

**IN THE ENVIRONMENT COURT  
AT AUCKLAND**

**ENV- 2011-**

**IN THE MATTER** of the Resource Management Act  
1991

**AND** An Appeal against a decision on the  
Proposed Kaipara District Plan under  
Clause 14 of the First Schedule of the  
Act.

**BETWEEN** **NZ TRANSPORT AGENCY**  
*Appellant*

**A N D** **KAIPARA DISTRICT COUNCIL**  
*Respondent*

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**NOTICE OF APPEAL**  
**Dated: 11 November 2011**

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**J E Small**  
Senior Legal Counsel  
NZTA  
Auckland

*Clause 14(1) of Schedule 1, Resource Management Act 1991*  
**Notice of Appeal to Environment Court against decision on proposed plan**

**TO:** The Registrar  
Environment Court  
Auckland

1. **NZ Transport Agency** ( NZTA) appeals against that part of the decision of the Kaipara District Council on the Proposed Kaipara District Plan, dealing with financial contributions.
2. The NZTA made a submission on the Proposed Kaipara District Plan.
3. The NZTA is not a trade competitor for the purposes of section 308D of the
4. The NZTA received notice of the decision on 30 September 2011.
5. The decision was made by Kaipara District Council
6. The part of the decision NZTA is appealing is the Respondent's decision to reject the NZTA's submission seeking the imposition of financial contributions to mitigate the effects of subdivision on the State highway network [**WOR 22.2**] and in particular the Respondent's decision to reject NZTA's submissions on the following Plan provisions:
  - (a) Clause 3.5
  - (b) Clause 22.1.1
  - (c) Clause 22.2
  - (d) Clause 22.4.1
  - (e) Clause 22.5.2
  - (f) Clause 22.6.7

(g) Clause 22.8.4

(h) Clause 22.8.5

(i) Clause 22.10.4

7. The reasons for the appeal are as follows:

- (a) NZTA is the Crown entity responsible for the management, control and maintenance of the State highway network.
  - (b) NZTA's statutory objective under the Land Transport Management Act 2003 (LTMA) is to undertake its functions to achieve an affordable, integrated, safe, responsive and sustainable land transport system.
  - (c) The State highway network is recognised as a physical resource of national importance.
  - (d) The Council decision will not promote the efficient use and development of the State highway resource.
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- (a) Subdivision and development can have a significant effect on the State highway network particularly in the Kaipara District where the State highway functions as part of the local roading network.
  - (b) There is no resource management reason to distinguish between Council-controlled and NZTA-controlled roads when levying financial contributions in a district.
  - (c) The decision will restrict the NZTA's ability to assist in providing a safe, responsive and sustainable State highway system for the Kaipara District.
  - (d) The Council decision is inconsistent with the provisions of Part 2, and sections 31, 32, 74 and 76 of the Act.

8. The NZTA seeks the following relief:

(a) Add an additional policy in clause 3.5 worded as follows:

*“By using financial contributions to ensure that development meets the costs of any additional infrastructure and services that are required to support such development”*

(b) Amend clauses 22.1.1 to indicate that financial contributions can be imposed by the Council to mitigate effects of subdivision and development on the State highway network.

(c) Amend clause 22.2.1 (d) to refer to the State highway network.

(d) Amend the last paragraph of clause 22.2.2 by inserting the words *“(including the State highway network)”* after the word *“infrastructure.”*

(e) Amend issue 22.4.1 by inserting the words *“(including the State highway network)”* after the word *“infrastructure.”*

(f) Amend Objective 22.5.2 by inserting the words *“(including the State highway network)”* after the word *“infrastructure”*.

(g) Amend objective 22.6.7 by the inserting the words *“(including the State highway network)”* after the words *“transport networks”*.

(h) Amend the explanation to Objective 22.6.7 by the inserting the words *“(including the State highway network)”* after the words *“transport networks”*.

(i) Amend clause 22.8.4 by the inserting the words *“and the State highway network”* after the words *“including roading”*.

(j) Amend clause 22.8.5 by inserting the words *“(including the State highway network)”* after the words *“transport infrastructure”*.

(k) Amend clause 22.10.4 by the addition of the following:

*“The Council may require a financial contribution to be paid in money to the Council for use by the NZ Transport Agency as a condition of land use consent or subdivision consent. Such contribution may be sought for the following purposes:*

- *Where a new connection to a State highway is required to be formed to cater for new traffic movements arising from the proposed land use or subdivision.*
- *Where an existing connection to a State highway is required to be upgraded, including any additional land needed for road widening purposes, to avoid remedy or mitigate the effects of increased traffic movements arising from the proposed land use or subdivision”*

(l) Amend clause 22.10.4 by the addition of the words “*or a State highway*” after the word “*road*” in the first sentence after the heading Contributions in Cash

(m) Such further additions, deletions or consequential amendments necessary to give effect to the matters raised in this appeal;

(n) Costs.

9. The following documents are attached:

- (a) a copy of the NZTA’s submission
- (b) a copy of the relevant decision
- (c) a list of the names of persons to be served with a copy of this notice.



**Peter Casey**

Regional Manager Planning and Investment

Pursuant to delegated authority of the NZ Transport Agency

**Date:** 11 November 2011

**Address for service:**

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**Advice to recipients of copy of notice of appeal**

*How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

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.

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.