

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, and an (earlier) submission on 15 August
2022 in objection to aspects of Plan change 9, Hamilton
City Council District Plan, both pertaining to a proposed
Significant Natural Area (SNA) for Bremworth Park,
Dinsdale, Hamilton

STATEMENT OF EVIDENCE OF KEVIN & ALISON SHARP

12 MAY 2023

INTRODUCTION

1. We are Kevin and Alison Sharp who own a property on the edge of the top end of Bremworth Park at 48 Amanda Avenue, Dinsdale. We have owned this property for about 15 years.
2. Our dwelling is about a 10.7m setback from the Significant Natural Area (SNA) assigned to Bremworth Park, which our property directly adjoins, therefore our interest is greater than that of the general public who is not otherwise materially affected.
3. We have not had time with our business workload, to do a detailed analysis of plan change 9 pertaining to SNA criteria. This document, therefore, is self-focused on our own needs and property.

CODE OF CONDUCT

4. This Statement of Evidence is presented as private property owners only, is not an expert witness document. Nonetheless we are otherwise aware of the requirements to appear. We have not knowingly omitted facts or material information.

SCOPE OF EVIDENCE

5. The area of the Bremworth Park bush this document refers to is specifically and only that bush above the stream/drain and pathway that dissects the bush area in Bremworth Park, (near the playground and clubrooms). This bush extends uphill toward Amanda Avenue. The lower part of the bush extending down to a peat pond within Bremworth Park is not being contested (or discussed).
6. We have concerns that as the bush is left almost unmanaged it has been neglected over the past 30-40 years. It has grown to heights that risk damaging homes (or soon will within 1-5 years) if they fall due to a storm or natural causes. One mitigation we require is a transparent management plan that is actively acted upon by Council that has residents safety forefront as an objective.

6.1 The current SNA proposal is, to address potential or actual safety concerns as they arise, transferring the costs and responsibility of the required appropriate management of the reserve directly onto adjoining property owners.

EVIDENCE

7. The upper bush in Bremworth Park is not original nor restorative plantings. From 1953 through to the late 1970s no or minimal vegetation existed there. This aspect is not discussed in the reporting, that we have been able to observe. The area above the stream is all stability/erosion/amenity planting that occurred from the late -1970s onwards, added to in the 1980s, and was still

immature and of low height in the early 1990s as Kevin worked and lived in this locality from that time onward so is familiar with it. Retrolens historic photos from 1953 onwards to 1979 prove this. (The aerial photographs were supplied with our earlier submission, are copied here, and are added to with this submission with a 1953 image).

7.1 Starting with 1953, Retrolens images proves an absence of vegetation where much of the bush in the reserve now occurs.



Image 1. Retrolens image 1953. A shelterbelt row of trees near Bremworth Avenue/Lancaster Street (the row of trees can be seen in the 1971 image below. What is now Bremworth Park has no evidence of extensive vegetation in the context of the area of bush discussed in this document.

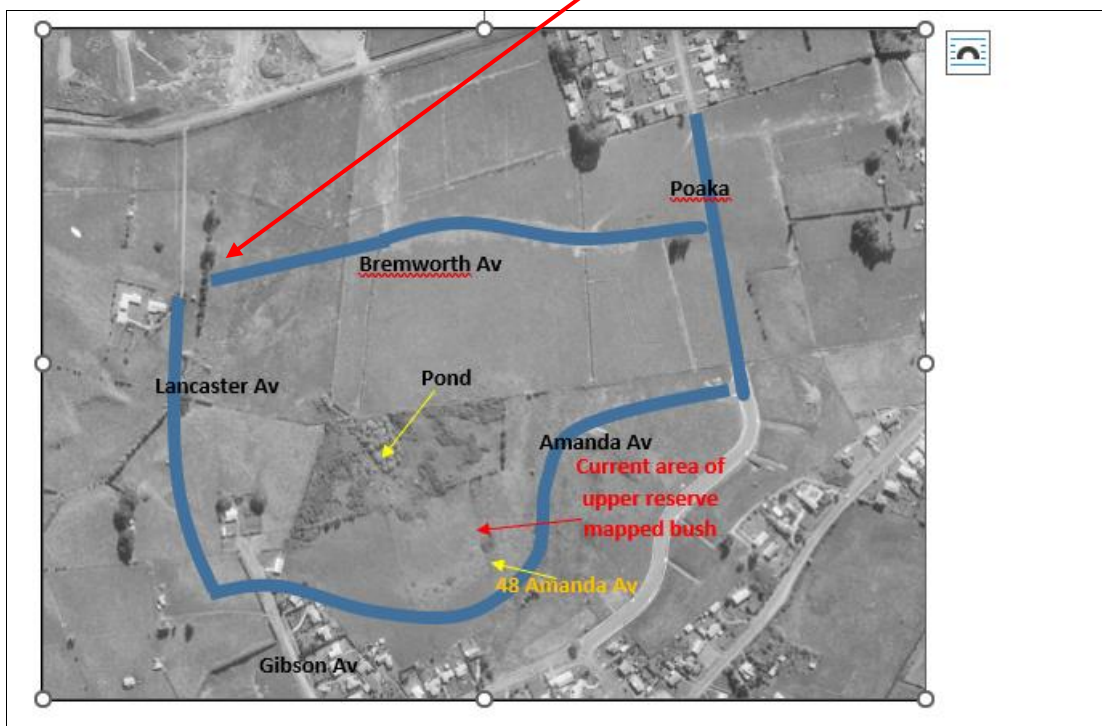


Image 2. Retrolens image 1971. A shelterbelt row of trees occurs near what is now Bremworth Park but there is no evidence of extensive vegetation.



Image 3: 1979 Retrolens image The Bremworth Bush occurs only below where the current pathway to Edith Place, Dinsdale, which dissects the bush nowadays, the upper area being the erosion mitigation planting.

48 Amanda Ave

The 1991 Retrolens image (4) below. This shows the area of bush has grown since 1979 over a period of 12 years after plantings. The arrow points to 48 Amanda Avenue.



A recent image (5) below (red arrow). More plantings of about 20 trees have occurred here (yellow arrow), these will by default extend the bush areas they mature:



- 8 For the reasons set out above, we consider that the defined SNA above the stream is not naturally occurring, nor restorative/regenerative planting, but stability/amenity and erosion mitigation purposed. It does not therefore fall under the intent of the SNA regulations as distinct from using open-ended qualification descriptions in an open-ended manner, as the SNA assessments convey. We also consider it is inappropriate to now deem this a Significant Natural Area noting the Masterset Data in Appendix 12 make no reference to the origin of this part of the Bremworth bush area.
- 9 We are supportive of protecting the trees in the reserve, in principle, (they already are, being in a reserve) and as they provide a nice amenity. However, Council has not met its obligation to adequately manage the bush in the reserve.
 - 9.1 The measures set out in District Plan Change 9 transfer the burden of costs onto us and other adjoining residents to address health and safety matters resulting directly from the lack of management of the reserve which is both unfair and unprincipled, when we already pay rates for that to occur.
 - 9.2 While the Plan Change 9 provisions appear to allow a tree to be removed or trimmed if it is an imminent health and safety danger, that first has to be proven. For example, if we have concerns about a tree that has become so large its height is clearly a danger to our dwelling and our safety if it fell in a storm (or by natural causes), to request to get it reduced in height (as distinct from being removed) we appear now to have to employ an ecologist to assess its health and the potential harm to the tree by the works involved. Then, once receiving this report if Council disagreed, they would charge us to employ their ecological and planning experts to do a peer assessment, to decide if a resource consent is required. The ecology reports combined, could cost from \$10k to \$20k. On top of this add Resource consenting costs of \$5-10k, is unaffordable and unreasonable just to reduce the height of one or a handful of specimens to a safe margin.
 - i. We have not read in the SNA documents, albeit the time available has been very limited to do so, an equal value of assessment applied of potential harm and costs of loss of life and property damage and

consequential costs from a large tree falling onto a dwelling in relation to the ecological values being promoted. This is an important item of balance required by the RMA at Part 5, Section 2.

- 9.3 The issue with raising such matters, as the trees immediate near our house will soon, within 1 to 5 years be able to strike our dwelling if they fell, is that we have to prove a precedent isn't being set within the SNA legal framework to have those trees reduced in height (only those in proximity of such height potential to strike our dwelling if they fell). We wish to emphasise our concern is not with a tree falling and landing on our property, or on our cars if outside, that is something one has to accept living near a reserve. It is solely with our dwelling house, and within that house, our safety, which is our essential habitat. It is more important than the ecological values of reducing the height of trees to be safe.
- 9.4 Adding restrictions to redevelop when zoning rules already apply is also deficient as existing development has not restricted the growth of the bush. In addition, potential impingements on existing use rights, devalues our property.

The Bremworth Park bush is not regularly maintained at all, we have only ever witnessed spraying along the fringe of such, perhaps once a year at most, and one clean up after a violent storm. About 15-18 months ago, we lodged a request with HCC to reduce the height of a large tree (about 15m high) at risk to our dwelling, in the reserve. This turned out to be a pest species. This endorsed our concerns this reserve is not being adequately managed. The bush has pest species growing in it that undermine its value as an SNA and these were not identified in the SNA mastersheet assessments for Appendix 12.

- 9.5 Adequate management of the bush reserve should already occur but does not. The already protected bush can have its ecological value enhanced now, by transparent and active management, and this is a first step to promote public goodwill before SNA measures should even be considered. The lack of coherent and transparent Council led management actions, does not provide confidence that the SNA measures are anything but an unproductive income racket for a privileged few. The lack of coherent bush management given our high rates already paid, (which should include such), a Council reluctant to rein in spending, signals a double purpose of income generation.
- i. We require to see a transparent integrity of action/management plans for the reserve, to provide the required compliance with Part 5, Section 2 of the RMA as consideration for our, and other residents safety.
- 9.6 The differing aspects of the origin of the bush in the Bremworth Park reserve has not been adequately detailed and has not identified as to its origin, gives rise to concerns the SNA regulations are being applied in a blanket and subjective 'cover-all' approach, that appears to identify any extant of bush as of value. The approach uses Regional Plan, which is open-ended criteria. In combination with added regulations, making the upper Bremworth Park Bush an SNA, is adding further red tape and cost to an already suffocating society, and which, without clear and comprehensive management plans, will not add ecological value.

9.7 The money that is intended to grow on SNA assigned trees comes direct from ratepayers hard earned income. We cannot afford the implications of the proposed changes should the trees in the bush grow any further, which could present potential for harm in storms or via diseased specimens. We pay significant sums in rates and taxes. Given dwellings occurred in this location before the hillside was planted, provides a right of consideration that our right to our significant natural habitat, our home, and our rights to health and safety and wellbeing, as well as that of our immediate neighbours, are protected as required under Part 5, Section 2 of the Act. The trees should not be left to grow continually unmanaged such that they grow to heights that apart from being a danger, then start to block out our sunlight.

i. It is inappropriate to pay large sums to ecologists and Council to debate the health of a tree if it is so high it is an obvious real/potential danger that it would potentially fall onto our dwelling.

10 We also do not wish to be burdened with added District Plan rules that encroach on what we legally do now on our property, which for 15 years has had no obvious negative effect on the growth of the bush in the reserve. I remain concerned that some of the justifications set out arguments in favour of Plan Change 9 such as effects on the root structure of trees are non-existent (in our case). With climate change upon us, and more intensified storm events anticipated, Council needs to be cognisant of safety and the need to manage and keep the vegetation trimmed so it does not fall on neighbouring dwellings.

11 Regulatory and physical creep is a concern. Recent planting in Bremworth Park in 2022 immediate to the currently defined SNA area occurred. Using the same approach as has been used for the current SNA recommendations, this area will in future will likely be considered to be a contiguous part of the SNA when' like the bush we refer to, it is also not naturally occurring nor restorative planting. This will add to the burden of the many to favour a few.

12 The SNA proposal does not provide adequate mechanism of responses to address public safety via visibility. The new planting, referred to above, as it matures, has potential to block visibility of our dwelling from most of the Amanda Avenue hill and extensive areas of the park immediately adjacent to our property. This will eventually obscure visibility of the front door to our dwelling. Those actions violated CPTED principles of security. We were not given, as a potentially affected party, any opportunity to have input. We maintain an open frontage to the park for this reason, with no fencing. This also provides us visibility of the park, which enhances the safety of park users, and deters incentives for crime via high visibility. We ask that Council proactively demonstrate a responsible attitude to our safety, and our neighbours, and this example along with the restrictive proposed SNA measures represents an inappropriate lack of consideration by Council.

MITIGATIONS SOUGHT

13 The Bremworth Park bush reserve to be proactively managed, and trees should be regularly cut to a height so they do not potentially fall on neighbouring dwellings. A storm about a year ago felled around a dozen specimens in the park, fortunately not our dwelling. We are not by default, requesting enhanced views of the city. The only licence we request, is that of safety.

- 14 A mechanism built into the District Plan that is of no cost to us (and other residents if affected) and does not require ecologist input or resource consent to ensure trees near the edge of the reserve are reduced in height to not fall on dwellings on adjacent/adjoining property. We note in 15 years of ownership we have only made one such tree height reduction (not removal) request to Council.
- 15 No unreasonable impositions placed upon us or other landowners adjoining a reserve that impinges on existing rights of use protected under Section 10 of the Act, or which further limits current District Plan entitlements. The SNA if it is applied, shall be contained, and its effects, as required by the RMA, by those responsible for managing it, to occur solely within its defined boundary.
- 16 Clear restrictions placed on default extensions of urban SNA areas except where prior consultation to the community and adjoining property is notified as potentially affected parties.
- 17 The area of bush this document refers to in Bremworth Park is not naturally occurring, nor appears to be specific regeneration of cleared bush and therefore does not have an ecological value warranting SNA designation, being applied, as if it were natural or restorative. While bush may have covered most of Hamilton previously, is not a licence by itself to argue that randomly planted areas should be weighted the same as those that have been contiguous. While this bush area has become a key amenity in the Dinsdale locality in the intervening years since being planted, we consider the SNA regulations are being over-extended in this instance. And consequently, we consider the SNA designation of that area above the dissecting footpath and stormwater drain should be deleted or revised and extensively watered down, cognisant of effects on, and rights of adjoining neighbours and their dwelling/habitable building safety.
- 18 Changes to reserve bush areas and additional plantings should be notified to potentially affected, directly adjoining neighbours, as a matter of common courtesy, due to the rationale of potential and actual effects on them.