

**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**

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**Submission of Hamilton resident Mr Robbie Pasley on Plan Change 9**

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Submitted by:

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## **INTRODUCTION**

1. I reside at 5 Roberts Way, Hamilton and have done so since 2021.  
My property is in a well-established residential area of Hamilton and my home was constructed around the 1980's. My section contains mature trees and has a manicured lawn.
2. This submission is focused on the legal and planning issues arising under Plan Change 9 and the practical effect the proposed change will have on my property.

## **BACKGROUND TO PC9**

3. The Hamilton City Council Operative District Plan ("ODP") contains provisions, based on a mapping exercise undertaken in 2010, which identified and sought to protect 59 SNAs within Hamilton City.
4. The latest iteration of that mapping exercise was entirely arbitrary and prepared without any scientific basis. It was intended to further the recognition and protection of gully and river networks but without a specific analysis of each effected property within the mapped area, it leads to indiscriminate erosion of individual property rights.
5. The broad ecological significance of the proposed areas covered by Plan Change 9 is not contested. The operative Hamilton District Plan 2017 (HDP) gives effect to the provisions set out in the Waikato Regional Policy Statement and the purpose of the HDP is to enable the Council to carry out its functions under the RMA.

6. That function requires the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance and is supposed to identify areas of significant indigenous vegetation, biodiversity and habitats of indigenous fauna which qualify as Significant Natural Areas.
  
7. Significant Natural Areas (SNAs) include identified areas of the Waikato River corridor and gully areas and the mapping has arbitrarily netted my property within it, due to its proximity to the Waikato River.
  
8. Council has adopted a simple process to identify and protect SNAs and in my submission this process is not specific enough.

It has been approached with a cost saving mentality instead of the legislative requirement to protect significant indigenous vegetation and habitats of indigenous fauna *of national importance*.

9. HCC has been undertaking its policy review of the SNA provisions in the ODP since before 2020, with the intent that there be an ongoing process of successive plan changes which add SNAs where qualifying features exist.
  
10. That requires some detailed and fact based evidence to be obtained by Council if they are to actually meet their legal obligations under the Act.

To date, that has not happened with the unintended consequence that well-groomed residential properties are included in the mapped area which have no significant indigenous vegetation and habitats of indigenous fauna *of national importance*.

11. The statutory imperative to make provision for SNAs within the ODP derives from s 74(1)(b) of the RMA, which requires a territorial authority to prepare and change its district plan in accordance with Part 2, which includes s 6.

Section 6 of the RMA requires that:

### **Matters of national importance**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance: ... (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*

12. Because of HCC's approach and the simplicity of it, properties, such as mine, that are devoid of significant vegetation and fauna are having their property rights eroded willy nilly.
  
13. "Protection" is the imperative under the Act.

Incorporating SNAs within the ODP represents a critical resource management tool for the discharging Council's statutory requirements under the RMA however the approach to date has, in my submission, failed completely to achieve that objective.

## SIGNIFICANT NATURAL AREAS

14. Under Section 6 of the RMA, SNAs are described as areas of significant indigenous vegetation and significant habitats of indigenous fauna.
15. SNAs are supposed to be protected, maintained, restored, and enhanced.

A key ecological feature within Hamilton City is the Waikato River, which bisects the City along 16 kilometres of its reach, and the extensive gully network that feed into it.

16. This network, together with a range of distinct areas and corridors of largely natural character, hold important ecological significance, particularly indigenous flora, and as habitat for indigenous fauna.
17. In my submission, excluding my home from the SNA will not result in adverse consequences for the indigenous flora, and habitat for indigenous fauna that exists immediately below my property nor is there any indigenous flora or a habitat for indigenous fauna on my property itself that will be adversely impacted.
18. I understand that the Hamilton Ecological District has had a 97.8% reduction in indigenous vegetation. The vegetation areas that are left are *predominantly in gullies and along the Waikato River*.
19. My property is not in a gully and borders the area containing the Waikato River.

20. I understand that approximately 1,700 letters were sent to property owners of land with potential SNA areas identified on their property.

A total of 39 private landowners were visited to review potential cSNA mapping, and a total of 13 private landowners were visited to review potential future mapping.

Again, in my submission the sample size used by Council to assess the SNA was inadequate and could never produce an outcome that satisfies Councils obligation under the RMA.

A proper sample requires a determination of the percentage of probability or certainty that the sample is representative of the true population and a consideration of the margin of error.

The sampling methodology used by HCC does not reflect the entire population of effected properties in Hamilton City.

## **CONCLUSION**

From the above, I submit:

21. Council's process in relation to my property has resulted in my property being held to be of national importance.

It is not.

22. Identifying my property as being within the SNA is the result of arbitrary line drawing by HCC undertaken without scientific evidence.

23. The methodology used by HCC fails to meet a statistical sampling standard representative of the entire population and leads to unintentional consequence.
24. Because of 21 to 23 above, including my property within the SNA is unlawful.