

BEFORE THE HEARING PANEL

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

AND

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

STATEMENT OF MARY LEE BURTON
22 May 2023

Introduction

- 1 My name is Mary Lee Burton. I am a registered owner of 736A River Road, Hamilton. I have lived at 736A River Road for over 20 years.
- 2 I am a landscape designer and consultant with 40 years of private and commercial landscaping experience. It is my career and passion.

Planting and landscaping on my property

- 3 When I moved into 736A River Road over twenty years ago, the property had previously been a rental and the gully at the back had been completely neglected. It was growing many noxious weeds including moth plant, privet and wandering Jew which gave my animals rashes.
- 4 Since I moved in, I have taken great care of the garden at the back of my property and have been a responsible land owner. My garden is something I am extremely proud of, and is personal to me and my family.
- 5 In the last five years, I have had more time and resources to carry out significant landscape works and upgrade the gully and garden as a whole. This has involved the planting of a mix of exotic, native, and sub-tropic species in the gully, and the installation of other garden and landscape features which are personal to me. This has included iron wrought fencing, granite pillars and plants of all descriptions that have come from my daughter's section in Auckland.
- 6 When I first moved into my home the gully was covered in ivy planted by the original owners. This has all been cleared and I have mass planted the Clivia species (selected forms of Terry Hatch Joy Plants) to hold the shape of the banks. New Clivia plant colours not yet released in New Zealand are also on order. I have also ordered plants such as avocado, fig, citrus, bay, and feijoa which I plan to plant because I enjoy picking fresh produce from my garden.
- 7 The garden is unrecognisable to what it looked like when I first moved in to the property. I have developed a stairway using schist with my neighbours, put in retained railway sleeper steps, pea metal pathways, pedestrian bridges, garden art, pots and seats throughout my garden. I enjoy upgrading the gully for my grandchildren, and other children in the neighbourhood to play in and I have installed a playground and trampoline for them to use.



Photograph 1: schist stairway and firepit



Photograph 2: installed planters



Photograph 3: installed pathway



Photograph 4: entertainment area

- 8 My long term vision is to make my garden into a sculpture walk. There is also an entertainment area with a fire pit that my family and my neighbours benefit from. I would be devastated to be required to get a resource consent to upgrade my garden or to keep it in its maintained state.
- 9 I have recently planted Ophiopogon/mondo grass species as a substitute to a grass lawn on the other side of the bridge where it is difficult to get the lawn mower. Lawn and turf contractors carried heavy machinery down the steps to sow the lawn many years ago.



Photograph 5: section of lawn

- 10 I employ arborists to climb the trees and maintain the more labour intensive sections of the garden so that the trees are pruned professionally with the greatest of care. This is also to maintain the privacy I have over my numerous decks my outdoor bath and the clothes line which overhangs the proposed SNA.



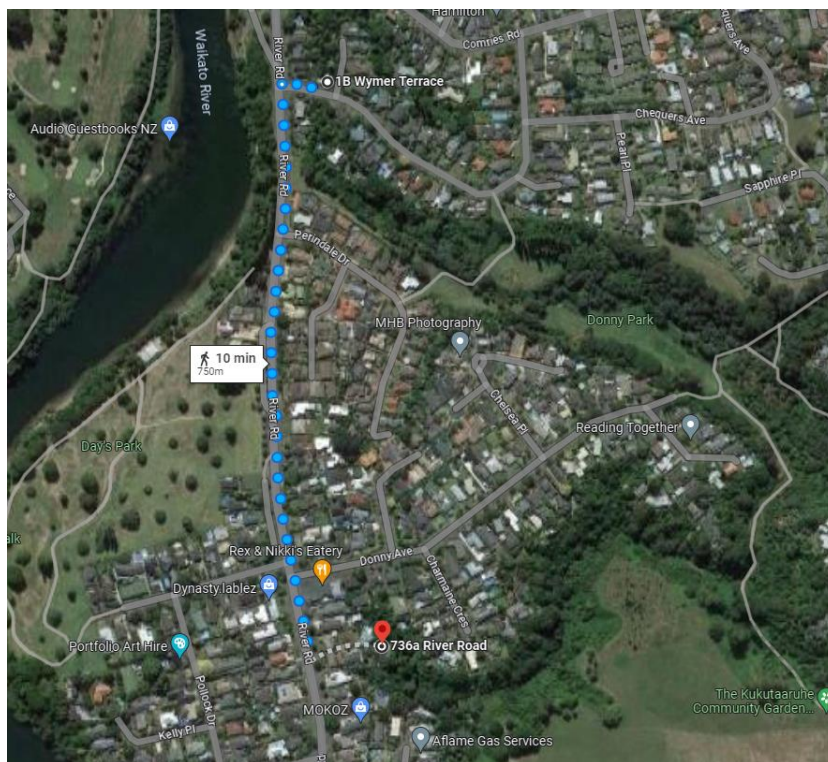
Photograph 6: clothesline

Stormwater flooding

- 11 Stormwater has historically flooded my garden. Hamilton City Council agreed to install an overland flow path to remedy the flooding in April 2022.

Hamilton City Council Master Data Set

- 12 Hamilton City Council's Master Dataset identifies that the proposed SNA meets criteria 1, 3, 4, 8 and 11 of Waikato Regional Policy Statement's Indigenous Biodiversity criteria.
- 13 I have not been provided with any evidence as to why the part of the proposed SNA over my property meets these criteria. Hamilton City Council's only justification is that it is connected to the rest of Donny Park.
- 14 Criterion 1 relates to a covenant at 1B Wymer Terrace which is 750m north from my Property. A picture of the distance between the properties is below.



Photograph 7: distance between my Property and Wymer Terrace

- 15 I dispute that the proposed SNA over my property meets the remaining criteria. I have not been made aware that my garden is a habitat for indigenous species or has indigenous vegetation that is underrepresented to meet criteria 3 or 4.
- 16 My property also does not contain any aquatic habitat. Flooding occurs on the property but that is a result of stormwater flooding as I have set out above.

4Sight Consulting's Recommendation

- 17 4Sight Consulting's PC9 Technical Ecology report dated March 2023 states that the part of the proposed SNA over my property has some open grass areas but overall is consistent with the ecological value of the proposed SNA.
- 18 I do not see how my garden contributes to the ecological significance of the rest of Donny Park when I have carried out substantial planting and works on the garden to design it to my taste. I understand why this might be appropriate if I had left my garden completely untouched and in the state it was when I moved in to the property 20 years ago.

- 19 In relation to the open grass areas, these have all been planted by me. I mow and maintain these areas. Each year they are upgraded with lawn fertiliser, weed spray and seed as necessary.
- 20 Donny Park is not accessible from my property, and I dispute that there is any connectivity to link these areas together. There is no public access to my part of the gully, and it does not open up onto any roads. My gully is a private garden that is its own peninsula completely separate from Donny Park. It is owned by me and the adjoining parts are owned by my neighbours and not by the Council. Removing it from the proposed SNA will not take away from the rest of the gully. It will remain clear that my garden is a private haven with lawn and exotics. My planting has been carefully planned to my taste and designed for the duration of the garden's life. I have carried out mass planting of species such as the Clivia previously mentioned, a variety of ferns, Philodendron, liriopes, Hydrangea, rhododendrons, azalea natives and grasses beneath the drip line of the mature trees. These are designed for low maintenance and are suitable for the conditions to avoid unwanted slips or washouts which seem to be common with the unseasonal weather conditions we have been experiencing.
- 21 4Sight Consulting ecologist Charlotte Yates did an independent assessment of my section on 16 February 2023 and advised me that the peninsula over my property lacked connectivity to the rest of the Donny Park SNA to justify being included in the proposed SNA. She asked if my Kaihikatea tree had been assessed as a notable tree which it was not.
- 22 I protect the flora and fauna passionately in my section with 'Good Nature' products and have no knowledge of bats in this area. I am not offering any obstruction to the bat's flight path. The bird life is avid in my garden to my delight. Charlotte requested a list of the plants in my gully as it included so many exotic species. I texted her a long list of the common names. As discussed with her this proves my gully is a cultivated garden.
- 23 I do not consider that my planting is consistent with the requirements of indigenous vegetation considered to be present in the proposed SNA. As I have already set out, the development I have carried out on the garden has included substantial planting of exotic and subtropical species that I have selected. Because of this, the garden looks substantially different now to when I first moved into 736A River Road or to any other gully section in this area.

Plan Change 9 Appendix 9 Schedule 9C Recommendations Version

- 24 The recommendations version of Plan Change 9 states that the proposed Donny Park SNA also meets criterion 6 of the Regional Policy Statement Indigenous Biodiversity Criteria.
- 25 There is no wetland or wetland habitat in the SNA over my property. I have seen no evidence as to how this criteria applies to Donny Park SNA or the part of the proposed SNA over my property.

Conclusion

- 26 I consider that having the part of the gully over my property listed as an SNA will result in unfair restrictions on my rights as a private landowner. I bought my private residence to design and develop as I desire. The general maintenance a section like mine requires does not daunt me as it is my hobby and interest. However, I am mindful that the planting should be self sustaining as I approach retirement age.
- 27 I have responsibly maintained my garden to keep it in the state it is today. Because of this proposed listing, I will be required to get a resource consent for works that I have already planned to continue upgrading my garden. I will not be able to continue the planting of a range of exotic species that I have already pre-ordered. This cost is an unfair burden. I do not see how this would impact the ecological value of the rest of the gully.
- 28 I am disappointed that I have not been provided with an assessment of how my property meets the criteria set out in the Waikato Regional Policy Statement. I expected that Hamilton City Council would carry out these assessments in a transparent nature and be willing to share information with landowners.
- 29 I request that the Panel reject the recommendation made in the 4Sight Report and s 42A report, and amend the map of proposed SNA C18 – Donny Park so that it no longer encroaches onto my property.

Dated: 22 May 2023

Mary Lee Burton