

**IN THE MATTER of the Resource Management Act 1991(RMA)**

**AND**

**IN THE MATTER of Plan Change 9 to the Hamilton City District Plan.**

**JOINT WITNESS STATEMENT (JWS) IN RELATION TO:**

**ARBORICULTURE and PLANNING (1)**

**15<sup>th</sup> March 2023**

Expert Conferencing Held on: 15<sup>th</sup> March 2023

Venue: Online

Independent Facilitator: Marlene Oliver

Admin Support: Cassidy Armishaw

**1 Attendance:**

**1.1 The list of participants is included in the schedule at the end of this Statement.**

**1.1.1** Claire Moore – a planner employed by Kainga Ora attended as a corporate representative in place of Michael Campbell (expert consultant planner) who was unavailable to attend this session. Michael Campbell is scheduled to attend the Planning expert conference scheduled for 20 March 2023. It was agreed that Claire will brief Michael Campbell.

**1.1.2** Fraser McNutt (planning expert for a number of submitters, including AW King and Sanjil Mistry) was not available to participate but the information below should assist discussions to be held in the near future. The notes recorded in subsections 3.5.1 to 3.6.2 below have been made to assist these further discussions.

**2 Basis of Attendance and Environment Court Practice Note 2023**

**2.1 All participants agree to the following:**

- (a) The Environment Court Practice Note 2023 provides relevant guidance and protocols for the expert conferencing session;
- (b) They will comply with the relevant provisions of the Environment Court Practice Note 2023;
- (c) They will make themselves available to appear before the Panel;
- (d) This statement is to be filed with the Panel and posted on the Council's website.

### **3 Matters considered at Conferencing – Agenda and Outcomes**

#### **3.1 Introduction**

#### **3.2 Code of Conduct**

#### **3.3 Discussion around the key themes identified in the Themes and Issues Report**

##### **3.3.1 Philosophical Positions on the Identification and Protection of Notable Trees**

##### **3.3.2 Method of Evaluation**

##### **3.3.3 Seek to Schedule New Trees / Remove Notable Trees**

##### **3.3.4 Notable tree provisions and definitions**

#### **3.4 Update from Hamilton City Council on work undertaken since the close of submissions**

#### **3.5 Agenda items and outcomes**

##### **3.5.1 Clarification as to whether the protected root zone of notable trees will expand over time as notable trees grow, including how this managed through the current rule framework. (AW King) (Sanjil Mistry)**

Jonathan Redfern-Hardisty confirmed that in real life the root protection zone does expand as a tree ages and the trunk expands. However, as most of the notable trees are already mature the rate of expansion over time will be slow.

Laura Galt confirmed that the current wording of PC9 fixes the root protection zone for the trees listed in schedule 9. As currently worded, a subsequent plan change would be required to change the dimension of those root protection zones in schedule 9.

##### **3.5.2 Policy 20.2.3 (a) (c) and (d) - to provide for and recognise the maintenance and upkeep of the private boundary edge or the upkeep of private property rights where the Protected Root Zones traverses onto private property. (AW King) (Sanjil Mistry)**

Laura Galt clarified that rule 20.3(w) is an RDA and relevant matters of discretion are in rule 1.3.3D3(a-g). Under the current wording the policy most relevant to a Root Protection Zone affecting private property would be policy 20.2.3(a) – and possibly only the last bullet point in that policy. It is suggested that Fraser McNutt provide some suggested wording if he considers further policy text is appropriate.

##### **3.5.3 Rule 20.3.(v) – clarify the measurement points, whether it is measured 3m from the base of a notable tree, 3m from any exposed root of a notable tree; or 3m from the protected root zone. (AW King) (Sanjil Mistry)**

Laura Galt and Jonathan Redfern-Hardisty advised that the intention of the 3m is that is be measured from the centre from the trunk but they acknowledge that this is not clear from the current PC9 wording and is a matter that should be clarified.

### 3.6 **Definitions**

#### 3.6.1 **The submitter opposes the definition of 'Protected Root Zone' (Kāinga Ora)**

Claire Moore raised the alternate definition for the Protected Root Zone in the AUP. This is consistent with the Kainga Ora submission.

Jonathan Redfern-Hardisty confirmed his preference to use the PC9 definition as it represents current industry practice and he noted that the drip line often doesn't accurately represent the root zone.

#### 3.6.2 **Definition of 'the storage of materials, vehicles, plant or equipment' as stated in Rule 20.3.w (viii) needs to clarify if it includes the parking of cars within the driveway of private properties of which are overlaid by the protected root zone. (AW King) (Sanjil Mistry)**

Laura Galt confirmed that under the current wording a new activity involving parking of cars (either directly on the ground or on a formed driveway/parking area) within the defined Protected Root Zone would be classified as an RDA under rule 20.3(w)(viii).

Laura Galt and Jonathan Redfern-Hardisty acknowledge that some further refinements to the wording of this rule would be appropriate to provide more clarification of the activities that require a resource consent.

### 3.7 **Assessment of additional notable trees**

#### 3.7.1 John Adam, as an expert in landscape history, supports further study being carried out to document landscape history in Hamilton City.

Laura Galt notes that the submission from the Waikato Heritage Group is quite general and does not include a list of specific trees that the submitter wishes to include in the notable tree schedule. If it is the submitter's intention that specific trees be included in the schedule, in part because of their historic heritage significance, then the submitter needs to provide a list of such trees as soon as possible. Laura Galt will directly contact the Waikato Heritage Group to seek clarification on their submission.

## 4 **PARTICIPANTS TO JOINT WITNESS STATEMENT**

### 4.1 The participants to this Joint Witness Statement, as listed below, confirm that:

- (a) They agree that the outcome(s) of the expert conferencing are as recorded in this statement; and
- (b) They have read the Environment Court's Practice Note 2023 and agree to comply with it; and
- (c) The matters addressed in this statement are within their area of expertise; and
- (d) As this session was held online, in the interests of efficiency, it was agreed that each expert would verbally confirm their position to the Independent Facilitator and this is recorded in the schedule below.

**Confirmed online 15<sup>th</sup> March 2023**

| <b>EXPERT'S NAME &amp; EXPERTISE</b>         | <b>PARTY</b>           | <b>EXPERT'S CONFIRMATION<br/>REFER PARA 4.1</b> |
|--|------------------------|---|
| Laura Galt – Planning                        | Hamilton City Council  | Yes   |
| May Soe – Planning                           | Hamilton City Council  | Yes   |
| Jonathan Redfern-Hardisty<br>– Arboriculture | Hamilton City Council  | Yes   |
| Craig Sharman – Planning                     | Hamilton City Council  | Yes   |
| Claire Moore – Planning<br>(Corporate)       | Kainga Ora             | N/A<br>Present for items 3.5.1 to 3.6.2         |
| John Adam – Heritage                         | Waikato Heritage Group | Yes   |