

**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

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**CONSENT ORDER**

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[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 *25<sup>th</sup>* day of *July* 2017.



*L J Newhook*  
L J Newhook  
Principal Environment Judge