

BETWEEN WESTFIELD NEW ZEALAND LIMITED  
NORTHCOTE MAINSTREET  
INCORPORATED  
Applicants

AND NORTH SHORE CITY COUNCIL  
First Respondent

AND DISCOUNT BRANDS LIMITED  
Second Respondent

Coram: Elias CJ  
Tipping J

Appearances: JA Farmer QC and CN Whata for Applicants  
AR Galbraith QC for Respondents

Judgment: 6 October 2004

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**MINUTE (No.2) OF THE COURT**

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[1] Leave to appeal is granted, the court being satisfied that the proposed appeal involves matters of general or public importance: the question properly to be addressed by a Council in determining applications under s94 of the Resource Management Act 1991; the basis upon which such determination is lawfully made; the basis upon which the supervisory jurisdiction of the High Court to review such determinations is exercised; and the rights of participation under the Resource Management Act 1991 of an unincorporated society.

[2] The following grounds of appeal are approved pursuant to r29(1) of the Supreme Court Rules 2004:

1. Was the North Shore City Council decision of 25 July 2003 on the application of the second respondent made under s94 of the Resource Management Act 1991
  - a. made according to law?
  - b. reasonably open to the Council?
2. Was the Court of Appeal correct in its judgment of 26 April 2004 in holding that an unincorporated society is not an affected person under the Resource Management Act 1991?
3. If the answer to either of the preceding questions is no, whether any relief in the circumstances is appropriate?

[3] Security for costs must be given by the appellants in the sum of \$6,000 to be paid to, or secured to the satisfaction of, the Registrar within 10 working days of the date of this order.

Signed at 10 am on Wednesday 6 October 2004.

Solicitors:  
Russell McVeagh, Auckland for Applicants  
Bell Gully, Auckland for Respondents