

**IN THE ENVIRONMENT COURT
AUCKLAND**

ENV-2020-AKL-000132

IN THE MATTER of the Resource Management Act 1991 ("**RMA**")

AND

IN THE MATTER of section 274 of the RMA

BETWEEN **NEW ZEALAND TRANSPORT AGENCY**

Applicant

AND **WHANGAREI DISTRICT COUNCIL**

Respondent

**NOTICE OF KIWIRAIL HOLDINGS LIMITED'S
INTENTION TO BE A PARTY TO PROCEEDINGS**

5 AUGUST 2020

**Russell
McAugh**

A A Arthur-Young | T W Atkins
P +64 9 367 8000
F +64 9 367 8163
PO Box 8
DX CX10085
Auckland

TO: The Registrar
Environment Court
AUCKLAND

KIWIRAIL HOLDINGS LIMITED ("KiwiRail") wishes to be a party to an appeal by the Waka Kotahi – New Zealand Transport Agency ("**Waka Kotahi**") against the decision of the Whangarei District Council on Plan Changes 148 and 109 ("**Plan Changes**") to the Whangarei District Plan ("**District Plan**").

Nature of interest

1. KiwiRail made a submission about the subject matter of these proceedings.
2. KiwiRail is not a trade competitor for the purposes of section 308C or 308CA of the RMA.

Extent of interest

3. KiwiRail is interested in part of the proceedings. The parts of the proceedings that KiwiRail is interested in are those parts relating to:
 - (a) Policy DGD-P16 – New Regionally Significant Infrastructure;
 - (b) Policy DGD-P17 – Managing Adverse Effects of Existing Regionally Significant Infrastructure; and
 - (c) New objective, policy and rules requiring new noise sensitive activities in proximity to the state highway network and railway network to be appropriately mitigated in relation to noise and vibration.

Policies relating to regionally significant infrastructure

4. Policies DGD-P16 and DGD-P17 set out how the adverse effects of regionally significant infrastructure are to be managed, with Policy DGD-P16 relating to new infrastructure and Policy DGD-P17 to the operation, maintenance and upgrade of existing infrastructure.
5. Waka Kotahi seeks amendments to these policies to clarify how they are intended to operate and to ensure consistency with Policy DGD-P15, which recognises and provides for the operation, development and upgrade of regionally significant infrastructure. KiwiRail submitted on Policies DGD-P16 and DGD-P17, supporting the intent of the provisions but seeking some minor amendments to improve clarity and workability.

Provisions for noise sensitive activities in proximity to transport networks

6. Waka Kotahi seeks that the Plan Changes be amended to include a new objective, policy and suite of rules to provide amenity protection and protect human health in relation to new noise sensitive activities in proximity to transport networks. The provisions sought are also intended to manage and reduce the potential for reverse sensitivity effects on the road and rail networks from the establishment of incompatible activities nearby.

7. KiwiRail's appeal on Plan Change 109 seeks that a similar set of provisions be included in the District Plan, in relation to the effects of rail noise and vibration and the potential for reverse sensitivity effects on the railway network.

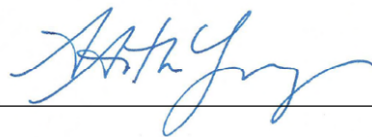
Relief sought

8. KiwiRail supports the relief sought by Waka Kotahi in relation to Policies DGD-P16 and DGD-17, and the new provisions for new noise sensitive activities in proximity to the state highway and rail networks.
9. KiwiRail supports the relief sought because it:
- (a) will promote the sustainable management of natural and physical resources within the Whangarei District, and is therefore consistent with Part 2 and other provisions of the RMA;
 - (b) will meet the reasonably foreseeable needs of future generations;
 - (c) will enable the social, economic and cultural wellbeing of the people of Whangarei;
 - (d) will facilitate the efficient use and development of natural and physical resources;
 - (e) avoids, remedies or mitigates actual or potential adverse effects on the environment;
 - (f) is the most appropriate way to achieve the objectives of the Plan Changes and District Plan in terms of section 32 of the RMA.

Alternative dispute resolution

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

KIWIRAIL by its solicitors and authorised agents
Russell McVeagh:



Signature:

Allison Arthur-Young / Tom Atkins

Date:

5 August 2020

Address for Service:

C/- Tom Atkins
Russell McVeagh
Barristers and Solicitors
Level 30
Vero Centre
48 Shortland Street
PO Box 8/DX CX10085
AUCKLAND 1140

Telephone:

+64 9 367 8000

To: the Registrar of the Environment Court at Christchurch

And to: the Appellant

And to: the Respondent