

**IN THE ENVIRONMENT COURT  
AUCKLAND REGISTRY**

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

**ENV-2020-AKL-000117**

**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** **PORT NIKAU JOINT VENTURE**

Appellant

**AND** **WHANGAREI DISTRICT COUNCIL**

Respondent

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

**Dated 5 August 2020**

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**BUDDLE FINDLAY**  
NEW ZEALAND LAWYERS

Solicitor Acting: **Patrick Mulligan / Mathew Gribben**  
Email: [mathew.gribben@buddlefindlay.com](mailto:mathew.gribben@buddlefindlay.com)  
Tel 64 9 358 2555 Fax 64 9 358 2055  
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**"):

*Port Nikau Joint Venture v Whangarei District Council* (ENV-2020-AKL-000117).

2. The proceedings concern an appeal lodged by Port Nikau Joint Venture ("**PNJV**") 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 lodged a further submission opposing the relief sought by the Appellant.
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. The Transport Agency has a general duty to ensure that all forms of land transport (not just State highways) operate in an effective and integrated manner.
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 relates to the Port Nikau Environment ("**PNE**") and the Transport Chapter of the Decision ("**TRA**"), specifically:
  - (a) the Appellant's requested exemption from the rules requiring Integrated Transport Assessments ("**ITAs**") (TRA-R14 and TRA-R15).

8. The Transport Agency opposes the relief sought by the Appellant above because:
- (a) there is insufficient justification to set aside the requirements of TRA-14 and TRA-R15 and to remove the ITA requirements provided for in the PNE provisions;
  - (b) the traffic modelling relied upon by the Appellant does not consider the traffic effects of the full buildout potential of the PNE. Should an exemption to TRA-R14 and TRA-R15 be granted, the transportation safety and effectiveness of the transport network supporting the Port Nikau area could be compromised if a higher level of development occurs than what the Appellant has considered; and
  - (c) retaining the requirements to prepare an ITA will contribute to the safe and efficient operation of the transport system.

**Alternative Dispute Resolution**

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

**DATED** this 5<sup>th</sup> day of August 2020

**NEW ZEALAND TRANSPORT AGENCY**  
by its solicitors and authorised agents  
Buddle Findlay:



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**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  
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:**

Port Nikau Joint Venture  
c/- Jeremy Brabant  
Level 4, Vulcan Building Chambers  
Cnr Queen Street and Vulcan Lane  
PO Box 1502  
Shortland Street  
Auckland 1140

Phone: 021 494 506  
Email: jeremy@brabant.co.nz

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

Email: sarah@sarahshaw.co.nz  
mailroom@wdc.govt.nz

### **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.