

**BEFORE THE ENVIRONMENT COURT  
AUCKLAND REGISTRY**

**ENV-2022-AKL-000048**

**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** **WAKA KOTAHI NEW ZEALAND  
TRANSPORT AGENCY**

Appellant

**AND** **WAIKATO DISTRICT COUNCIL**

Respondent

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

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**SECTION 274 NOTICE FROM TOP END PROPERTIES LIMITED  
ON THE APPEAL BY  
WAKA KOTAHI NEW ZEALAND TRANSPORT AGENCY**

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*21 March 2022*

**Counsel Instructed**

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**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:

**Waka Kotahi New Zealand Transport Agency v Waikato District Council: ENV-2022-AKL-000048**

Master Topic: Proposed Waikato District Plan

2. The Appellant is seeking that the infrastructure planning provisions be amended to provide a 100m noise buffer and a 40m vibration buffer for the state highway.
3. Top End made a submission (#89) on the Proposed Plan and has also lodged its own appeal – ENV-2002-AKL-000059.
4. Top End has an interest in these proceedings that is greater than the interest that the general public has because it;
  - a) owns land that is within the 100m noise setback buffer proposed by the Appellant;
  - b) is directly affected by the relief sought that seeks to restrict the development of land within 100m of the state highway network;
  - c) represents the interests of neighbouring properties that would also be adversely affected by the relief sought;
  - d) is in the interests of natural justice for it to be able to participate in the proceedings; and
  - e) meets the Purpose of the Act for its interest to be recognised.
5. Top End is not a trade competitor for the purposes of section 308C or 308CA of the Act.
6. Top End is interested in the whole of the proceeding.

7. Top End opposes the relief being sought to extend the noise and vibration setbacks for reasons including;
- a) The planning provisions guide the determination of resource consents including the future development of the Top End land in accordance with the residential zoning now provided.
  - b) The Appellant has a resource management responsibility to internalise the external effects of its operation.
  - c) The imposition of development restrictions is unreasonable and will have significant adverse effects on the ability to develop the land for much needed housing.
  - d) The relief does not give effect to the National Policy Statement – Urban Development 2020.
  - e) The relief sought is a “blunt” measure that is not responsive to the unique natural and physical characteristics of different locations regarding acoustic and vibration behaviour e.g. topography.
  - f) It is inappropriate and unnecessary to include “advice” notes in a plan, cross referencing to specified rules and for only one section of the plan, because plan interpretation already requires that all relevant provisions in different sections of a plan must be considered in planning decisions.
  - g) It is not fair and is unreasonable, to restrict private development rights, and significantly increase development costs with mitigation requirements, without adequate compensation.
  - h) The appellant has sources of revenue, that can pay for mitigation of noise and vibration, through charges on road users.
  - i) The relief sought will adversely affect the social and economic wellbeing of neighbouring landowners and residents that are affected by the proposed rule changes.
  - j) It does not meet the Purpose of the Act for Waka Kotahi to receive free public benefits at the cost of affected private landowners.

8. Top End agrees to participate in mediation or other alternative dispute resolution of the proceedings.

**DATED** this 21st day of March 2022



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

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**LIST OF PARTIES TO BE SERVED WITH THIS NOTICE****Respondent – Waikato District Council**

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**Waka Kotahi**

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**Submitters Served By the Appeal**