

# Cost sharing: apportioning costs for state highway improvements required to mitigate land development effects

## Planning Policy Manual

Waka Kotahi operational transport and land use planning guidance

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## Document information

### Purpose

This guidance forms part of the Planning Policy Manual (PPM) which provides a hub for operational transport and land use planning guidance to assist Waka Kotahi staff and external stakeholders to navigate through relevant planning processes. PPM guidance is grouped into three parts:

- **Part I**      **Third party land use developments (LUDs)**
- Part II      Operational responses to Waka Kotahi strategic planning policy direction
- Part III      Planning the transport network

This guide is part of the PPM Part I.

### Availability

This document is held in electronic form by the Waka Kotahi Environmental Planning Group and on the Waka Kotahi internet ([nzta.govt.nz](http://nzta.govt.nz))

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### Document History

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# 1 What this guide covers

This guide sets out Waka Kotahi NZ Transport Agency's operational approach to apportioning costs for state highway upgrade works required to mitigate the effects of third-party development and the use of cost sharing agreements for land developments.

This document supersedes advice on cost sharing outlined in the Transit (2008) Planning Policy Manual (version 1) Manual No: SP/M/001 and the 'Cost sharing with the NZ Transport Agency Guide', 1 June 2012.

The guidance is not intended to address broader strategic funding questions around funding models or the use of other funding mechanisms. The Waka Kotahi [2021-24 NLTP Multi-party funding policy](#) sets out the higher-level Waka Kotahi framework for when Waka Kotahi and approved organisations share the costs of transport investments with those who benefit, and how those supplementary funds must be shared.

## 2 Introduction

The Resource Management Act 1991 (RMA) places a duty on every person to avoid, remedy or mitigate adverse effects on the environment (s17). The 'environment' includes all physical resources, including the state highway network.

Where practicable, adverse effects of development on the transport network should be avoided or otherwise remedied or mitigated within the development site. In some cases, works may also be required on state highway or local roading corridors to mitigate transport network effects.

Where state highway related improvements are required to mitigate land development effects, and these have benefits beyond the development, Waka Kotahi may enter into a cost sharing arrangement with the land developer. 'Cost sharing' refers to any situation where a developer contributes towards the costs of a transport network improvement triggered by the need to mitigate adverse effects of their land development on the transport network; by the provision of money, land and/or works. Waka Kotahi enters into cost sharing agreements to ensure an equitable funding split to reflect public and private benefit so that the financial costs and wider network benefits of mitigation works are met by the appropriate parties.

For development with significant transport related effects, the upgrading works or improvements on the state highway should be identified in an Integrated Transport Assessment (ITA) that forms part of a land use or subdivision proposal.

## 3 When does cost sharing apply?

In situations where there are wider network benefits arising from the state highway mitigation works over and above the minimum improvement in service or safety needed to address the adverse effects of the development, Waka Kotahi may enter into a cost sharing agreement. This can occur in situations in which the improvement works may have been undertaken by Waka Kotahi in due course, and the development accelerates the need for earlier implementation. In these circumstances, it may be appropriate for the mitigation costs to be shared between the developer, Waka Kotahi, and other parties (such as the local council or other developers for example).

It is important to note that Waka Kotahi cannot enter into a cost sharing agreement with a developer(s) which commits funding in a future National Land Transport Programme unless funding is approved under s.20 of the Land Transport Management Act.

If mitigation works are required on the state highway system, and a cost sharing arrangement needs to be entered into to provide certainty around the funding of these works, Waka Kotahi will seek the equitable sharing of costs to reflect public and private benefits from developers, local authorities, and other relevant parties, where:

- the development will have an adverse effect on the safety or function of a state highway; and

- practical and economically justifiable solutions exist to mitigate the adverse effects directly attributable to the development; and
- mitigation works intended for a specific development would lead to identifiable additional benefits to the wider transport network.

Factors Waka Kotahi will consider to determine an equitable apportionment of costs include:

- the level of the effect generated and whether the type of mitigation proposed reflects the endorsed future classification of the road under the One Network Framework classification.
- whether the improvement works are likely to be funded from the current National Land Transport Programme (NLTP) or as a future project, and the status/priority/timeframe
- whether the development impacts any proposed or current Waka Kotahi project
- likely costs of the improvement work required to mitigate effects on the state highway network, including design processes, land acquisition, consenting and physical works at the time when the works are forecast to be built; and
- any wider implications for the transport network;

Where a project is identified in an NLTP and a developer seeks to have this brought forward, the developer would be expected to bear the full cost of bringing the project forward unless Waka Kotahi considered it appropriate to reprioritise activities and contribute to enable earlier project delivery. In determining this, Waka Kotahi would consider factors such as alignment with the government policy (eg the Policy Statement on Land Transport (GPS) and Government housing priorities), value for money and affordability issues and alignment with other projects.

### 3.1 Cumulative effects

Where a succession of developments cumulatively have a significant adverse effect on the state highway network, it can be difficult to identify a point in the time when a state highway network improvement will be required, or the proportion of the cost of the improvement that should be attributed to each development. In these situations, it may be appropriate for Waka Kotahi, the developer(s) and/or the local authority to enter into a multi-party agreement to work through how costs can be assigned equitably.

### 3.2 Mitigation work not eligible for cost sharing

All costs associated with accessing the state highway, such as improving sight distances or sealing entranceways sit with the developer and are not eligible for cost-sharing agreements.

## 4 Contribution mechanisms

Developers can contribute towards the costs of mitigation via:

- development contributions (under the Local Government Act 2002)
- financial contributions (under the Resource Management Act 1991)
- multi-party agreements to secure land, works or money. Waka Kotahi prefers the use of multi-party agreements because they provide an upfront mechanism to collect and fund the total cost of mitigation works. The other cost sharing approaches should only be considered with appropriate risk management.

While development and financial contributions are important funding mechanisms, they also present some disadvantages when it comes to funding mitigation works on the state highway. For example, it can take more time (particularly development contributions) to build up sufficient funds to fund state highway works which can be problematic if the identified mitigation is required at an earlier date. In addition, their administration can also be challenging because Waka Kotahi does not directly obtain the funds – these are collected by a council.

## 4.1 Provision in planning documents

Waka Kotahi advocates for appropriate mechanisms to be included in regional and district planning documents to ensure developers financially contribute towards mitigating any effects created on the state highway network.

Waka Kotahi supports plan provisions that enable local authorities to impose conditions on developments requiring the payment of financial contributions towards state highway improvement measures and Councils exploring other funding mechanisms such as betterment and value capture.

# 5 Negotiating cost sharing arrangements

When negotiating cost-sharing arrangements we apply the following principles:

- arrangements will be negotiated between relevant parties in good faith and in the spirit of co-operation
- Waka Kotahi will seek a practical and economically justifiable solution within a reasonable timeframe.

Reaching agreement on cost-sharing arrangements is complex. Developers are encouraged to discuss their proposals with Waka Kotahi early on, to allow sufficient time to work through all the details.

Ideally cost-sharing agreements should be completed prior to any hearing for a plan change and/or land use consent, however sometimes this is not possible. In these situations, Waka Kotahi will seek to secure confidence that the plan change and/or consent contains a rule or condition that requires the mitigation irrespective of the funding component being finalised.

The cost of negotiating agreements will typically sit where they lie; although this may vary depending on the scale of the agreement and negotiations involved.

# 6 Template agreements

Waka Kotahi has developed several agreement templates – the Waka Kotahi Environment and Property team (within legal services) can provide further guidance on the use of these templates.

# 7 Phasing of development and infrastructure provision

Waka Kotahi seeks to ensure any required transport infrastructure is in place before the transport effects of a new development occur. In some cases, developers may find funding mitigation difficult until at least part of the development has been completed. To deal with this issue, larger developments may need to be staged, such that development below a certain threshold can be undertaken with limited mitigation and development beyond that threshold level can only be carried out once the required transport infrastructure is in place.

# 8 Responsibilities

The Waka Kotahi Environmental Planner is responsible for liaising with the developer and/or their agent as well as coordinating with internal parties as required (eg Legal, Maintenance and Operations, and Project Delivery teams).

Maintenance and Operations input will be required to inform the state highway design and compliance aspects.

Legal input will be required to develop legal cost share documentation.

## 9 References

<p><b><u>Multi-party funding policy</u></b>  <a href="https://nzta.govt.nz/planning-and-investment/planning-and-investment-knowledge-base/202124-nltp/202124-nltp-principles-and-policies/funding/multi-party-funding-policy/">https://nzta.govt.nz/planning-and-investment/planning-and-investment-knowledge-base/202124-nltp/202124-nltp-principles-and-policies/funding/multi-party-funding-policy/</a>  <i>Issued December 2021</i></p>	<p>The multi-party funding policy aims to achieve an equitable sharing of costs to reflect both public and private benefits from investments funded from the National Land Transport Fund (NLTF). It sets out the higher-level Waka Kotahi framework for where Waka Kotahi and approved organisations share the costs of transport investments with those who benefit, and how those supplementary funds must be shared.</p>
<p><b><u>Template agreements</u></b></p>	<p>(for Waka Kotahi internal use)</p>