

**BEFORE THE ENVIRONMENT COURT  
AUCKLAND REGISTRY**

**ENV-2022-AKL-000078**

**IN THE MATTER** of appeals under Clause 14(1) of  
Schedule 1 of the Act in relation to the  
Proposed Waikato District Plan.

**AND**

**IN THE MATTER** of a Proposed District Plan

**BETWEEN ANNA NOAKES AND FRUHLING  
TRUST**

Appellant

**AND WAIKATO DISTRICT COUNCIL**

Respondent

**To: The Registrar  
Environment Court – Auckland**

---

**SECTION 274 NOTICE FROM TOP END PROPERTIES LIMITED  
ON THE APPEAL BY  
ANNA NOAKES AND FRUHLING TRUST**

---

*22 March 2022*

**Counsel Instructed**

Peter Fuller  
Quay Chambers  
2 Commerce Street  
P O Box 106215  
Auckland City 1143  
peter.fuller@quaychambers.co.nz  
021 635 682

**TO** The Registrar  
Environment Court  
Auckland

**NOTICE**

1. Top End Properties Limited (**Top End**), wishes to be a party pursuant to s 274 of the Resource Management Act 1991 (**Act**) to the following proceedings:

**Anna Noakes and Fruhling Trust v Waikato District Council: ENV-2022-AKL-000078**

Master Topic: Proposed Waikato District Plan

2. Top End made a submission (#89) on the Proposed Plan and has also lodged its own appeal – ENV-2002-AKL-000059.
3. Top End has an interest in the whole of these proceedings because the Appellant seeks to reverse the Decision to rezone land at Pokeno and Top End owns land that has been rezoned from rural to urban activities.
4. Top End is interested in all of the issues arising from the relief sought.
5. Top End is not a trade competitor for the purposes of section 308C or 308CA of the Act.
6. Top End opposes the relief being sought for reasons including;
  - a) The flooding risk identified, as the reason to seek that the Decision to rezone land at Pokeno be overturned, is not supported by any technical assessment and modelling.
  - b) The assessment of stormwater undertaken by Top End, CSL Trust and Pokeno West, has shown that the development of the land for urban activities can achieve the required hydrological neutrality.
  - c) In any event, the more detailed engineering and modelling work, based on actual final subdivision and development proposals, will address all stormwater issues at the subdivision and landuse consenting stage.

- d) The engineering information supporting the Top End rezoning was more than adequate for a rezoning determination. It is not appropriate to prevent rezoning based on unsupported concerns, when the Council has full regulatory control at the time of development to ensure that hydrological neutrality is achieved, by, for example, ensuring stormwater ponds are sized appropriately.
  - e) The relief does not give effect to the National Policy Statement – Urban Development 2020 because it will not provide adequate vacant land capacity in Pokeno to develop much needed housing.
  - f) Regarding the loss of primary production activity, housing and urban development is also productive and will greatly exceed the economic output and number of jobs from the current rural land uses. Top End, CSL Trust and Pokeno West, provided supporting economic evidence at the Hearing.
  - g) Therefore, the rezonings in the Decision satisfy the tests in s32 of the Act and, in particular, because urban activities will provide economic and employment opportunities.
  - h) The relief sought will not enable the Council to perform its functions under s31(1)(aa) to ensure there is sufficient development capacity in respect of housing and business land to meet the demands of the district.
  - i) The urban zonings are an efficient use of natural and physical resources (s7(b)).
  - j) The relief sought will adversely affect the social and economic wellbeing of landowners and potential new residents, that would be affected by the removal of urban zonings and affordable housing choices.
  - k) The relief does not meet the Purpose of the Act.
7. Top End agrees to participate in mediation or other alternative dispute resolution of the proceedings.

**DATED** this 22<sup>nd</sup> day of March 2022



---

**Peter Fuller**  
**Counsel for Top End Properties Limited**

**Address for service:**

Peter Fuller  
*LLB, MPlan, DipEnvMgt, BHortSc*  
Barrister  
P O Box 106215  
Auckland City 1143  
Phone: 09 374 1651  
021 635 682  
Email: peter.fuller@quaychambers.co.nz

**LIST OF PARTIES TO BE SERVED WITH THIS NOTICE**

**Respondent – Waikato District Council**

District Plan Hearings Administrator  
Waikato District Council  
Private Bag 544  
Ngaruawahia 3742  
Email: Districtplan@waidc.govt.nz

**Anna Noakes**

C/- Setareh Stienstra  
Barrister  
Kate Sheppard Chambers  
Email: setareh@publiclawchambers.com  
Cc: sam@gmlawyers.co.nz

**Submitters Served By the Appeal**