

**IN THE ENVIRONMENT COURT
AT WELLINGTON**

ENV-2018-WLG-009

UNDER THE

Resource Management Act 1991 ("**Act**")

IN THE MATTER OF

An appeal under Schedule 1, Clause 14(1), of the
Act

BETWEEN

BALLINGER INDUSTRIES LIMITED

Appellant

AND

KAPITI COAST DISTRICT COUNCIL

Respondent

**NOTICE BY PROGRESSIVE ENTERPRISES LIMITED
OF ITS WISH TO BE A PARTY TO THE PROCEEDINGS**

16 February 2018

Counsel instructed:

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J D K Gardner-Hopkins
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Solicitor acting:

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Progressive Enterprises
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TO: The Registrar
Environment Court
WELLINGTON

AND TO: The Appellant

AND TO: The Respondent

Wish to be a party

1. Progressive Enterprises Limited ("**Progressive**") wishes to be a party to the following proceedings:

ENV-2018-WLG-009: *Ballinger Industries Limited v Kapiti Coast District Council* – appeal against Proposed District Plan Decisions ("**Appeal**").

Trade competition

2. Progressive operates the Countdown, and is the franchisor for the Fresh Choice and Super Value supermarket brands. It currently operates a Countdown at the Coastlands Shopping Centre, Coastlands Parade, Paraparaumu. However, it is looking for opportunities to locate another store in Kapiti.
3. Notwithstanding the nature of its interests, Progressive is **not** a trade competitor for the purposes of Section 308D of the Act. In particular, Progressive's section 274 notice is not brought for any of the following purposes:
 - (a) protecting itself from trade competition; and/or
 - (b) preventing or deterring a trade competitor from engaging in trade competition.

Nature of interest

4. Progressive is a person who:
 - (a) submitted on aspects of or issues raised in the notice of appeal; and
 - (b) by virtue of its business operations has an interest in the proceedings that is greater than the interest that the general public has.

Extent of interest

5. Progressive is interested in all the proceedings.

Relief sought


6. Progressive seeks the following relief from the Environment Court:
 - (a) That the appeal be upheld.

- (b) Relief consistent with that sought in Progressive's own appeal ENV-2018-WLG-013.
- (c) Costs.

Alternative dispute resolution

- 7. Progressive agrees to participate in mediation or other alternative dispute resolution of the proceeding.

DATED 16 February 2018



J D K Gardner-Hopkins

Counsel for Progressive Enterprises Limited

Progressive's address for service is c/- James Gardner-Hopkins, Level 6, Woodward House, 1 Woodward St, Wellington.

Documents for service on Progressive may be left at that address for service or may be:

- (a) posted to PO Box 10-789, Wellington; or
- (b) emailed to james@jghbarrister.com