

**IN THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

**I MUA I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKAURAU ROHE**

ENV-2020-AKL-000133

IN THE MATTER of the Resource Management Act 1991 (“RMA”)

AND

IN THE MATTER of an appeal under clause 14(1) of Schedule 1 of the
RMA

AND

IN THE MATTER of an application under section 274 of the RMA

BETWEEN **KAINGA ORA – HOMES AND COMMUNITIES**

Appellant

AND

WHANGAREI DISTRICT COUNCIL

Respondent

**NOTICE OF INTENTION BY THE NEW ZEALAND TRANSPORT AGENCY TO
BE A PARTY TO THE PROCEEDINGS UNDER SECTION 274**

Dated 5 August 2020

BUDDLEFINDLAY
NEW ZEALAND LAWYERS

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TO: the Registrar
Environment Court
Auckland

1. The New Zealand Transport Agency ("**Transport Agency**") wishes to be a party to the following proceedings under s 274 of the Resource Management Act 1991 ("**RMA**"):

Kainga Ora – Homes and Communities v Whangarei District Council
(ENV-2020-AKL-000133).

2. The proceedings concern an appeal lodged by Kainga Ora – Homes and Communities ("**Kainga Ora**") against part of the decision of the Whangarei District Council ("**Council**") to approve the proposed plan changes – Urban and Services – to the Whangarei District Plan ("**Plan Changes**"). The Council's decision was publicly notified on 3 June 2020 ("**Decision**").

Nature of interest in the proceedings

3. The Transport Agency made a submission about the subject matter of the proceedings and made a further submission in respect of the Appellant's original submission.
4. The Transport Agency also has an interest in the proceedings that is greater than the interest that the general public has because its statutory objective under the Land Transport Management Act 2003 is to undertake its function in a way that contributes to an effective, efficient and safe land transport system in the public interest. The Transport Agency monitors, and in some instances, plays an active role in the development of planning documents under the RMA to ensure that appropriate consideration is given to both the transport system and surrounding land uses which may impact on it.
5. The Transport Agency is not a trade competitor for the purposes of sections 308C or 308CA of the RMA.

Extent of interest in the proceedings

6. The Transport Agency is interested in part of the proceedings.
7. The Transport Agency is interested in the following particular issues:
 - (a) the Appellant's requested relief in relation to rezonings, including its request that the zoning of residential land be rezoned from "General

Residential Zone” to “Medium Density Residential Zone”, as specified in Schedule 4 to Kainga Ora’s appeal; and

- (b) the Appellant’s requested relief in relation to the General Residential Zone (“**GRZ**”), Medium Density Residential Zone (“**MDRZ**”), Mixed Use Zone (“**MUZ**”), District Growth and Development (“**DGD**”) and Transport (“**TRA**”) chapters of the Decision, as follows:
 - (i) GRZ-R3 (R4) – Building and Major Structure Setbacks;
 - (ii) MDRZ-R3 (R4) – Building and Major Structure Setbacks;
 - (iii) MUZ-R4 – Building and Major Structure Setbacks;
 - (iv) GRZ-R9 (R10) – Car Parking;
 - (v) DGD-P2 – Incompatible Land Uses and Reverse Sensitivity;
 - (vi) DGD-P3 – Natural Hazards;
 - (vii) DGD-P5 – Sustainable Infrastructure;
 - (viii) DGD-P6 – Urban Expansion; and
 - (ix) TRA-15 – Discretionary Integrated Transport Assessments.
- (c) any changes or relief that is associated or consequential to the provisions sought by the Appellant.

8. The Transport Agency opposes the relief sought by the Appellant in relation to the provisions identified above because:

- (a) in relation to the Appellant’s zoning requests, it considers there is currently a lack of evidence regarding the potential effects on the transport network and the implications of the upzoning;
- (b) greater intensification throughout the urban area must be supported by relevant and related infrastructure and services, particularly public transport. The Appellant has not provided an assessment of transport effects or an Integrated Transport Assessment;
- (c) the cumulative effects should be considered prior to zoning requests due to the extent and quantum that the effects may have on the transport network; and

- (d) the relief sought is otherwise not the most appropriate way to give effect to and achieve the purpose of the RMA.

Alternative Dispute Resolution

9. The Transport Agency agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED this 5th day of August 2020

NEW ZEALAND TRANSPORT AGENCY

by its solicitors and authorised agents

Buddle Findlay:



Mathew Gribben

Address for service of person wishing to be a party:

New Zealand Transport Agency
c/- Mathew Gribben
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Names and addresses of persons to be served with a copy of this notice:

Kainga Ora – Homes and Communities
c/- Claire Kirman
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Email: claire.kirman@kaingaora.govt.nz

Kainga Ora – Homes and Communities
c/- Bal Matheson
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Whangarei District Council
c/- Sarah Shaw
PO Box 4146, Kamo 0141

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Note to person wishing to be a party

You must lodge the original and one copy of this notice with the Environment Court within 15 working days after:

- (a) the period for lodging a notice of appeal ends, if the proceedings are an appeal; or
- (b) the decision to hold an inquiry, if the proceedings are an inquiry; or
- (c) the proceedings are commenced, in any other case.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

The notice must be signed by you or on your behalf.

You must serve a copy of this notice on the relevant local authority and the person who commenced the proceedings within the same 15 working day period and serve copies of this notice on all other parties within 5 working days after that period ends.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.