

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 9 to the Operative Hamilton
City District Plan

STATEMENT OF REBUTTAL EVIDENCE OF LAURA JANE GALT

(Planning - Notable Trees)

Dated 12 May 2023

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INTRODUCTION

1. My full name is Laura Jane Galt
2. My qualifications and experience are as set out in paragraphs 3 and 4 of my primary statement of evidence dated 14 April 2023 (**primary evidence**).
3. I reconfirm that I have read and am familiar with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and I agree to comply with it.

PURPOSE AND SCOPE OF EVIDENCE

4. The purpose of this rebuttal statement of evidence, which is provided on behalf of Hamilton City Council (**HCC**) as Plan Change 9 (**PC9**) proponent, is to:
 - a) Respond to the planning evidence of Mr Jacob Robb on behalf of D & B Yzendoorn (#301); and
 - b) Address the matters raised by CN & RN Warnakulasoriya;

RESPONSE TO SUBMISSIONS

Yzendoorn – Mr Robb

5. The Yzendoorn submission (#301) opposes the inclusion of T172.1 to T172.20 into Appendix 9, Schedule 9D as notable trees, and sought changes to activities that could be undertaken in the Protected Root Zone (**PRZ**).
6. Paragraph 16: Mr Robb does not dispute Mr Redfern's arboricultural assessment of the trees. However, he notes that because the trees are located on a council reserve, they are already afforded protection through

the Reserves Management Act 1977 (**Reserves Act**). While tree protection is provided under the Reserves Act, it does not follow that HCC should not employ other available tools to protect ecologically significant trees. Territorial Authorities (**TAs**) have obligations under ss 6(c) and 7 of the Resource Management Act 1991 (**RMA**) to protect such trees. The tree rules in the District Plan are in place to comply with those obligations and to protect the important functions of trees as recognised in the RMA.

7. Paragraph 18: I disagree with Mr Robb's opinion that the protection afforded Notable Trees by the District Plan is "superfluous" above and beyond what is provided by the HCC Open Space and Reserves Act Management Plans. Nor do I agree that the benefits of the District Plan's protection of the tree are outweighed by the impact on the development potential of the site. While there is national direction to enable greater intensification under district plans (and an HCC plan change process underway to give effect to that), that does not displace the requirement that HCC identify and protect ecologically significant trees. As recorded in Mr Redfern's primary evidence, protection of a tree's root zone is a critical element to protecting the tree itself.
8. In my view, the District Plan framework, which includes rules for protecting Notable Trees while providing for their maintenance or removal under a resource consent, is the most effective mechanism for balancing the competing interests identified by Mr Robb.
9. Paragraph 19: I note the issue raised by Mr Robb regarding the accuracy of the trees identified in submission point 301.4 as currently mapped. I agree that the location of the trees appears to be incorrect. Particularly those clearly shown on the private driveway adjoining the reserve. While the aerial maps are fairly accurate there can be a margin of error and therefore should not be solely relied on for mapping point data. However, I agree that the point data needs to be updated to accurately map the location of the trees.

10. Paragraph 22 – 24: Mr Robb seeks an amendment to Rule 20.3 v. vi and vii. to remove the reference to building ‘envelope’. I acknowledge his reasons for seeking removal of the term and support deletion of the words ‘envelope or’.

CN & RN Warnakulasoriya

11. By way of background, CN and RN Warnakulasoriya did not lodge a primary submission on PC9 within the specified timeframe. However, using the further submission form, they did request removal of proposed Notable Tree T167 from Schedule 9D as well as its physical removal from the road reserve on the basis that it presents a health and safety risk. I note that no primary submission was made by any person addressing proposed Notable Tree T167. The Warnakulasoriyas also submitted to the Hearing Administrator material entitled ‘Evidence Summary Opposing Notable Tree Proposal T167’ (**evidence summary**) which was provided by the deadline for submitters to lodge expert evidence. This evidence summary does not constitute expert evidence.
12. The issue of whether the Warnakulasoriyas have standing to seek relief in the PC9 process, and the weight to be given to the evidence summary, will be addressed in HCC’s opening legal submissions. Nevertheless, I address the matters raised by the Warnakulasoriyas in the event that the Panel determine that they do have standing.
13. I note that no expert arboricultural evidence has been provided challenging the tree’s STEM assessment. In my view, there is no evidential justification for removing T167 from Schedule 9D.
14. Turning to the safety risk, being located in a berm, HCC is responsible for proposed Notable Tree T167. If a traffic safety issue is raised with respect to a Notable Tree, it is HCC’s Transportation Unit that must determine whether the risk is such that it should seek a resource consent to have the

tree physically removed. I have discussed the Warnakulasoriya's safety concerns with the relevant Council staff in the Transportation Unit. I am advised that the Unit does not consider that the tree presents a safety risk such that tree removal is necessary. Rather, it is considered that measures can be employed by drivers exiting the property to reduce any traffic safety risk involving the tree. I would invite the Warnakulasoriyas to make contact with the Transportation Unit if they wish to have a direct discussion with the unit, and can provide the necessary contact details if they are interested.

15. As physical removal of the tree is not a matter within the scope of PC9, I do not address that request any further.

CONCLUSION

16. I recommend retention of notable trees T172.1 to T172.20 in Schedule 9D, noting that a correction of the mapped location may be required.
17. I support the suggested amendment of Rule 20.3 v. i. – vi. to remove the word 'envelope or'.
18. I do not support the removal of notable T167 from Schedule 9D. Physical removal of the tree is not a matter within the scope of PC9.

Laura Jane Galt

12 May 2023