

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

AND

IN THE MATTER of **Private Plan Change 28** – CCKV Maitai Dev Co LP& Bayview Nelson Limited) (Bayview) - 7 Ralphine Way, Maitai Valley and Bayview Road to the Nelson Resource Management Plan.

DIRECTION (2) FROM THE HEARING PANEL

FACILITATED EXPERT CONFERENCING AND MEETINGS

1. Pursuant to sections 34 and 34A of the RMA, Nelson City Council (the Council) has appointed a Hearing Panel consisting of independent hearing commissioners - Greg Hill (Chairperson), Sheena Tepania, Gillian Wratt and Nigel Mark-Brown. The Hearing Panel's function is to hear the application and submissions and make a recommendation to the Council on those submissions and the Plan Change. Our delegations also include addressing any procedural issues.
2. In summary, Plan Change 28 seeks to:
 - To rezone approximately 287-hectares of land located within Kaka Valley, along Botanical Hill and Malvern Hill, from:
 - Rural; and
 - Rural-Higher Density Small Holdings Area,
 - to
 - Residential (Higher, Standard and Lower Density Areas);
 - Rural-Higher Density Small Holdings Area;
 - Open Space Recreation; and
 - Suburban Commercial, along with a number of integrated changes to associated provisions of Volumes I, II and III of the Nelson Resource Management Plan.
3. This Direction sets out the process to establish and undertake Expert Conferencing and associated meetings. Another Direction has been prepared setting out the dates for the hearing and expert evidence exchange (and a request for the filing of legal submissions and non-expert evidence). The two Directions should be read together.
4. Clause 8AA – Resolution of Disputes of the First Schedule of the RMA enables a process to clarify and resolve disputes between parties. Accordingly, in terms of this Plan Change the Hearing Panel directs expert conferencing and associated meetings as set out below.
5. The purpose of the conferencing process is for the parties' experts to identify, discuss and potentially resolve (or not) the issues in contention between them. This may enable parties to reduce the scope and length of the section 42A report and expert evidence; and to focus on those matters that remain in contention.

6. At this stage the Hearing Panel directs expert conferencing on the following topics (noting that the parties, in conjunction with the Independent Facilitator, may decide that conferencing is not required for a particular topic(s))¹:
- Economics / growth;
 - Transportation;
 - Urban Design;
 - Landscape;
 - Water quality and quantity;
 - Air quality;
 - Ecology;
 - Recreation;
 - Infrastructure;
 - Geotechnical;
 - Flooding;
 - Cultural Values;
 - Heritage;
 - Productive values;
 - Planning; and
 - Any other topic or sub topic as identified by the Independent Facilitator in accordance paragraph 14 below of this Direction.
7. The conferencing sessions shall occur prior to exchange of the section 42A report and all evidence². Under the Direction - **Hearing Dates and Evidence Exchange** (10 March 2022) the section 42A report is to be available to all parties on the **3 June 2022**. Therefore, these conferencing sessions ought to be completed no later than the **20 May 2022**. This is to enable the section 42A report to be completed and reflect the outcome of any expert conferencing contained in a Joint Witness Statement(s) (JWS). The Hearing Panel delegates the organisation and timing to the Independent Facilitator in accordance with paragraph 14 below of this Direction.
8. Further conferencing, or other alternative dispute resolution processes, may also occur at later stages.
9. Given the conferencing sessions shall occur prior to exchange of the section 42A report and all evidence, a ‘first step’ in the conferencing process is to be a ‘**preliminary meeting**’ of the parties. While this meeting will be focused around expert evidence topics and expert conferencing, the meeting will be open to all parties (and their representatives). This can include legal counsel, a person(s) representing a group of submitters and the section 42A report author(s). The purpose of this preliminary meeting will be to provide procedural information and to clarify the issues/topics in contention and the process(es) and timing by which those issues may be able to be resolved or narrowed. The Hearing Panel delegates the organisation

¹ Note – the expert planning witnesses are able to attend all of the expert conferencing sessions

² We accept this is not the ‘standard’ practice, but will enable experts to get together early and to clarify and potentially narrow the issues in contention

and timing to the Independent Facilitator in accordance with paragraph 14 below of this Direction.

10. The preliminary meeting is to occur virtually (on-line) from **3.00 pm to 4.00 pm Thursday 24 March 2022**. An invitation will be emailed to parties who have registered to attend this meeting as set on the following paragraph.
11. That, accordingly parties are to inform the Council's Senior Administrator, Ms Rebecca Dowling by email (address below) of their interest to attend the preliminary meeting and to provide the email address(es) to enable invitations to be issued to the online meeting. This is to be provided to Ms Dowling no later than **4pm Monday 21 March 2022**.
12. Further, parties are to inform the Council's Senior Administrator, Ms Rebecca Dowling by email of the expert witnesses (name, expertise and contact details) who will attend the conferencing sessions. This is to be provided to Ms Dowling no later than **4pm Monday 21 March 2022**. The dates, times and format (in-person or virtually depending on the covid situation and efficiency) of the expert conferencing sessions will be provided as soon as possible.
13. The Hearing Panel directs that conferencing is undertaken in accordance with the Environment Court Practice Note 2014 and in particular - Appendix 3 - Protocol for Expert Witness Conferences. This includes section 3 of that Appendix - The Role of Counsel in expert conferencing. Also, those experts participating in the conferencing are to make themselves available to appear at the hearing if required to do so by the Hearing Panel.
14. That Ms Marlene Oliver is appointed as the independent facilitator for the expert conferencing and associated meetings. Ms Oliver is authorised to:
 - Act as independent facilitator;
 - In conjunction with the Council (as administrator) invite the applicant, all submitters and the Council as regulator (in its section 42A reporting function) to advise whether their expert witnesses in the relevant fields will attend the expert conferencing sessions;
 - In conjunction with the Council (as administrator) organise the sessions (including format, topics, agendas, attendance and JWS/reports), times and venues – in person or on-line as appropriate;
 - Liaise with the applicant, submitters, Council (in its section 42A reporting function) and experts; and;
 - Report to the Chair of the Hearing Panel on an as required basis on progress with the conferencing sessions and progress on any JWS setting out the outcomes, including matters agreed and not agreed.
15. While these directions cannot compel the parties to agree to take part in the conferencing sessions or compel expert witnesses to attend and participate, we strongly recommend that they do so. These sessions will provide a degree of formality for those parties and witnesses who attend in an effort to clarify and narrow the issues in contention. This should ensure that the hearing is more efficient than if the conferencing sessions were not held.

16. Any enquiries regarding these Directions or related matters should be directed to the Council's Senior Administrator, Ms Dowling at environmental.planning@ncc.govt.nz

A handwritten signature in black ink, appearing to read 'Greg Hill', followed by a period.

Greg Hill Chairperson

10 March 2022