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02 March 2022

The Registrar
Environment Court
PO Box 7147
Wellesley Street
AUCKLAND

NOTICE OF APPEAL – Hounsell Holdings Limited v Waikato District Council-Appeal against
Proposed District Plan

I attach herewith for filing (via email) Notice of Appeal on behalf of my client, Hounsell Holdings Limited,

1. Notice of Appeal with required annexures.
2. The filing fee of \$600 being the filing fee payable, has been paid by direct debit.

Two hard copies of the appeal with the annexures will be sent by mail today.

I advise that a copy of the Notice of Appeal has been served on the respondent Waikato District Council.

Other submitters will be sent copy of the Appeal by their notified email addresses as way of service within the next five days.

No translator in Māori language will be required.

Yours faithfully,

KATE BARRY-PICENO, Barrister

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

I MUA I TE KOTI TAIAO O AOTEAROA

ENV-2022-AKL-

IN THE MATTER

of the Resource Management Act
1991("the Act")

A N D

IN THE MATTER

an Appeal under Clause 14(1) of
Schedule 1 of the Act

BETWEEN

Hounsell Holdings Limited

Appellant

A N D

Waikato District Council

Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION
ON WAIKATO DISTRICT COUNCIL PROPOSED PLAN REVIEW
2 MARCH 2022**

Instructing Solicitors:

Neverman Bennett Lawyers
John Neverman Director
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john@nblawyers.co.nz

Counsel Acting

Kate Barry-Piceno Barrister
Mauao Legal Chambers
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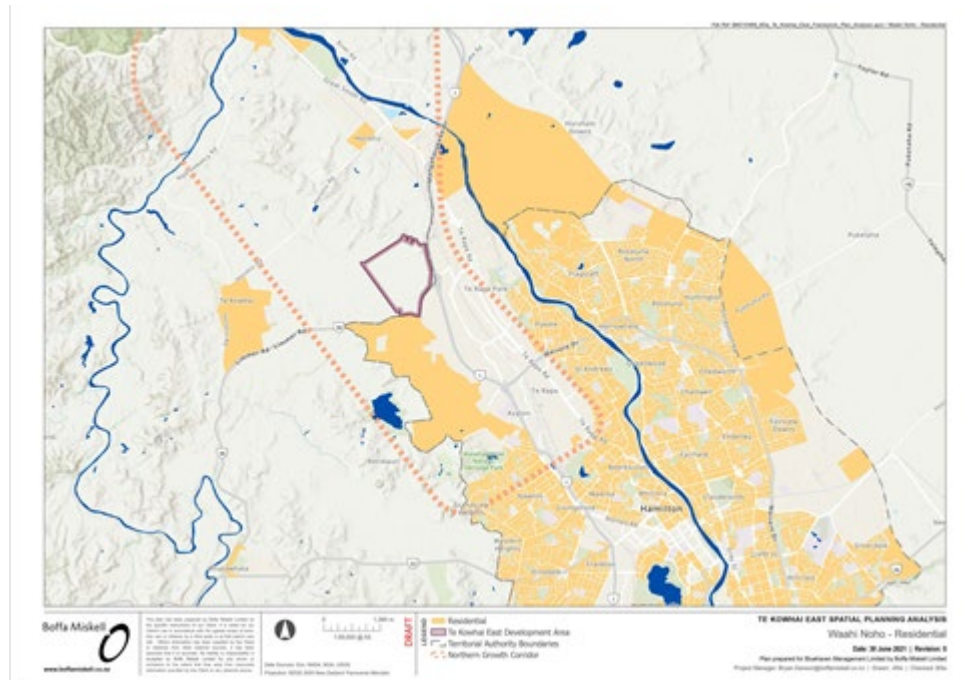
**Notice of Appeal to Environment Court against Decision on Proposed Plan
Change 35**

TO: The Registrar
Environment Court
Auckland

Hounsell Holdings Limited (the Appellant) appeal against a part of a decision of the Waikato District Council ("the Decision") of Waikato District Council ("Council") in relation to its District Plan review.

1. The Appellant made submissions on the proposed Plan Change.
2. The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
3. The Appellants received notice of the decision on or about 17 January 2022.
4. The decision was made by a Hearings Panel on behalf of the Council.
5. The part of the decision that the Appellants is appealing is:
 - (a) Part of the Appellants submission (832.1 and 832.1) sought amendment of the zoning of the property at 268 Te Kowhai Road and 284 Onion Road, Te Kowhai ("Te Kowhai East Development Area") from Rural Zone to Residential Zone; and sought consequential amendments to the Proposed District Plan to address the matters raised in the submission.
 - (b) This relief was amended by the Appellant at the hearing to seek amendment from Rural Zone to Future Urban Zone ("FUZ") or an Urban Expansion overlay for the Te Kowhai East Development Area properties.
 - (c) The Appellants provided expert planning evidence in relation to the inherent spatial logic and suitability of the land for urban development and stated Council should take measures to ensure that the Te Kowhai East Development Area is factored into capacity assessments and strategic decisions on infrastructure.

- (d) A locational spatial plan of Te Kowhai East Development Area within the wider urban area is shown below:



- (e) The parts of the Appellants submission related to rezoning of the Te Kowhai East Development Area were rejected in the Decisions made by the Respondent. The reasons given for the decision are stated as follows:
- i. Rezoning to a Future Urban Zone would result in a spot zoning that was isolated from other areas identified for future growth.
 - ii. Limited information was supplied in the submission and evidence to support a rezoning to either a Residential Zone or FUZ.
 - iii. The site is close to an industrial zoning, which could result in reverse sensitivity effects. These potential effects have not been assessed; and
 - iv. Further consideration of cross-boundary issues is required, given the location of the site. In other words, we considered more work is required to justify a zone change at this time.

5. The Appellants reasons for the appeal are as follows:

- (a) There is a need for zoning of further residential land on the boundaries of Hamilton City jurisdiction to meet the short, medium, and long term demands for residential growth.

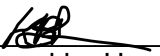
- (b) the potential of this land to contribute to meeting future urban development capacity needs will be put at risk if the land is not identified and protected from fragmentation and inappropriate development.
- (c) The land should be rezoned as part of this Plan review to recognise its future urban use, the development potential of land may not be factored into capacity assessments and strategic decisions on infrastructure which are about to be undertaken by the imminent scheduled reviews of Hamilton Urban Growth Study(HUGS), Future Proof Strategy and Waikato Regional Policy Statement (WRPS).
- (d) The subsequent evaluation (in rebuttal evidence) of the proposed Development Area against RPS Appendix 6 General Development Principles shows that the land has good potential for urban development.
- (e) The risks and potential adverse effects of “not acting” and leaving the land with rural zoning rather than identifying it for FUZ, are greater than identifying it through a FUZ or plan method of an expansion overlay.
- (f) In the absence of the relief sought below, the District Plan in the form approved in the Respondents Decision will:
 - i. Not promote the sustainable management of natural and physical resources.
 - ii. Not amount to and promote the efficient use and development of resources.
 - iii. Not be consistent with the purposes and principles in Part 2 of the Act.

6. The Appellants seek the following relief:

- (a) That the Properties (268 Te Kowhai Rd and 284 Onion Road Te Kowhai be rezoned to FUZ or expansion overlay.
- (b) Rezone other adjacent land holdings that logically form part of the broader future planning growth strategies as necessary to avoid a spot zone.
- (c) Such other orders, relief of other consequential amendments as Court considers are appropriate or necessary to address the issues raised in this appeal and to ensure comprehensive and coordinated future

urban growth occurs in Te Kowhai and surrounding areas near Hamilton City.

7. The Appellants attach the following documents:
- (g) A copy of our submission made.
 - (h) A copy of the relevant part of the decision.
 - (i) Copy of the names and addresses of persons to be served.


Signed by Hounsell Holdings Limited
by their duly authorised agent
Legal Counsel

Kate Barry-Piceno

DATED this 2nd day of March 2022

Address for Service of Appellants:

Kate Barry-Piceno Barrister
Mauao Legal Chambers
1/9 Prince Avenue
Mount Maunganui 3116
Email: kate@kbplawyer.co.nz

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.

To become a party to the appeal, you must—

Within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

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 Act.

You may apply to the Environment Court under section 281 of the Act for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellants submission and/or the decision, and/or part of the decision appealed. These documents may be obtained, on request, from the appellant.

***Delete if these documents are attached to copies of the notice of appeal served on other persons.*

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Wellington, Auckland, or Christchurch.

Contact details of Environment Court for lodging documents

Documents may be lodged with the Environment Court by lodging them with the Registrar.

The Auckland address of the Environment Court is:

8th Floor, District Court Building
3 Kingston Street,
Auckland

Its postal address is:

PO Box 7147
Wellesley Street,
Auckland

And its telephone and fax numbers are:

Telephone: (09) 916 9091
Facsimile: (09) 916 9090



HOUNSELL HOLDINGS LIMITED
PO BOX 72717, PAPAKURA
AUCKLAND 2244

9 October 2018

Waikato District Council
Private Bag 544
Ngaruawahia 3742

ECM Project: DPRPh5-03
ECM #
Submission #
Customer # 162509
Property # 1004518 2015724

By Email: districtplan@waid.govt.nz

Dear Sir/Madam

RE: Submission on the Proposed District Plan 2018

Thank you for the opportunity to submit on the Proposed District Plan.

The land to which this feedback relates is located at 268 Te Kowhai Road and 284 Onion Road as identified shaded red on the attached plan ("Land"). The Land comprises approximately 142 hectares, is generally located in the Te Kowhai area south of Horotiu and borders the State Highway. Directly to the south of the Land is the Rotokauri Growth Cell and the Te Rapa Industrial Area, which are both within Hamilton City. Hamilton City Council is also considering accelerating rezoning of the industrial land adjacent to the Land on the eastern side of the State Highway (Hamilton City Council minutes dated 26 June 2018).

The Land is currently zoned Rural under the current District Plan and the Proposed District Plan proposes that it remains Rural. The relevant Specific Provisions are the Proposed District Plan's planning maps as they relate to the Land and associated rules.

We oppose the retention of the current Rural zoning and request that the Land be rezoned to Residential by amending the Proposed District Plan's planning maps. This would be an extension of and consistent with the extension of the land around the Te Kowhai township and will also support the growth of the industrial land in Hamilton City.

Our reasons are as follows:

- (1) The Land is of a size that, without including neighbouring properties, can support development of approximately 2,000 dwellings.

- (2) The Land is directly north of the Rotokauri residential area (including a large SHA approved for development directly across Te Kowhai Road).
- (3) The Land lacks significant topographical constraints with no significant ecological or landscape constraints. The Land can therefore be redeveloped without any significant adverse impacts.
- (4) The Land is well located with good access to transport networks, community infrastructure, employment opportunities and schooling.

We oppose the inclusion of the Land in the Hamilton Basin Ecological Management Area as shown on the Proposed District Plan planning maps and request that the Land be removed from the Hamilton Basin Ecological Management Area by amending the Proposed District Plan's planning maps.

Our reasons are as follows:

- (1) The Land has no significant ecological constraints and should therefore not be constrained by its inclusion in the Hamilton Basin Ecological Management Area.
- (2) The Proposed District Plan planning maps cover a large area with no apparent regard to specific land parcels. We query the reasoning for the inclusion of the Land in the Hamilton Basin Ecological Management Area.
- (3) The Proposed District Plan does not adequately explain how inclusion in the Hamilton Basin Ecological Management Area impacts the Land.
- (4) On the basis of the request to rezone the land to Residential, Rule 22.4.1.6 (the only rule in the Proposed District Plan that refers to the Hamilton Basin) should not apply to the Land.

We oppose the expansion of the Airport Obstacle Limitation Surface for the Te Kohwai Airpark as shown on the Proposed District Plan planning maps and request that the Airport Obstacle Limitation Surface for the Te Kohwai Airpark be reduced to that shown in the Operative District Plan planning maps by amending the Proposed District Plan's planning maps.

Our reasons are as follows:

- (1) The reasoning for the expansion of the Airport Obstacle Limitation Surface is not adequately justified or explained in the Proposed District Plan.
- (2) The expansion of the Airport Obstacle Limitation Surface does not consider or deal with the potential impact on residential development in Te Kowhai and the surrounding area, which includes the Land.

We seek such other consequential amendments to the Proposed District Plan in addition to those above as are necessary to give effect to the matters raised and relief sought within this submission.

We could not gain an advantage in trade competition through this submission.

We wish to be heard in support of our submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Niksha Farac', written in a cursive style.

Niksha Farac

Dated: 9 October 2018

Address for service of submitter:

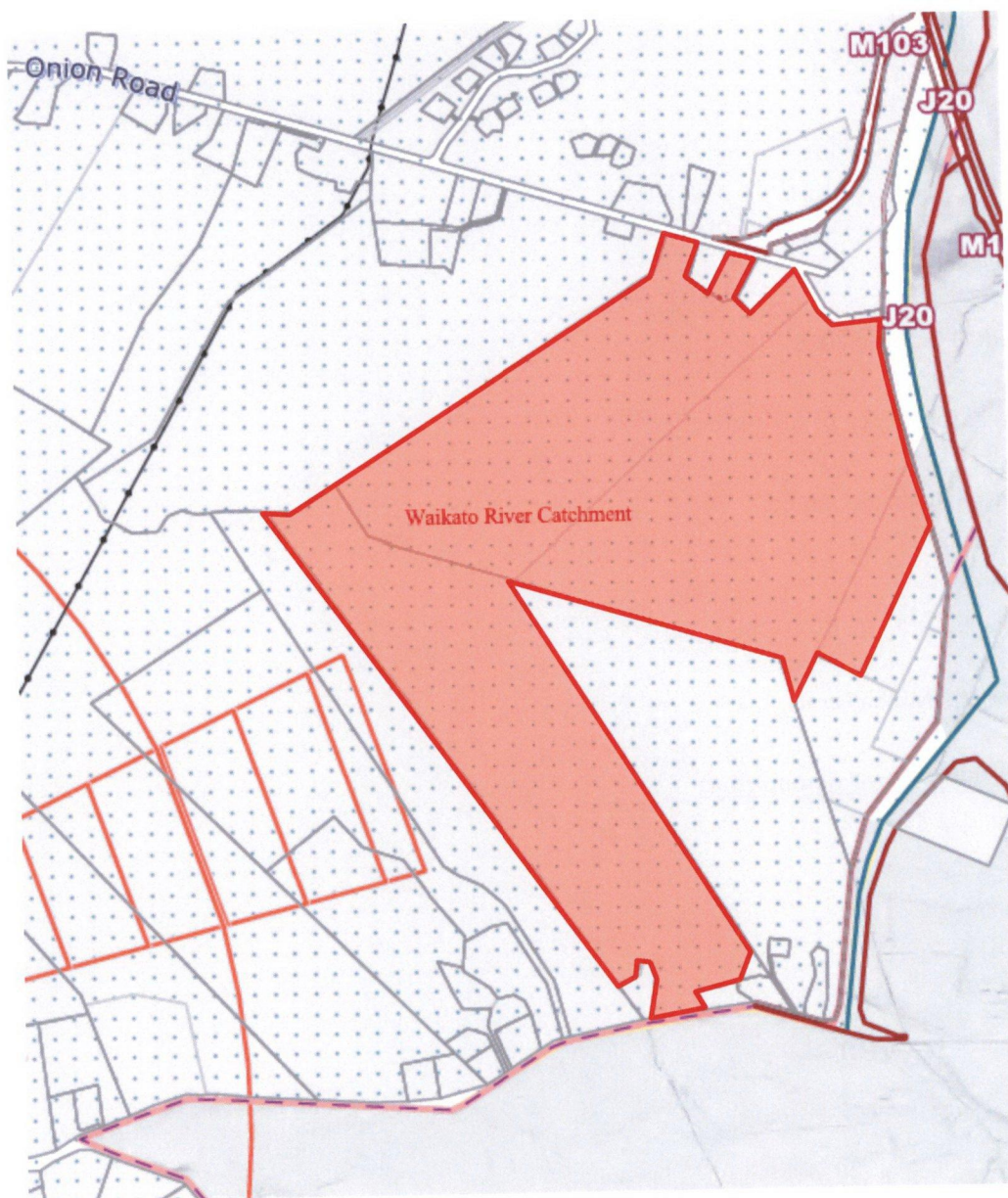
Hounsell Holdings Limited
P O Box 72717
Papakura
Auckland 2244

Attention: Niksha Farac

Email: niksha@zelkogroup.co.nz

Phone: 021 899 912

Land at 268 Te Kowhai Road and 284 Onion Road



Submitter: Hounsell Holdings Limited

Submission number: 832

Submission number	Further submitter name	Further submitter oppose/support	Summary of decision requested	Decision	Decision report where this subject matter is addressed
832.1		Oppose	Amend the zoning of the property at 268 Te Kowhai Road, Te Kowhai from Rural Zone to Residential Zone; AND Amend the Proposed District Plan to make any consequential amendments as necessary to address the matters raised in the submission.	Reject	Decision Report 28j: Zoning - Te Kowhai
FSI277.55	Waikato Regional Council	Oppose		Accept	
FSI108.201	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Oppose		Accept	
FSI202.129	New Zealand Transport Agency	Oppose		Accept	
FSI379.343	Hamilton City Council	Oppose		Accept	
FSI387.1351	Mercury NZ Limited	Oppose		Accept	
832.2			Delete the Hamilton Basin Ecological Management Area from the property at 268 Te Kowhai Road, Te Kowhai; AND Amend the Proposed District Plan to make any consequential amendments as necessary to address the matters raised in the submission.	Accept	Decision Report 22: Rural Zone

Submission number	Further submitter name	Further submitter oppose/support	Summary of decision requested	Decision	Decision report where this subject matter is addressed
832.3			Amend the Airport Obstacle Limitation Surface for the Te Kowhai Airpark reduce the area to that shown on the Operative Waikato District Plan; AND Amend the Proposed District Plan to make any consequential amendments as necessary to address the matters raised in the submission.	Reject	Decision Report 26: Te Kowhai Airpark Zone
FSI339.203	NZTE Operations Limited	Oppose		Accept	
832.4			Amend the zoning of the property at 284 Onion Road, Te Kowhai from Rural Zone to Residential Zone; AND Amend the Proposed District Plan to make any consequential amendments as necessary to address the matters raised in the submission.	Reject	Decision Report 28j: Zoning - Te Kowhai
FSI277.56	Waikato Regional Council	Oppose		Accept	
FSI108.202	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Oppose		Accept	
FSI202.130	New Zealand Transport Agency	Oppose		Accept	
FSI379.344	Hamilton City Council	Oppose		Accept	
FSI387.1352	Mercury NZ Limited for Mercury D	Oppose		Accept	

Submission number	Further submitter name	Further submitter oppose/support	Summary of decision requested	Decision	Decision report where this subject matter is addressed
832.5			Delete the Hamilton Basin Ecological Management Area from the property at 284 Onion Road, Te Kowhai; AND Amend the Proposed District Plan to make any consequential amendments as necessary to address the matters raised in the submission.	Accept	Decision Report 22: Rural Zone