

## Statement of David Martyn Yzendoorn 30 May 2023 - in response to Panel question

1. My name is David Yzendoorn. I am one of the owners of the property at 29 Petersburg Drive, Hamilton, along with my wife Barbara as co-owner.
2. At the hearing on 25 May, my lawyer mentioned that in my view the current Natural Open Space zoning was put in place erroneously. My lawyer was asked by the Panel whether Barbara and I as landowners were aware of the zoning when we purchased the property. My lawyer did not know as he did not act on the purchase. The Panel asked for a follow up.
3. After looking at some documents, I am putting forward this statement to provide a reply to this query. Some of this information is from earlier submissions to HCC.
4. I believe the property is unique in being private land that is entirely zoned Open Space. However, this was not the original intention for the land. When the area was first developed, the land was to be a café for the local residents. When the reserve land immediately adjacent to the property became Natural Open Space Zone, somehow 29 Petersburg Drive was included in that change.
5. As in my submission on the earlier PC6, the Environment Court has in *Capital Coast Health Ltd v Wellington City Council* stated that: “a private landowner would not be able to make reasonable use of land zoned for open space and therefore that an open space zoning was inappropriate for private land which was capable of other uses” and that “it is not the role of private landowners to provide for general open space and the recreational needs of the community” (at [164]).
6. On this basis, I presume the Open Space Zoning was done in error. Why would HCC want to stop private landowners putting their land to reasonable use?
7. In planning maps from 2012 (see attached), the property was zoned Residential with an Environmental Protection Overlay. This is quite different from having Open Space zoning.
8. A title search shows that Barbara and I became registered owners of the property on 12 September 2017. The agreement to purchase the property would have been signed earlier. I don't believe there was anything duplicitous from the vendor. I see from HCC's website that HCC resolved to adopt the operative district plan on 21 September 2017. The property has no mailbox and I don't recall ever seeing a letter about any rezoning.
9. After I signed a conditional agreement to purchase the property, as part of my due diligence I spoke to HCC's Planning Guidance Unit about the property and understood from those discussions that development of the site was achievable. I have earlier put forward plans for a café, to reflect the original intent of the site. This has proven difficult and I am now looking at a duplex dwelling under the current resource consent process. I don't want the SNA to leave me with a sterilised site incapable of reasonable use as private property.

David Yzendoorn