-000119 - PAUP - 041 - Earthworks and mineral - Kauri Dieback

I write further to my correspondence of 7 February 2017 (**attached**).

No outstanding issues, including as to costs, having been raised on the withdrawal of this appeal, the Court's file has been closed accordingly.

Kind regards

Trent



Trent Grace

Case Manager | Environment Court of New Zealand
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Dear Parties

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Topic: ENV-2016-304-000119 - PAUP - 041 - Earthworks and mineral - Kauri Dieback

I refer to the correspondence from counsel for the appellant (**attached**), seeking leave to withdraw its appeal.

The appellant advises that Auckland Council and the Minister for Conservation do not seek costs on the withdrawal.

Accordingly, if you have any outstanding issues, including as to costs, in relation to the withdrawal, you are requested to notify the Court, the appellant and all parties to this appeal, by return email or in writing, **by 5:00pm on 14 February 2017**. If you do not have any issues, you are not required to respond.

Please do not hesitate to contact me if you have any questions.

Thank you.

Kind regards
Trent



Trent Grace

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Tallentire, Sarah

From: Douglas Allan <dallan@ellisgould.co.nz>
Sent: Thursday, 2 February 2017 6:36 p.m.
To: Tallentire, Sarah
Cc: Teall Crossen; Marilyn Ford; kvernon@xtra.co.nz; Richard Gardner; Melinda Dickey; 'Campbell Smythe'; 'Vaughan Smith (vaughan@vsplanning.co.nz)'
Subject: ENV-2016-AKL-000190 - NTC v Auckland Council - Kauri Dieback Appeal

Dear Ms Tallentire,

The parties are due to report to the Court regarding the outcome of mediation and negotiation on this appeal. We write on behalf of the appellant NTC which, after careful deliberation, seeks leave to withdraw its appeal.

By way of explanation, the appeal was lodged to enable rectification of a rule that NTC considers has widespread public impact but is flawed. The mediation and negotiation has not resulted in any agreed alterations to the text of the rule which, in NTC's opinion, remains problematic. In particular, NTC considers that the rule renders unlawful common domestic gardening practices where members of the public have kauri trees in their gardens or on neighbouring properties, incentivises the removal of existing kauri trees in the region and discourages the planting of new kauri trees.

NTC remains of the view that a comprehensive educational programme allied with technical support would be the best way to reduce the incidence of kauri dieback disease without also reducing the kauri tree stock in the city. As a large and professionally advised organisation with significant planning experience, however, it is less exposed to the risks posed by and adverse effects of the rule than are members of the general public. NTC has therefore elected not to put more time, effort and funds into this public interest matter, and has instructed us to withdraw the appeal on its behalf.

Counsel for the Council and for the Minister for Conservation have advised that their clients do not seek costs on the withdrawal of the appeal. We have not yet received advice from Federated Farmers or Keith Vernon in that regard.

Please place this correspondence before the presiding judge.

Regards,
Douglas Allan

Douglas Allan PARTNER

ellisgould
LAWYERS

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