

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

**AND**

**IN THE MATTER** of **Private Plan Change 28** to the Nelson Resource Management Plan

**JOINT WITNESS STATEMENT (JWS) IN RELATION TO:**

**PLANNING (2)**

**26 April 2022**

Expert Conferencing Held on: 26 April 2022

Venue: Online

Independent Facilitator: Marlene Oliver

Admin Support: Jessica Marchbanks

**1 Attendance:**

1.1 The list of participants is included in the schedule at the end of this Statement.

**2 Basis of Attendance and Environment Court Practice Note 2014**

2.1 All participants agree to the following:

- (a) The Environment Court Practice Note 2014 provides relevant guidance and protocols for the expert conferencing session;
- (b) They will comply with the relevant provisions of the Environment Court Practice Note 2014;
- (c) They will make themselves available to appear before the Hearing Panel;
- (d) This statement is to be filed with the Hearing Panel and posted on the Council's website.

### **3 Matters considered at Conferencing – Agenda and Outcomes**

**Note: the planning experts have addressed the following matters from their planning area of expertise. It is recognised that many of these matters may be addressed in legal submissions as well.**

#### **3.1 What are the relevant documents to be included in the ‘Common Bundle’?**

A list of relevant documents is attached in Appendix 1 - PPC28: List of Agreed Planning Documents.

**All planning experts agree** that this is the list of relevant documents as at the date of this expert conference (26 April 2022).

#### **3.2 What are the relevant objectives and policies of the NPS-UD?**

Nelson City Council is classified as Tier 2, therefore any provisions in the NPS-UD specifically relating to Tier 1 urban environments are not relevant.

**All planning experts consider** that the NPS-UD should be read as a whole.

The planning experts are aware of the Environment Court decision (Eden-Epsom Residential Protection Society Inc v Auckland Council [2021] NZEnvC 082). The planning experts propose to review this decision individually before identifying particular objectives and policies in the NPS-UD that they considered to be particularly relevant to the assessment of PPC 28. This matter may be reconsidered in a later expert conference.

#### **3.3 What is the relevance of the Nelson Tasman FDS 2019 and draft FDS 2022 and what weight should be attributed to them?**

These documents were required to be produced under the NPS-UDC 2016 and NPS-UD 2020 respectively. The FDS 2019 was adopted by NCC and TDC while the draft FDS 2022 is still proceeding through the public consultation process (the submission period closed on 14 April 2022). The Council’s website currently states that the Council will meet on 27 July 2022 to consider adopting the FDS 2022.

**All planning experts agree** that these documents are relevant and shall be had regard to. As at this date (26 April 2022) more weight should be given to the FDS 2019. This position will need to be reviewed prior to the close of the hearing depending on the progress of the draft 2022 document.

The planning experts acknowledge that a considerable amount of relevant work has been carried out since the FDS 2019. This more recent research and analysis (required under the NPS-UD) provides updated information particularly on the housing sector and the planning experts consider that this more recent information (where it is verified) should be given more weight than the equivalent information in the FDS 2019.

#### **3.4 What are the relevant objectives and policies of the NPSFM?**

**All planning experts agree** that all provisions except policies 10 and 14, are relevant to some degree.

**All planning experts consider** that the NPSFM should be read as a whole.

3.5 **What is the role of the NES-F and the NES-CS?**

**All planning experts agree:** the NESs set rules and specify when resource consents will be required and as such they provide a relevant rule framework for the activities that they regulate; they are not directly relevant to evaluating this PPC 28.

3.6 **What are the relevant provisions in the NRMP?**

**All planning experts agree** that section 7.8 Private Plan Change Request 24 August 2021 comprehensively identifies the relevant provisions of the NRMP.

3.7 **Plan Change (Private or Public) as a mechanism to provide for residential growth**

**All planning experts agree** that plan changes (private or public) are a common and appropriate mechanism to address urban growth and the rezoning of land for that. In the Nelson City area both public and private plan changes have previously been used, and approved, to rezone land for urban development.

3.8 **What scope and level of evaluation of effects needs to occur at the plan change stage compared to subsequent implementation through plan provisions and resource consents?**

**All planning experts agree** that RMA Schedule 1, Part 2, Clause 22(2) relevantly identifies that the level of detail should correspond with the scale and significance of the actual or potential environmental effects anticipated from the implementation of the change.

**All planning experts agree** that a higher level of assessment of effects is appropriate for a plan change compared to the more detailed level of assessment at a resource consent stage.

3.9 **Would PPC28 result in precedent effects?**

This topic reflects a common submission point: “The development will create a precedent, making further urbanisation of the valley much more likely to occur in future.”

**All planning experts agree** that a plan change is an appropriate mechanism for this proposed rezoning (refer to para 3.7 above) and that “precedent effects” are not relevant.

3.10 **What is the relevance of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act?**

**All planning experts agree** that the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act is not relevant because as currently promulgated it only applies to Tier 1 urban environments and Nelson City is a Tier 2.

3.11 **The Nelson Tasman Land Development Manual 2020**

The LDM contains the engineering standards and is cross referenced in the operative NRMP, including specifically the rules for subdivision and development.

Some submissions seem to suggest that compliance with the details of the LDM should be demonstrated at this plan change stage.

**All planning experts agree** that the LDM identifies the detailed information and assessments required for resource consents (subdivision and development). The LDM provides context and guidance for the higher level assessment of the feasibility and

achievability of the plan change proposal. A plan change does not need to show compliance with the detailed specifications of the LDM as this detailed level of assessment occurs at the subsequent resource consent stage.

### 3.12 **What is the relevance of Project Mahitahi to PPC28?**

Project Mahitahi is a collaborative project relating to restoration of water quality in the Maitai catchment.

**All planning experts agree** that Project Mahitahi is one example of a project to restore and enhance water quality in the Maitai catchment but it is not a formal statutory strategy that the plan change is required to have regard to. However, it is considered to be a method to assist the Council to achieve its statutory functions under sections 30 and 31 of the RMA.

### 3.13 **Nelson Air Quality Plan – what are the relevant provisions?**

Relevant provisions include:

- Objective A501 Air quality
- Policy A5-1.3 Ambient air quality targets
- Policy A5-1.4 Fine particle pollution
- Policy A5-1.4B PM10 offsets
- Policy A5-1.5 Solid fuel fire numbers
- Policy A5-1.7 Adverse effects – discharge of contaminants
- Policy A5-1.8 Location factors
- Rule AQR.22 – general conditions applying to all discharges
- Rule AQR.25A - Small-scale solid fuel burning applicants – special transitional provisions applying to areas added to the Urban Area after 23 August 2003

Definition of Urban Area: the definition of Urban Area means that creating any sites of less than 5000 m<sup>2</sup> are deemed to fall within an Urban Area and therefore the rules applicable to Air Shed C will apply.

Should PPC28 be approved, any subsequent development would need to comply with AQR.25A, as well as the general conditions in AQR.22. There are no specific rules that relate to the discharge of dust or transport emissions.

The establishment of activities within the PPC28 site will either need to meet the permitted activity conditions of the NAQP or be required to obtain a resource consent.

**All planning experts agree** that the relevant Air Quality Plan provisions will appropriately address air quality matters arising from rezoning of the PPC 28 area.

### 3.14 **NZ CPS (2010)**

**All planning experts agree** that section 7.9 of the Plan Change Request August 2021 identified NZ CPS Objectives 1, 2 and 6 as relevant but the plan change area is not within the “Coastal Environment” as identified in the NRMP.

### 3.15 **Climate Change - Are effects on climate change and emissions reductions relevant considerations for PPC28?**

At this time the Resource Management (Energy and Climate Change) Amendment Act 2004 section 3(b) requires Councils not to consider the effects on climate change of discharges into air of greenhouse gases. This preclusion will no longer be in place after 30

November 2022 at the latest, when the Resource Management Amendment Act 2020 comes into effect.

There are provisions in the NPS-UD that for example “support reductions in greenhouse gas emissions” (NPS-UD Objective 8).

**3.16 Is there a requirement for PPC28 to demonstrate that it is carbon zero?**

**All planning experts agree** the answer is “no” at this time.

**3.17 Is the Nelson City Council Climate Action Plan a relevant document?**

The planning experts consider that the matters raised in the Action Plan are more appropriately considered under the framework of the NPS-UD.

**4 PARTICIPANTS TO JOINT WITNESS STATEMENT**

4.1 The participants to this Joint Witness Statement, as listed below, confirm that:

- (a) They agree that the outcome(s) of the expert conferencing are as recorded in this statement; and
- (b) They have read Appendix 3 of the Environment Court’s Practice Note 2014 and agree to comply with it; and
- (c) The matters addressed in this statement are within their area of expertise; and
- (d) As this session was held online, in the interests of efficiency, it was agreed that each expert would verbally confirm their position to the Facilitator and this is recorded in the schedule below.

**Confirmed online on 26 April 2022:**

<b>EXPERT’S NAME</b>	<b>PARTY</b>	<b>EXPERT’S CONFIRMATION REFER PARA 4.1</b>
Lea O’Sullivan (P)	Waka Kotahi	Yes
Kelly McCabe (P)	Save the Maitai	Yes
Mark Lile (P)	Applicant	Yes
Gina Sweetman (P)	S42A NCC	Yes

## APPENDIX 1 to JWS PLANNING (2)

### PPC28: LIST OF AGREED PLANNING DOCUMENTS

Description – the documents below are not listed in any order of hierarchy and/or weighting			
1.	<b>The Te Tau Ihu Statutory Acknowledgements 2014</b>		
2.	<b>Iwi Management Plans</b> <ul style="list-style-type: none"> <li>- Pakohe Management Plan 2015 (Ngati Kuia)</li> <li>- Ngā Taonga Tuku Iho Ki Whakatū Management Plan 2004 (Ngāti Rārua, Ngāti Toa Rangatira, Te Ātiawa, Ngāti Koata, Ngāti Tama)</li> <li>- Ngāti Koata No Rangitoto Ki Te Tonga Trust Iwi Management Plan 2002 (Ngati Koata)</li> <li>- Te Tau Ihu Mahi Tuna (Eel Management Plan) 2000 (All iwi)</li> <li>- Ngāti Tama ki Te Waipounamu Trust Environmental Management Plan 2018 (Ngati Tama)</li> <li>- Ngāti Rārua Environmental Plan 2021 (received by NCC 7 April 2022)</li> </ul>		
3.	<b>National Policy Statement on Urban Development 2020 (the NPS-UD)</b>		
4.	<b>National Policy Statement for Freshwater Management 2020 (the NPS-FM)</b>		
5.	<b>New Zealand Coastal Policy Statement 2010 (the NZCPS)</b>		
6.	<b>National Planning Standards 2019</b>		
7.	<b>National Environmental Standard for Freshwater 2020 (NES-F)</b>		
8.	<b>National Environmental Standard on assessing and managing contaminants in soil to protect human health 2011 (NES-CS)</b>		
9.	<b>Nelson Regional Policy Statement 1997 (RPS)</b>		
10.	<b>Nelson Resource Management Plan 2012 (the NRMP)</b>		
11.	<b>Nelson Air Quality Plan 2016 (NAQP)</b>		
12.	<b>Nelson Long Term Plan 2021 - 2031</b>		
13.	<b>Nelson-Tasman Future Development Strategy 2019 (FDS)</b>		
14.	<b>Intensification Action Plan 2020 (IAP)</b>		
15.	<b>Housing and Business Capacity Assessment Report 2021 (HBA)</b>		
16.	<b>Draft Nelson Tasman 2022-2052 Future Development Strategy 2022 (Draft FDS).</b>		
17.	<b>Draft Whakamahere Whakatu Nelson Plan 2021. (Draft combined RPS, Regional Plan, Coastal Plan, Air Plan and District Plan. This draft is an incomplete document and is currently “on hold”.)</b>		
18.	<b>Project Mahitahi. (Collaborative project relating to restoration of water quality in the Maitai catchment.)</b>		
19.	<b>Nelson Biodiversity Strategy 2017/2018</b>		
20.	<b>Landscape Character Assessment – Boffa Miskell - 2015</b>		
21.	<b>Nelson Plan Boffa Miskell Visual Amenity Landscapes Report 27 April 2016</b>		

22.	<b>Nelson Landscape Study 2016: Landscape Evaluation – Boffa Miskell – November 2016</b>		
23.	<b>Boffa Miskell Limited 2018. Kaka Valley Landscape Capacity Assessment. Report Prepared by Boffa Miskell Limited for Nelson City Council</b>		
24.	<b>Land Transport Management Act 2003</b>		
25.	<b>Government Policy Statement on Land Transport – 2020/21-2030/31</b>		
26.	<b>Waka Kotahi - Arataki – Regional Summary - Top of the South – August 2020</b>		
27.	<b>Waka Kotahi - Toitu Te Taiao – Our Sustainability Action Plan - April 2020</b>		
28.	<b>Emissions Reduction Plan discussion document 17 December 2021. (Transitioning to a low-emissions and climate-resilient future: emissions reduction plan discussion document.)</b> It is anticipated that a final version of this document will be released by 31 May 2022.		