

**IN THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

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

ENV-2020-AKL-000131

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 **KIWIRAIL HOLDINGS LIMITED**

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

BUDDLE FINDLAY
NEW ZEALAND LAWYERS

Solicitor Acting: **Patrick Mulligan / Mathew Gribben**
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PO Box 1433 DX CP24024 Auckland 1140

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**"):

KiwiRail Holdings Limited v Whangarei District Council (ENV-2020-AKL-000131).

2. The proceedings concern an appeal lodged by KiwiRail Holdings Limited ("**KiwiRail**") 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. It also lodged a further submission in support of the original submission by KiwiRail.
4. The Transport Agency also has an interest in the proceedings that is greater than the interest that the general public has because the statutory planning documents that apply to the State highway network are of critical importance to the Transport Agency. 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 part of the proceedings the Transport Agency is interested relate to the following particular issues:
 - (a) issues relevant to the effective, efficient and safe operation of the State highway network, including matters relating to:
 - (i) reverse sensitivity; and
 - (ii) traffic generation.
 - (b) the new amenity provisions to manage noise sensitive activities in proximity to the State highway and rail corridor (“**New Amenity Provisions**”) sought to be included in the Transport Chapter by the Appellant and the Transport Agency; and
 - (c) any changes or relief that is associated or consequential to the provisions sought by the Appellant.

8. The Transport Agency supports the relief sought by the Appellant because the New Amenity Provisions are:
 - (a) consistent with its own appeal (*New Zealand Transport Agency v Whangarei District Council (ENV-2020-AKL-000132)*);
 - (b) appropriate in order to provide amenity protection and protect human health for new noise sensitive activities in close proximity to the State highway and rail network;
 - (c) give effect to the Northland Regional Policy Statement; and
 - (d) reflect an integrated approach to planning.

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
Buddle Findlay
Level 17
188 Quay Street
Auckland

PO Box 1433, DX CP24024, Auckland 1140
Phone: 64 9 358 2555
Facsimile: 64 9 358 2055
Email: mathew.gribben@buddlefindlay.com

Names and addresses of persons to be served with a copy of this notice:

KiwiRail Holdings Limited
C/- Tom Atkins
Russell McVeagh
Barristers and Solicitors
48 Shortland Street
Vero Centre
PO Box 8/DX CX10085
AUCKLAND

Phone: (09) 367 8306
Email: tom.atkins@russellmcveagh.com

Whangarei District Council
C/- Sarah Shaw
PO Box 4146, Kamo 0141

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.