

**BEFORE A HEARING PANEL  
CONSTITUTED BY NELSON CITY COUNCIL**

*IN THE MATTER*

of an application by **CCKV Maitahi Development Co LP** and **Bayview Nelson Limited** for a change to the Nelson Resource Management Plan (Plan Change 28)

*IN THE MATTER*

of Part 5 and Schedule 1 of the Resource Management Act 1991

---

**STATEMENT OF EVIDENCE OF MARK A. B. LILE**

---

Applicants' Consultant:

Landmark Lile Limited  
PO Box 343  
Nelson 7040  
Attention: Mark Lile  
Email: [mark@landmarklile.co.nz](mailto:mark@landmarklile.co.nz)  
Tel: 027 244 3388

Counsel acting:

**John Maassen**  
— BARRISTER —

✉ [john@johnmaassen.com](mailto:john@johnmaassen.com)  
🌐 [johnmaassen.com](http://johnmaassen.com)  
☎ 04 914 1050  
📠 04 473 3179

## Table of Contents

<b>Section A – Introduction and Scope of Evidence .....</b>	<b>3</b>
Name, qualifications and experience .....	3
Expert Code .....	4
Role in Project .....	5
Scope of Evidence.....	6
<b>Section B – Executive Summary .....</b>	<b>6</b>
<b>Section C – Evidence .....</b>	<b>7</b>
The Site .....	7
Private Plan Change 28 (PPC28).....	10
Amendments made since close of submissions. ....	19
Other Supporting Information.....	26
Regional Planning.....	27
National Policy Statements .....	30
National Environmental Standards (NES).....	37
Nelson Regional Policy Statement (NRPS) .....	38
Nelson Resource Management Plan (NRMP) .....	45
Assessment of Actual and Potential Effects .....	52
Overall Assessment.....	66

## Section A – Introduction and Scope of Evidence

### *Name, qualifications and experience*

- [1] My full name is Mark Addie Bernard Lile.
  
- [2] I have a Bachelor of Resource and Environmental Planning (Hons), along with a Postgraduate Diploma in Business and Administration, both from Massey University. In 1998 I became a full member of the New Zealand Planning Institute (NZPI) and have served on the local committee of the NZPI and RMLA.
  
- [3] My professional planning career started as a Planning Officer with the Nelson City Council, where I worked between March 1994 and the end of March 2000. On 1 April 2000 I established Landmark Lile Limited which I have operated since with a number of professional planning staff. This company has now operated for 22 years.
  
- [4] I have been actively involved in residential intensification and growth projects in both Nelson and Tasman. Likewise, I have also provided professional resource management services to Nelson City Council for at least a decade. Some of those projects have been located within the Maitai Valley environs and the Bayview area, for example:
  - (a) RM950431 (December 1995): the Sigibert Limited low density (6 lot) rural-residential subdivision at 305-325 Maitai Valley Road (opposite the Waahi Taakaro Golf Course);
  
  - (b) RM165418, RM165404, RM165402 (December 2016): the 270m realignment of Groom Creek located on the true-left bank of the Maitai-Mahitahi River (as a part enhancing water quality);
  
  - (c) RM165122, RM165192, RM165193 (March 2019): the Nelson Water Supply Scheme located within the Maitai River catchment, including consents to dam, take and discharge water; and

- (d) RM205240 RM205043, RM205332 (etc): the multiple and wide-ranging consents for the Bayview Nelson Limited (BNL) subdivision and development, including:
- (i) subdivision;
  - (ii) earthworks;
  - (iii) discharge of sediment laden water, and chemically treated water, during earthworks;
  - (iv) construction of a new stormwater outfall to the coastal marine area.
- [5] I have also undertaken various projects for the directors of the applicant companies over the course of the last 22 years. Some of those have involved significant residential developments (such as ‘The Meadows’ in Richmond) with many of the same benefits and issues relevant to Private Plan Change 28 (PPC28).
- [6] At this point I consider it appropriate that I declare my family connection to iwi of Te Tau Ihu. My wife, and so my children’s whakapapa extends to Ngāti Koata, Ngāti Kuia, Ngāti Toa Rangitira, Ngāti Apa, Te Atiawa, and Ngāi Tahu. This connection is part of who I am, which has a significant role in how I practice as a professional planner.
- [7] I have lived in Nelson since March 1994 and have become very familiar with the City and the areas that are the subject of this Plan Change Request. I lived for a number of years on Ledbury Road (Malvern Hills), with the Bayview ridgeline behind us. I enjoyed running and walking over the ridgeline on the Bayview farm over that period. I now live in Nelson City and enjoy the walking tracks of Botanical Hill and Botanical Reserve, including Sir Stanley Whitehead Walkway and the Centre of New Zealand.

#### *Expert Code*

- [8] While this is not an Environment Court hearing I have met the standards in that Court for giving expert evidence.
- [9] I have read the Code of Conduct for expert witnesses issued as part of the Environment Court Practice Note 2014 (Part 7). I agree to comply with

the Code of Conduct. I am satisfied that the matters addressed in this statement of evidence are within my expertise. I am not aware of any material facts that have either been omitted or might alter or detract from the opinions expressed in this statement of evidence.

*Role in Project*

- [10] My first direct involvement with this site was through the work for Bayview Nelson Limited (BNL). That initial work concentrated on the northern/Malvern Hills side of the property and resulted in resource consent approval for a comprehensive residential subdivision and development. This included a range of associated earthworks consents and discharge permits. This involved a multi-disciplinary team, many of whom a part of the consultant team for PPC28.
- [11] My role as the lead consultant for PPC28 began at the time that BNL sold the 66-hectares of land fronting Ralphine Way to CCKV. Since then, I have had close involvement in all aspects of what now makes up PPC28, including putting together the highly qualified and experienced team of technical specialists and coordinating their inputs.
- [12] I am the principal author of the PPC28 Request lodged in April 2021 and the further information response of August 2021. I was also the co-author of the Section 32 report provided with PPC28, which was work undertaken with the assistance of a former professional staff member.
- [13] Aside from the formalities associated with the signing of the Infrastructure (1) JWS of 20 May 2022, Infrastructure (2) Wastewater JWS of 26 May 2022 and Flooding JWS of 25 May, I attended all expert conferencing sessions and so am very familiar with the nature and scope of the issues agreed and disagreed.

*Scope of Evidence*

- [14] My evidence has taken care to ensure it addresses the matters identified as outstanding in the s42A reports. Where I consider it necessary to do so, I also address items in the s42A report that I disagree with.
- [15] Given the general agreement reached with the other planning experts of what are relevant to the statutory assessment of PPC28, it is no coincidence that the matters addressed below are the same as those in the s42A report from Ms Sweetman. Some of the subheadings differ slightly however as, for example, I consider the matter of productive values is discretely separate from that of 'Site Suitability'.
- [16] Consistent with the approach taken in the s42A report, I have also addressed the submissions at a topic level, rather than address them individually. The s42A report has also provided a comprehensive summary of the submission points under each topic and I adopt that summary to avoid repetition.

**Section B – Executive Summary**

- [17] PPC28 provides a significant opportunity on a large piece of land in close proximity to Nelson City, to contribute to a well-functioning urban environment and achieve the purpose and principles of Part 2 of the RMA. This proposal will:
- (a) provide for a diverse range of housing needs; and
  - (b) provide significant development capacity, and so support a competitive housing market; and
  - (c) provide for substantive economic benefits; and
  - (d) provide for a multi-modal transport network; and
  - (e) provide for housing in a location resilient from the risk of sea level rise; and
  - (f) provide the opportunity for Māori to express their cultural traditions; and

- (g) provide enhanced recreational opportunities and positive biodiversity outcomes; and
- (h) provide for the restoration and enhancement of freshwater values in line with the principles of Te Mana o Te Wai.

[18] I consider PPC28 gives effect to the NPS-UD, NPS-FM and the NRPS, particularly in terms of the provisions of Chapter DH1 'Development and Hazards' (NRPS). The NPS-UD also requires that planning decisions be responsive to plan changes, including privately initiated plan changes. Doing otherwise would, I consider, be contrary to the very purpose of the NPS-UD.

[19] A number of amendments/improvements/corrections have been made to the package of provisions that make up PPC28 in response to the issues and concerns raised within the formal process to date. These alterations further strengthen the merits of the proposal while also making the framework more efficient and appropriate.

## **Section C – Evidence**

### *The Site*

[20] A comprehensive description of the site is provided within PPC28, including comprehensive supporting documents, with a summary also provided within the s42A report. Some additional information has also been attached to the JWS documents and also now attached to the applicant's expert evidence. I will not repeat that information again here.

[21] It may however be helpful for the Panel to receive some background information as to the establishment of the Ralphie Way subdivision, including the Maitai Cricket Ground. A summary of the specific departure granted to Maitai Farms Limited (MFL) is therefore provided below.

[22] In July 1979 the Waimea County Council granted a specified departure (T2/9/1/393) to Maitai Farms Limited (MFL) to undertake a rural residential subdivision in the Maitai Valley. The application site was

approximately 70 hectares and included what is now the Maitai Cricket Ground and all of what is now known as Ralphine Way.

[23] As shown on the approved subdivision plan attached<sup>1</sup>, the subdivision proposed 30 allotments ranging in size from 0.5-hectares to 2-hectares, with the balance of the land to be sold for forestry purposes (“future forest”). Proposed Lot 31 involved a Riverbank Reserve on the north side of the Maitai River, extending from Maitai Valley Road through to the northern side of Dennes Hole. Proposed Lot 32 involved a 1.8-hectare Recreational and Riverbank Reserve, south of Dennes Hole. Of note, proposed Lots 1 and 2 involved the balance land on the south side of the river.

[24] The subdivision application described this provision for public recreational amenity as follows:

*(iv) setting aside of sufficient public land along the banks of the Maitai River for picnicking and access to the Dennes Hole swimming area<sup>2</sup>.*

[25] Screen planting also formed part of the application, with this planting surrounding proposed Lots 1 and 2.

[26] The Ministry of Works and Development (“the Ministry”) submitted on this application, not in opposition, but sought conditions to ensure the intensification of this land would not be impeded by the roading, the subdivision pattern and the location of houses. The Ministry submitted that that land was suited to more intensive development than that proposed by MFL. With that, suitability was also referenced in the Nelson Urban Growth Study (Volume II Figure 6). Hence rather than expressing concern over loss of productive values, it was submitted:

*“... Rather the concern is more that this land could instead be used for more intensive residential development” (23 February 1979, MWD).*

[27] The issue at the time however, was that the Nelson Urban Growth strategies (NUGS) identified that growth could generally be accommodated within the boundaries of the urban limits and that:

---

<sup>1</sup> Refer to Attachment EV16(1) APP.

<sup>2</sup> Subdivision Consent File: T2/9/1/393



(f) *Nelson's residential zones will eventually have to be extended to the east, up Marden Valley/Enner Glen, Bishopdale areas, Brook Valley, possibly Maitai Valley and up the hill slopes in the Bay View, Tui Glen, Atawhai locality.* (Volume 1, p2).

- [28] Hearing evidence from the applicant noted that this land “*lies in extremely close proximity to the Nelson City*”, and also in response to the issue of sporadic subdivision or urban growth:

*“This particular site could hardly be better placed from the point of view of energy conservation in respect of Nelson City”* (JA Dooge, Counsel for Applicant).

- [29] The proximity to Nelson City was also addressed by W.H. Hunter for Truebridge Calender Beach & Co:

*This is a significant factor in terms of energy conservation in view of the amount of travelling likely to be undertaken by residents of this type of development and places it in an advantageous position relative to other sites where such development might be considered appropriate.*

- [30] Mr Hunter also explained the proposed subdivision layout and provision for roading extensions:

*“The roading pattern includes ... provision for the extension of the western subdivisional road up the ridge above Nelson City. The eastern subdivisional road between Lots 16 & 17 has been designed to provide access onto the eastern hills to the north and east of the development”.*

- [31] Only eight of the approved 30 rural-residential allotments were created, for reasons not evident from the subdivision file. This included the formation of Ralphine Way, with seven lots<sup>3</sup> with access to the new road (Ralphine Way), along with one allotment<sup>4</sup> now located to the east of the Maitai Cricket Ground. Proposed lots 1 and 22 now make up the Cricket Ground, so extra land was vested in Council than that initially consented/intended.

- [32] The information contained within this subdivision file from 1979 provides some helpful insight as to the development of this part of the valley. For example, a much larger subdivision was approved with the roading being designed to extend to the ridgeline. In addition, this information shows

<sup>3</sup> No. 1, 2, 5, 6, 10, 14, & 18 Ralphine Way.

<sup>4</sup> No.105 Maitai Valley Road.

how recreational values have benefited from the activity of subdivision. Likewise, when comparing the approved landscape plan to the current aerial photos, how the Maitai River alignment has changed since then.

- [33] What is also somewhat surprising is that the benefits of this site location in terms of “energy conservation” were recognised in 1979, higher density development was considered a better outcome and how the then version of NUGS signalled that growth would eventually extend up into the valley catchments and up the hill slopes of Bayview.

*Private Plan Change 28 (PPC28)*

- [34] Provided within Section 7.8 of the PPC28 request is a comprehensive description and explanation as to the workings and content of the NRMP. The use of ‘Scheduled Sites’ and ‘Structure Plans’ is also addressed within Section 7.8. These planning tools have been used on numerous occasions in response to earlier NUGS to provide for additional residential land to help meet the demands of population growth. This approach was also summarised in the ‘Executive Summary’:

*While now 25 years old, the Nelson Resource Management Plan provides the Structure Planning tool/ method as the means to achieve the purpose and benefits of a new urban area as proposed in this PPCR. The NRMP has in fact seen the use of the Structure Plan process on at least five other occasions in the past to address urban growth pressures that have arisen since 1996. That format is therefore very much a part of the NRMP and the PPCR benefits from that existing planning framework. No fundamental changes are required to the existing NRMP, however contemporary planning principles have been incorporated into proposed Schedule X and the Maitahi Bayview Structure Plan (PPC28, p7, Executive Summary).*

- [35] In essence, both Ms Sweetman<sup>5</sup> and I have acknowledged the age of the NRMP (and NRPS) and have both acknowledged the need to respond to

---

<sup>5</sup> Paragraph 25 of the s42A report.

evolving changes to national policy and best practice, in advance of a district wide plan review with an uncertain timeframe.

- [36] The relationships between schedules, structure plans and the zone rules are also explained in Chapter 3 ‘Administration’ of the NRMP as summarised in Section 7.8 of the PPC28 Request. However, given the questions and concerns raised by other planning experts in the JWS documents and the s42A report(s) over the workability and mechanics of the provisions, I consider it necessary to provide evidence on this topic.
- [37] First and foremost, PPC28 includes a new ‘*Schedule X*’ as the most recent schedule added to the NRMP is ‘*Schedule W*’ ‘Enner Glenn and Upper Brook Valley’ (2010) applicable to the Rural Zone (Chapter 12, NRMP, pp91-93). Please note: ‘X’ does not mean an unknown variable. It is the correct letter following the most recent schedule added to the NRMP, which is Schedule ‘W’. I have found that people treat the ‘X’ as if it is a number yet to be determined, which is not correct.
- [38] At the very start of my work in framing up PPC28 and Schedule X, I undertook a full review of all other scheduled sites in the Residential Zone (Chapter 7, pp103-142). In doing so, I compared the formats and content of the existing Schedules, compared the different formats and information shown on the various structure plans, and also considered the varying degree of supporting provisions (objectives, policies, and explanatory information). One observation was that the more recent schedules contained a more comprehensive set of provisions and supporting information, being a direct consequence of the planning practice changing over time. Likewise, with new national focus on issues such as urban design, new provisions found their way into private plan changes.
- [39] I have identified that Schedule U ‘*Marsden Plateau Landscape Area*’ contains the most comprehensive set of provisions. I have summarised the content of Schedule U in **Table 1** below and also attach<sup>6</sup> a full copy of Schedule U to my evidence:

---

<sup>6</sup> Refer to Attachment EV16(2) APP.

<b>Sch.U</b>	<b>Marsden Plateau Landscape Area</b>
<b>U.1</b>	<b>Application of the schedule</b>
<b>U.2</b>	<b>Information requirements</b>
<b>U.3</b>	<b>Permitted Activities</b>
U.3.1	Earthworks
U.3.2	Vegetation removal
<b>U.4</b>	<b>Controlled Activities</b>
U.4.1	Buildings
<b>U.5</b>	<b>Restricted discretionary activities</b>
U.5.1	Subdivision
U.5.2	Earthworks
<b>U.6</b>	<b>Discretionary Activities</b>
U.6.1	Buildings
U.6.2	Vegetation removal
<b>U.7</b>	<b>Non-complying activities</b>
<b>U.8</b>	<b>Assessment criteria</b>
U.8.1	Subdivision Layout
U.8.2	Services Overlay
U.8.3	Road Design
U.8.4	Earthworks
U.8.5	Building
U.8.6	Open Space Network
U.8.7	Pedestrian/recreational linkages
U.8.8	Landscaping and planting
<b>U.9</b>	<b>Explanation</b>
U.10	Marsden Plateau Structure Plan
U10.1	Figure 2: key and definition of zoning types
<b>U.11</b>	<b>Marsden Plateau roading standards (including Table U.11.1)</b>
<b>Fig 1</b>	<b>Site Analysis Plan</b>
<b>Fig 2</b>	<b>Structure Plan</b>

Table 1: Schedule U (NRMP)

[40] What is clear from the summary above is that the scheduling tool allows/enables proponents *wide* scope to create their own set of rules, information requirements and assessment criteria, while also adding to parts of the current planning framework (i.e. Services Overlay).

[41] As a part of explaining the current framework within the NRMP, I described the contents of the four volumes in the PPC28 Request<sup>7</sup>. I have summarized these four volumes again here to help navigate the proposed PPC28 provisions:

- **Volume 1:** General

This volume contains the administration chapter, explaining how to use and interpret the plan rules and schedules. It also contains the district wide objectives and policies.

- **Volume 2:** Zones

This volume contains all the individual zone chapters, with the objectives and policies relevant to each individual zone, rule table and schedules.

- **Volume 3:** Appendices

There are 28 appendices in volume 3, such as appendix 28 which contains the freshwater plan provisions, linked via each rule table in volume 3.

- **Volume 4:** Planning Maps

[42] As noted above, chapter 3 administration of the NRMP explains the mechanics of the NRMP and how scheduled sites relate to the underlying zoning and rule table. The most important guidance is provided in AD11.4.ii which I quoted on paragraph 125 of PPC28, and again below:

***AD11.4.iii*** *The rules that apply to the activity and site are stated in the relevant schedule. The schedules are located after the rule table in the relevant*

---

<sup>7</sup> PPC28, page 122.

zone. The relationship between the schedule and the rule table is set out within each schedule (pp27-28, Chapter 3, emphasis added).

- [43] Given this guidance and using the proven approach adopted in other private plan change requests, Schedule X was constructed as a bespoke set of rules that we have assessed as appropriate for the PPC28 area. The fundamental components of Schedule X are summarised and explained below.
- [44] The Residential Zone<sup>8</sup> is proposed to include a new rule within REr.106D<sup>9</sup> entitled ‘*Maitahi Bayview Structure Plan (Schedule X)*’, both referenced in the Table of Contents<sup>10</sup> and also in the rule table itself. Likewise for Rural Zone, Open Space & Recreation Zone, and the Suburban Commercial Zone. This directs users of the NRMP to Schedule X, to be located at the back of this zone chapter. This is the same consistent format used in chapter 7 as shown in the following extract from the residential zone rule table:

REr.99	Bishopdale Pottery (Scheduled Site - Sch.B)
REr.100	Nelson Marlborough Health Services (Scheduled Site - Sch.C)
REr.101	BP Annesbrook (Scheduled Site - Sch.D)
REr.102	Ngawhatu Residential Area (Scheduled Site - Sch.E)
REr.103	Polytechnic (Scheduled Site - Sch.F)
REr.104	Trafalgar Street/Hathaway Court (Scheduled Site - Sch.G)
REr.105	Bishopdale Subdivision Area (Scheduled Site – Sch.H)
REr.106	Marsden Valley (Scheduled Site – Sch I)
REr.106A	Marsden Plateau Landscape Area (Scheduled Site – Sch U)
REr.106B	Marsden Hills (Scheduled Site – Sch V)
REr.106C	Enner Glynn and Upper Brook Valley Structure Plan (Schedule W) – refer to the Rural Zone Chapter 12

- [45] The first rule, **X.2**, provides specifically for comprehensive housing developments (CHD) within the residential higher density area identified in the structure plan, being located on the flat-gentle slopes on the valley floor. The current rules for CHD are located within REr.22 and REr.107, and so the new Rule X.2 combines those provisions into one all-encompassing rule for Schedule X. In addition, given the restricted discretionary activity (RDA) status of CHD in the Higher Density Zone already, along with the RDA status for subdivision within the Services Overlay (captured within

<sup>8</sup> Chapter 7, NRMP.

<sup>9</sup> Not ‘RE2.106D’ as referenced on page 14 of the s42A report.

<sup>10</sup> Pages 19-20, Chapter 7, NRMP.

REr.108 of the current NRMP), the relevant provisions of REr.108 have also been combined into X.2. The approach taken is to simplify the provision for CHD by combining the relevant rules. No shortcuts or reductions in information requirements of assessment criteria are proposed.

- [46] Just like the current enabling provisions for CHD in the Residential Higher Density Zone, X.2 also provides the opportunity for such applications for CHD to be considered as a RDA and “*without notification or service of notice*” if the listed performance standards are achieved. As set out below, the explanation provided at the end of X.2 summarises this approach, with direct reference to the NPS-UD:

*Explanation*

*This specific rule for Schedule X supersedes REr.107.3 and REr.108.3 of the Plan for comprehensive housing developments. The purpose of this is to make specific provision for higher density residential development as a restricted discretionary activity, to provide a streamlined planning process, and so achieve the NPS-UD in an efficient manner, while still requiring high quality outcomes and appropriate servicing. (X.2, PPC28)*

- [47] The JWS Planning 3 (Section 3.26) included discussion over the appropriateness of the non-notification provisions in Schedule X. The other planning experts agreed that X.2 and X.3 were consistent with the current provisions but also considered there was insufficient information to determine the appropriateness of these provisions. Whilst no further reasons were stated, I consider these provisions stand on their own merits and are appropriate. For example, the content of the draft Stormwater Management Plan (SMP) is a separate issue, as are the changes to the structure plan. Likewise, and as addressed in the PPC28, these notification clauses in X.2 and X.3 only relate to those specific activities and not a broader range of activities that require resource consent approval that are the subject of separate rules, activity classifications and notification provisions.
- [48] **X.3** serves to provide a new general residential subdivision rule, not involving CHD, within PPC28. Using the same approach explained above

for X.2, this new subdivision rule combines REr.107, REr.108 and REr.109 of the NRMP into one rule. These existing rules include:

<b>Subdivision rules</b>	
REr.107	Subdivision - General
<i>Subdivision Rules relating to Overlays on the Planning Maps</i>	
REr.108	Services Overlay - Subdivision
REr.109	Landscape Overlays - Subdivision

- [49] Of note, subdivision is at least a RDA as the land is located in the Services Overlay, and so REr.108 would have elevated any controlled activity status available under REr.107. As with X.2, there are no shortcuts or advantages proposed in terms of relevant compliance standards, assessment criteria, or notification that are not already available for the same activities under REr.107 and REr.108. What has transpired is an integrated set of provisions that are far superior to those that make up other existing scheduled sites, in direct response to new national direction and up to date best practice principles.
- [50] No changes to the current planning framework supporting the ‘Services Overlay’ were considered necessary as those rules have, in my experience, proven to be robust and appropriate. Likewise, the scope available to address off-site infrastructure deficiencies had been carefully assessed in previous private plan change processes, with the resource consents required under REr.108 providing the scope to ensure deficiencies were addressed or if not, that consent could be declined. Notwithstanding this, in response to the JWS agreements, we have further improved the planning framework applicable to the Services Overlay applicable to Schedule X. I address that change later<sup>11</sup>.
- [51] Returning to X.3, as publicly notified the primary difference in X.3 to that in REr.107 was the density standards for the proposed new lower density area (800m<sup>2</sup>) and lower density (Backdrop Area) (at 1500m<sup>2</sup>). However as mentioned above, this new X.3 rule also supersedes REr.109 of the NRMP, being the rule that regulates subdivision in the Landscape Overlay. Importantly, X.3(a) still requires applications to be accompanied with “the

---

<sup>11</sup> Refer to Paragraphs 78-81.



*design and information requirements as detailed in AP14.2 in Appendix 14*". A specific landscape assessment is not required as per REr.109.3(b) as PPC28 has assessed those matters in detail and in response, has incorporated new rules that appropriately regulate building in the Backdrop Area (X.4) and Skyline Area (X.5) explained below. A similar approach was taken in the establishment of Schedule U to accommodate future growth with '*the city backdrop*' identified as the 'Marsden Plateau Landscape Area'. As mentioned above, I have attached<sup>12</sup> a copy of Schedule U to my evidence again to demonstrate the opportunities available within the NRMP to address site specific attributes in urban spatial planning with a bespoke set of rules.

[52] Just like Schedule U and other schedules in the NRMP, PPC28 through Schedule X (as notified) also includes other new general rules to address and manage the actual and potential effects relevant to the PPC28 area. These other general rules include:

- **X.4** Backdrop Area
- **X.5** Skyline Area
- **X.6** Prohibited Activities
- **X.7** Esplanade Reserve Standards

[53] And also the following 'Information and Design Requirements'

- **X.8** Cultural Values and Engagement with Te Tau Ihu Iwi
- **X.9** Ecological outcomes and freshwater

[54] The purpose of X.4 and X.5 are explained in X.1 'Application of the schedule', along with the explanation at the end of the rules, and with supporting objectives, policies and explanation.

[55] **X.4** and **X.5** regulate the actual and potential effects associated with building on those portions of the site that have landscape sensitivities. The primary difference between the two rules are that building height is acknowledged as being an extra important restriction in term of the skyline.

---

<sup>12</sup> See EV16(2) APP

Any building extending above the skyline<sup>13</sup> does not have the benefits of the controlled activity classification and therefore triggers a much more specific assessment of associated effects.

- [56] **X.6** ‘Prohibited Activities’ (as notified) were also proposed for the purpose of protecting the landscape and nature values identified on Kākā Hill. During expert conferencing this prohibited activity status was discussed and it was agreed that a non-complying activity status was more appropriate. The name of this rule has therefore been amended in the set of amended Schedule X provisions attached to this evidence.
- [57] **X.7** is a new bespoke rule that stipulates the ‘Esplanade Reserve Standards’ for the Maitahi River and Kākā Stream within Schedule X. This rule was assessed as being necessary not only in light of a 750-metre gap (through the Rural – Lower Density Small Holdings Area<sup>14</sup>) in the current operative NRMP. This was also in recognition that better outcomes would be enabled and a more responsive requirement that enabled some variation as a part of detailed design. Likewise, setting a specific esplanade reserve width, as per the current requirements of Appendix 6, would not make sense to the shape of the environment enhancement corridor on the lower section of Kākā Stream as shown on the structure plan.
- [58] For clarification, the s42A report (p14) refers to X.7 as “Vesting of a 40m total width esplanade reserve along the Maitai River and Kākā Stream”. This is incorrect. X.7 requires a total “*minimum width of 40m*” which along with the RDA classification, assessment criteria and requirements of X.9, provide a robust framework for all relevant considerations to be carefully considered as a part of subsequent resource consent applications. I will address again later<sup>15</sup> in my evidence under the topics of ‘ecology’.
- [59] Rule **X.8** ‘Cultural Values and Engagement with Te Tau Ihu Iwi’ is included in Schedule X in recognition of the close relationship of Māori with freshwater and this site; and gives effect to the principles of the Treaty of

<sup>13</sup> Note: this rule has been amended to address the concerns raised by Mr Girvan (s42A)

<sup>14</sup> See Section 3.2 of the PPC28 Request and paragraphs 386-394 of the s42A report.

<sup>15</sup> Refer to paragraphs 221-227 of this evidence.

Waitangi, along with the listed principles of Te Mana o te Wai as set out in the NPS-FM 2020.

- [60] The last rule in Schedule X (as notified) is **X.9** 'Ecological outcomes and principles'. The inclusion of this bespoke requirement in Schedule X is a fundamental component of PPC28 as a part of achieving the stated objectives, policies and positive outcomes following best practice. As addressed below, a number of additions and improvements have been requested to these design requirements which the applicants have willingly made.
- [61] Along with the proposed Schedule X, PPC28 includes a new set of planning provisions in the form of an objective, policies and explanatory material that support the package of changes, by communicating the outcomes sought. When compared to the other supporting provisions associated with the previously approved private plan plans, also resulting in new Schedules, I consider this supporting set of provisions to be more comprehensive.

*Amendments made since close of submissions.*

- [62] From the very outset the applicants have been willing to make changes and improvements to the PPC28 package of planning provisions, also being common practice in plan change processes. A number of changes were made in response to the further information request and as outlined below, a number of the experts made helpful suggestions during the preparation of the JWSs and in the s42A reports, which I have kept a record of.
- [63] The amendments cross over each of the key components of PPC28, including:
- (a) the updated Maitahi Bayview Structure Plan;
  - (b) the planning maps;
  - (c) the zone chapters, including objective and policies; and importantly;
  - (d) Schedule X (V2 dated 15 June 2022).
- [64] I address these changes below.

### Structure Plan and Planning Maps

- [65] The change to the Structure Plan, and the consequential changes to the planning maps are described in the landscape evidence of Tony Milne.
- [66] From my perspective, a majority of the changes have been made to better communicate the applicant's vision for this site. For example, there were always going to be challenges with the steeper south facing slopes. Our initial approach was to rezone that land for residential and small-holdings purposes to enable some development in the locations that could accommodate it, albeit with some significant constraints. Note: there are a number of similar areas in Nelson that are zoned residential, and steep, but have a very low overall density of development (such as Cleveland Terrace/Atmore Terrace, parts of the Brook Valley and also parts of the Port Hills facing both west and east). In hindsight, that sent the wrong message and gave the impression that bulk earthworks would occur.
- [67] Stepping away from the steeper south facing slopes and changing the underlying zoning, in line with the input from our multi-disciplinary team and combined with the additional revegetation overlay and associated provisions, should mitigate the associated concerns and questions. This additional information also helps communicate the likely pattern of development on the Atawhai side of the Malvern Hills. Further work in the preparation of an initial masterplan, as requested in the urban design JWS, is ongoing and will be available as soon as possible.
- [68] Another major benefactor to these changes to the Structure Plan is Kākā Hill and the biodiversity outcomes that are planned to arise through the stewardship of Ngāti Koata.
- [69] Changes to the Structure Plan have also been made in response to the better information gathered over the practical alignment of the indicate road link to the ridgeline and additional indicative road link to Walters Bluff. The link to Walters Bluff has been agreed by many of the experts as being very beneficial in terms of transport connectivity, urban design and for recreational purposes.

- [70] The change to the road alignment through the valley floor also caused a need to update the Structure Plan, particularly where the Kākā Stream, Suburban Commercial Zone and planned neighbourhood reserve intersect. The urban design experts also agreed that further work was required to improve the relationship between these activities. This review has seen the proposed Suburban Commercial Zone relocated to the intersection and reduced in scale, in recognition of commercial realities. The remaining Suburban Commercial zone (1500m<sup>2</sup>) provides more than enough land for some viable commercial activities immediately alongside the neighbourhood reserve; to be vested in Council.
- [71] The above-described changes to the Structure Plan have had corresponding changes to the proposed changes to the planning maps (in terms of zoning). This has resulted in a change to the overall area (ha) of land to become available for a residential and rural-residential (small holdings) activity.
- [72] As a part of further describing those changes I have provided a summary in **Table 2** below.

<b>Table 2: Land Areas and Zonings (amended by applicant June 2022)</b>				
<b>Zone Type</b>	<b>Planned Density</b>	<b>Minimum Lot Size</b>	<b>Areas as Notified</b>	<b>Amended Areas</b>
Residential	High	300m <sup>2</sup>	<del>49.22ha</del>	17.49 ha
Residential	Standard	400m <sup>2</sup>	<del>28.93ha</del>	19.16 ha
Residential	Low Density	800m <sup>2</sup>	<del>60.61ha</del>	38.77 ha
Residential	Low Density (Backdrop Area)	1500m <sup>2</sup>	<del>36.44ha</del>	31.80 ha
		Subtotal	<del>145.20ha</del>	107.22 ha
Rural – Small Holdings Area	High Density	5000m <sup>2</sup> , 1ha average	<del>35.4ha</del>	0 ha
Suburban Commercial	--	No minimum	<del>00.37ha</del>	0.15 ha
Open Space & Recreation	--	N.A.	<del>41.33ha</del>	37.75 ha
Neighborhood Reserve				0.543 ha
<b>Current zoning to remain</b>				
Rural	--	15ha	63.85ha	131.01 ha
Residential	Standard	400m <sup>2</sup>	00.63ha	0.63ha

[73] Approximately 38-hectares of land initially proposed for residential development has been removed, as well as the 35-hectares of proposed land zoned for Rural-higher density small holdings.

[74] The proposed Suburban Commercial zone has also been reduced in size.

Schedule X and the supporting provisions (Objectives, Policies and Explanatory Material)

[75] Attached<sup>16</sup> to this evidence is a tracked copy of the requested changes, as originally provided within Section 4.1 of the request document.

[76] Amendments, updates, improvements and corrections have been made to take into account of the above-described changes to the Structure Plan, the JWS agreements, the submissions and the s42A report(s) (Appendix 1 in particular).

[77] Broadly, I have carefully considered all the feedback provided and made changes to ensure the provisions are appropriate and robust, ultimately to ensure the objectives of PPC28 are achieved.

[78] A *summary* of the changes made is provided below however, this is not a complete list. See Attachment EV(15)(3) (*Schedule X (V2, dated 15 June 2022)*) for all changes:

- 1) Bullet points removed and replaced with numbering, with the word “and” added after each item; and
- 2) The changes sought by Ngāti Rarua and Ngāti Koata have been applied; and
- 3) All changes related to the Rural-higher density small holdings zone are deleted, as there is no such zoned land in Schedule X; and
- 4) Kāka Hill, Maitai Valley and Botanical Hill were added into the landscape related provisions (both policy and rules) where appropriate; and

---

<sup>16</sup> Refer to Attachment EV16(3) APP.

- 5) The Walters Bluff Road link also added to the planning maps A2.1 and A2.2, as a sub-collector road as consistent with the current section of Walters Bluff Road; and
- 6) The full names of the planning documents, such as the NRMP or NPS-FM, is provided in a consistent manner; and
- 7) The policy framework/support has been redrafted in placed and bolstered, with clearer linkages to the methods to achieve the outcomes; and
- 8) A new policy RE6.4 on '*Indigenous Terrestrial Biodiversity*' has been added; and
- 9) To ensure the requirements of Schedule X also apply to the Open Space & Recreation Zone, new Chapter 11 provisions are added in the same manner as already provided for the Rural Zone and Suburban Commercial Zone; and

In terms of Schedule X:

- 10) **X.1<sup>17</sup>** - additional explanation is provided as to the relationship of Schedule X with existing regional rules; and
- 11) **X.2<sup>18</sup>** - this Comprehensive Housing Development rule has been updated to take account of the additional information requirements, the transport constraints, and all relevant matters of discretion; and
- 12) **X.3<sup>19</sup>** - this subdivision rule has been updated to take account of the additional information requirements, the transport constraints, and all relevant matters of discretion; and
- 13) **X.4<sup>20</sup>** - this Backdrop rule has been amended to clarify that it relates to the Malvern Hills and Botanical Hill; and

---

<sup>17</sup> Application of the schedule.

<sup>18</sup> Comprehensive Housing Development in the Residential Zone – Higher Density Area.

<sup>19</sup> Subdivision – General (Residential Zone).

<sup>20</sup> Backdrop Area

- 14) **X.5**<sup>21</sup> - this Skyline rule has been amended to clarify that it relates to the Malvern Hills and Botanical Hill. Changes have also been made as recommended by Mr Girvan (s42A) and by Mr Tony Milne for the applicant; and
- 15) **X.6**<sup>22</sup> - this rule has been renamed, with the activity classification changed from prohibited to non-complying as agreed in the Planning (3) JWS dated 19 & 20 May 2022; and
- 16) **X.7**<sup>23</sup> - a minor change has been made to this standard for esplanade reserves to apply the change sought by Ngāti Rarua; and
- 17) The '*Special Information and Design Requirements within Schedule X*' and the explanation contained under this heading has been amended; and
- 18) **X.8**<sup>24</sup> - an additional sentence has been added to this requirement to apply the change sought by Ngāti Rarua in its submission; and
- 19) **X.9**<sup>25</sup> - changes have been made to the '*Ecological outcomes and freshwater*' principles in response to changes sought in the JWS processes, s42A report, and as recommended by Mr Tony Milne for the applicant; and

NOTE: The following new rules/provisions have also now been added to Schedule X. To avoid confusion, and given the expert refers to rule references in the notified version of Schedule X, I have not yet renumbered X.2-X.9. Renumbering will eventually need to occur as the new rules described below are new general rules (following X.5-X.7) and involve are new information requirements (following X.9):

[79] The following new general rules are proposed:

---

<sup>21</sup> Skyline Area

<sup>22</sup> Buildings on Kākā Hill.

<sup>23</sup> Esplanade Reserve Standards.

<sup>24</sup> Cultural Values and Engagement with Te Tau Ihu Iwi

<sup>25</sup> Ecological outcomes and freshwater



- 20) A new **X.10** which contains a new controlled activity rule in relation to the existing 'Heritage Structures' and the requirements imposed on the removal/demolition of these structures.
  - 21) A new **X.11** which contains the 'Services Overlay – Transport Constraints and Required Upgrades' table, identifying those constraints that must be addressed prior to subdivision and development proceeding; and
  - 22) A new **X.12** which contains additional assessment criteria in relation to earthworks, including the application of specific ESCP best practice principles.
- [80] The following additional special information requirements are proposed:
- 23) A new **X.13** requires that a '*Stormwater Management Plan*' be prepared and submitted with applications for subdivision and development; and
  - 24) A new **X.14** requires that a '*Integrated Transport Assessment*' be prepared and submitted with applications for subdivision and development; and;
  - 25) A new **X.15** requires that an '*Ecological Assessment*' (indigenous biodiversity and threat from domestic pests) be prepared and submitted with applications for subdivision and development; and
  - 26) A new **X.16** requires that a '*Vegetation and Fauna Management Plan*' be prepared and submitted with applications for subdivision and development.
- [81] As explained above, X.2 and X.3 have been amended to pick up on these additional special information requirements.

*Other Supporting Information*

[82] Since the close of the submission processes the applicant has gathered additional information to help with the JWS processes and to better communicate the outcomes planned by PPC28. This includes:

- (a) The “*Additional flood hazard information – PC28*” (dated 5 May 2022, and attached to Flooding (3) JWS (25 May 2022); and
- (b) The “*Supplementary Terrestrial Ecological Assessment*”, dated 13 May 2022 and attached to Ecology – Terrestrial & Freshwater (1) JWS (13 May 2022); and
- (c) The “*Maitahi Development Dennes Hole Interface Plan*” attached to the Recreation and Open Space JWS (dated 13 May 2022); and
- (d) The “*Natural Character Assessment*” (dated 6 June 2022) attached to the evidence of Mr Tony Milne; and
- (e) “*Indicative cross sections of the Kākā Stream corridor*”, attached to the evidence of Mr Tony Milne; and
- (f) The “*Stormwater Management Plan*” (dated 15 June 2022) attached to the evidence from Mr Maurice Mills; and
- (g) The additional heritage memo entitled “*Investigations into selected heritage structures – timber woolshed/barn, concrete chimney, and concrete/stone wall remnants*” dated 6 April 2022 and attached to the Heritage JWS (dated 16 May 2022); and
- (h) The addendum report entitled “*Maitahi Valley Farm, Building, 7 Ralphine Way, Maitai Valley, Nelson*” dated 11 May and attached to the Heritage JWS (dated 16 May 2022); and

[83] As referenced above, these documents have either already been shared and attached to JWS agreements or are now attached to the technical evidence of other experts for the applicant.

[84] The applicant is also preparing an ‘Indicative Master Plan’ to illustrate the proposal, as agreed within the Urban Design (1) JWS (5 May 2022). This is

referenced in the evidence of Mr Tony Milne and Mr Hugh Nicholson for the applicant, and will be provided as soon as possible.

### *Regional Planning*

[85] I consider it necessary to address the matter of “regional planning” here as this is raised as a concern in the s42A report.

[86] The Council’s website<sup>26</sup> addressed the ‘combined’ nature of the NRMP:

*The Nelson Resource Management Plan (NRMP) is a combined District (land use) and Regional (coastal, land disturbance and freshwater) Plan. [The Nelson Air Quality Plan](#) is a separate document.*

[87] The combined plan is further addressed in AB5 as follows:

#### ***AB5 Combined regional and district plan***

***AB5.1*** *The Nelson Resource Management Plan is a combined regional and district plan, which means that it deals with district and regional issues. The Council has decided that integrated management of the natural and physical resources of the City would be best achieved by combining the district and regional plans in one document.*

***AB5.2*** *The Plan includes (as at the date of notification) planning material on:*

- a) all district council functions*
- b) some regional council functions:*
  - i) the Coastal Marine Area*
  - ii) soil erosion and sedimentation*
  - iii) freshwater environments*

[88] The NRMP was first notified in 1996, while I was working for Nelson City Council and became operative in 2004. The NRMP has been changed over the course of the last 26 years. Of note, the freshwater plan was added in 2004, became operative in May 2007, is located in Appendix 28 and referenced throughout the NRMP including each zone rule table. The freshwater provisions were also amended in 2010. Those changes became operative in 2012. The Regional Coastal Plan was approved in 2006.

<sup>26</sup> <http://www.nelson.govt.nz/environment/nelson-resource-management-plan/nelson-resource-management-plan-2/view-the-nrmp/download-the-nrmp-2/>

[89] Given the combined and integrated nature of the NRMP, along with the fact that Nelson City Council (NCC) is a unitary authority with both territorial and regional functions, users are not required to look beyond the NRMP into other Council jurisdictions. Aside from the Air Quality Plan (which is a separate document), the NRMP is a ‘one stop shop’ within 4 volumes:

- Volume 01: General;
- Volume 02: Zones;
- Volume 03: Appendices;
- Volume 04: Planning Maps.

[90] The format of the NRMP and how to follow the rule table, planning maps, and use of the schedules is clearly explained both in Chapter 3 ‘Administration’ (Volume 1) and also at the start of each zone chapter (Volume 2). For example, of relevance in terms of Scheduled Sites (REr.7):

*Any activity listed in a Schedule following the Rule Table shall comply with the rules set out in that Schedule (REr.7, p17, Chapter 7).*

[91] In paragraphs 39-40 above I referred to Schedule U of the NRMP and provided a full copy of this schedule with my evidence<sup>27</sup>. I refer to this schedule again here as rule U.3.1, U.5.2, and U.8.4 are earthworks rules, and so regional rules. Users of the NRMP must look beyond the current earthworks rule REr.61, which is clearly evident from the scheduling on the planning maps as directed in REr.7 (above).

[92] I provide this explanation here as to the format of the NRMP as it is very familiar to me, having practiced in Nelson as a planner since 1994. While this may seem a little strange to others less familiar with the NRMP, the operative plan is largely coherent and workable.

[93] Whilst not specifically labelled as a regional rule, which is an easy fix, the s42A report states:

---

<sup>27</sup> See Attachment EV16(2) APP.

*The PPC does not seek to amend any of the regional planning provisions in the NRMP<sup>28</sup>.*

[94] And that

*... There are no changes to any of the rules that fall within the section 30 RMA functions of the Council<sup>29</sup>. ...*

[95] However, X.9 imposes a set of design requirements that must explicitly be addressed, by a suitably qualified and experienced person, within resource consent applications for subdivision and development. For completeness, I agree it would be helpful to add further explanation to Schedule X (and X.9) to clarify the relationship of this requirement to the wider provisions of the NRMP (including regional rules).

[96] The s42A report also addresses the yet to be updated provisions of the freshwater plan to give effect to the NPS-FM 2020 in paragraphs 363-365. In this regard Ms Sweetman has considered whether:

*The problem rests with the NRMP itself and is a matter beyond the scope of PPC28.*

[97] And then addresses this as follows:

*In terms of the last bullet point, the applicant has not requested any changes to any of the freshwater provisions of the NRMP, which apply region-wide. These provisions were made operative in 2007 and have yet to be reviewed to give effect to any of the iterations of the NPSFM. Accordingly, in my view they cannot be relied upon as giving effect to Te Mana o te Wai or the NPS-FM 2020 as a whole. In saying this, it is clearly the role of Nelson City Council to review the NRMP and notify a freshwater planning instrument in order to do so. In the meantime, however, any plan change still needs to give effect to the NPS-FM, as well as other relevant national instruments. (my emphasis)*

[98] As set out previously, the very start of this work on PPC28 was at a time (mid to late 2019) that NCC had planned to publicly notify the draft Whakamahere Whakatū Nelson Plan (WWNP) by February 2021. In fact, the timing risks of the PPC28 were carefully considered given the potential overlaps with the wider plan review. As a result, and in conjunction with the principles of X.9 being able to be applied for already given the

<sup>28</sup> Paragraph 31, page 15, s42A report.

<sup>29</sup> Paragraph 117, page 32, s42A report.

discretionary status of the activities under the Freshwater Plan, it was considered to be unnecessary to attempt to change the freshwater provisions in Appendix 28. What we could do however is provide this bespoke requirement in Schedule X, to ensure subdivision and development in the PPC28 area acknowledges the best practice water sensitive design principles provided by Morphem Environmental Limited.

[99] Hence in practice, at the time that resource consent is sought to undertake earthworks or to undertake activities that impact on the freshwater environments, Schedule X requires a specialised assessment to be provided. That is, the requirements of Appendix 28 cannot be applied for in isolation from the requirements of Schedule X. As stated above, this is a combined district and regional plan, and the scheduling tool is not limited only to district rules.

[100] Using this scheduling tool, in the manner others have, provides the opportunity to enable subdivision and development in a way that is appropriate, responsive to the national instruments and without the need to wait for an indefinite period of time for the wider plan review to be completed. Being required to wait would run contrary to national policy, in my opinion.

#### *National Policy Statements*

[101] Pursuant to Section 75(3)(a), plan changes must give effect to National Policy Statements (NPS). The relevant NPS documents will therefore be considered under this section of my evidence. Upon doing so, I will not repeat the assessment provided in the Plan Change Request (Section 7).

National Policy Statement on Urban Development (2020) ('NPS-UD'),  
Future Development Strategy 2019 and draft Future Development Strategy  
2020

[102] Within the JWS Planning (26 April 2022, s3.2) all planning experts agreed that the NPS-UD should be read as a whole and also that the provisions specifically relating to tier 1 urban environments are not relevant. We also agreed to consider the case law of *Eden-Epsom Residential Protection Society Inc*

*v Auckland Council [2021] NZEnvC 082* and so in the JWS Planning (3) of 19 & 20 May 2022, it was recorded that:

***Kelly McCabe*** now considers that based on the case law (*Eden-Epsom Residential Protection Society Inc v Auckland Council [2021] NZEnvC 082*) only Objectives 2, 5 and 7 and Policies 1 and 6 of the NPS-UD are relevant to considering PPC 28.

***Gina Sweetman, Lea O’Sullivan and Mark Lile*** consider that the *Eden-Epsom* case is not directly comparable to this PPC 28 proposal and are not satisfied that the relevant provisions of the NPS-UD are limited to those identified in the *Eden-Epsom* case.

- [103] In line with the assessment of the NPS-UD provided in section 7.2 of the PPC28, I remain of the opinion that Policy 8 has direct relevance to the consideration of this plan change request.
  
- [104] In particular, I consider PPC28 clearly would “add significantly to development capacity” and “contribute to well-functioning urban environments”, as agreed by the economics experts and urban design experts. In combination, the scale of this site and opportunities to meet a range of needs, its proximity to Nelson City, associated opportunities for multi-modal transport options, the benefits to be gained in terms of recreational amenity, the opportunity for Māori to become involved and express their cultural traditions provides for a well-functioning urban environment in accordance with Policy 1.
  
- [105] In response to the assessment in Section 9.3.1 of the s42A report and with reference to Clause 3.8(3) I accept that the NRPS has not yet been updated to give effect to the NPS-UD. However, I consider the operative NRPS does contain very similar criteria within Policy DH1.3.3 (see paragraph 138 below). DH1.3.3 provides an appropriate set of criteria for the assessment of private plan changes in terms of meeting urban spatial requirements.
  
- [106] Section 9.3.1 of the s42A report also appropriately addresses the definition of “development capacity” in the context of objective 2, and the provision of infrastructure (water, wastewater stormwater and transport).

- [107] In this regard I consider the JWS agreements on infrastructure and transport to provide direct assistance. In this regard I refer to the evidence of Mr Maurice Mills.
- [108] I also assessed PPC28 against the Nelson Tasman Future Development Strategy (FDS) 2019 (a non-statutory document) in section 7.3. The sequencing or priority of intensification over greenfield development has however, been superseded by the NPS-UD 2020. This was acknowledged within both the economic JWS and the planning JWS. The draft FDS 2020 has been prepared to give effect to this new national policy direction but is yet to be formally adopted. In these circumstances, I have not placed a lot of weight on either of the FDS documents in my assessment of PPC28.
- [109] I have only two related comments to make in this regard.
- [110] Firstly, even if the FDS 2019 was to be used to inform decision making, the capacity planned within the Kākā Valley in decade 2 (2029-2038) is not far out of line with the likely development timing should PPC298 be approved. The applicants have advised that for the development within Kākā Valley, it is unlikely that any new houses would be occupied until approximately 2027<sup>30</sup>. Likewise, this would only involve the first stage of housing, with the balance being developed incrementally in the years that followed. Hence, PPC28 is not now significantly out of sequence with regarding to the timing anticipated within the FDS 2019.
- [111] Secondly, in my experience as a professional planner in Nelson since 1994, I am firmly of the opinion that in order to achieve its obligations under Policy 2 of the NPS-UD (to provide “at least” expected demand), NCC will not be able to rely on a myopic strategy based solely on intensification. Nor would such a strategy achieve its obligations under Objectives 1, and 4, and Policy 1, principally as intensification does not meet all needs in terms of price, type and location of housing.
- [112] I have obtained consent for a large portion of the intensification projects in Nelson over the last 10+ years. The complexity and costs of those projects

---

<sup>30</sup> See Transport JWS (1), 4 May 2022, section 3.4.



have grown significantly. Those currently under construction have, for the most part, struggled to get off the ground. Once they have managed to be completed, the price tags are only within reach for a very small portion of the population.

[113] I am aware that the Councils plan to undertake a medium density plan change has again been delayed until after the local body elections. However, this will not fundamentally change housing supply or affordability. All of the engineering challenges will remain (i.e. Maitahi/Mahitahi River flooding, sea level rise, liquefaction), as will the costs associated with construction and added costs of having to write off existing capital in the form of existing buildings.

[114] In summary, I consider PPC28 gives effect to the NPS-UD.

National Policy Statement for Freshwater Management (2020) (NPS-FM)

[115] The fundamental concept of Te Mana o te Wai is in section 1.3 of the NPS-FM and this concept (and its stated principles) have played an important role in the preparation of PPC28.

[116] With the lower section of the Kākā stream highly modified through historical farming practices, it was considered that the Structure Plan should provide for enhancement and restoration. Specialist advice from the consultant team identified a significant opportunity to realign the lower section back to the west, following what was identified as a historical alignment. That location (with the benefits of shade), maximises the potential benefits and opportunities for the enhancement for freshwater quality and ecological values, as addressed in the expert evidence of Mr Markham for the applicant, with the potential benefits also acknowledged in the Ecology JWS.

[117] In order to achieve the objectives and policies of the NPS-FM, the PPC28 proposal also provides *space* for a fully integrated design, catering for the range of design considerations, to be provided for. This lower section of the proposed green-blue corridor ranges in width from 56.9metres (m) (up near the shearing shed), to 128.5m (in the widest section on the bend) and

then a variable width (75m-81m) in the lower section around the river frontage. The dimensions are shown on the plans and cross sections attached to the landscape evidence of Mr Tony Milne.

- [118] The need for *space* to achieve these outcomes are addressed in terms of the upper section of Kākā Stream, above the hay shed. Over that section, X.7 inserts a new rule requiring a minimum of 40m esplanade corridor width, with the final design being appropriately justified at the time of resource consent approval, with a multi-disciplinary team involved and providing assessment of the principles located in X.9. In practice, what this means is that the consent authority has full discretion to undertake technical reviews, seek or impose changes through conditions, or even decline consent.
- [119] The need for resource consent approval before any subdivision and development works can proceed is a significant factor in this statutory assessment, extending across all aspects of works to give effect to the planned residential development. My local experience is that those processes demand a very high level of information, multiple specialist inputs and a very high degree of critical review by the consent authority.
- [120] The other piece of the puzzle relevant to giving effect to the NPS-FM includes the integrated set of provisions (objective, policies, explanations and rules) provided within Schedule X. As explained previously, the NRMP is also a regional plan and so users are not required to look elsewhere. It is a ‘one stop shop’ that is hugely advantageous.
- [121] Given the opportunity available in the NRMP to use Scheduling to provide for urban spatial growth and based on the direction in AD11.4.iii (below) that it is the content of the schedule that directs the relationship to the rule table (including the freshwater plan referenced at the end of each rule table), it was considered appropriate to provide bespoke requirements relating to water sensitive design in Schedule X.

***AD11.4.iii*** *The rules that apply to the activity and site are stated in the relevant schedule. The schedules are located after the rule table in the relevant zone. The relationship between the schedule and the rule table is set out within each schedule (pp27-28, Chapter 3, emphasis added).*

- [122] In combination, the integrated set of provisions (objective, policies, explanation and rules) provided within Schedule X have been inserted for the purpose of giving effect to the NPS-UD in circumstances whereby the Council is yet to notify the residential section of the proposed Whakamahere Whakatū Nelson Plan (WWNP). The timeframe around that remains uncertain. I have been advised that this will not be notified before the elections this year. A new mayor and set of Councillors would typically add further uncertainty to these timeframes. The s42A report refers to this Plan Change in Section 9.14<sup>31</sup> and also refers to a freshwater section as a part of that change. No public information is available as to what that will involve, however I will be expecting that Council Plan Change to contain the same high level of information and equivalent standards around stormwater management, given the urban area relating this that plan change also drain to the Maitahi/Mahitahi River and Nelson Haven. I am also unsure whether that Plan Change will change the NTLDM 2020 at the same time, given the concerns raised over the adequacy of that.
- [123] This integrated set of provisions will be a central focus of any resource consent application within the PPC28 area, including those involving freshwater resources given the stated requirements of Schedule X.
- [124] Furthermore, as set out in PPC28, the consents required under freshwater provisions (such as FWr.10 'Realignment and piping of beds of rivers and lakes, and wetlands') is at least a discretionary activity (FWr.10.3) with the following listed assessment criteria:

*FWr.10.4*

- a) the scale, extent and design (curved rather than straight) of the realignment or piping.*
- b) effects on the natural functioning of aquatic ecosystems*
- c) effects on natural character*
- d) effects on fish passage*
- e) the degree to which the activity affects the existing classification and values of the waterbody (refer to Appendix 28.4 and Appendix 6). Where insufficient information is available, and for unspecified rivers, a site assessment will have to be supplied when an application is made for a discretionary activity.*
- f) visual effects*

---

<sup>31</sup> Paragraphs 144-141, s42A report.

- g) *effects on water quality*
- h) *the potential to avoid, remedy or mitigate any effects through planting/ landscaping and rehabilitation.*
- i) *the method and timing of works*
- j) *any effects of the activity on network utilities*
- k) *flood capacity and cumulative effects on downstream flow velocity and catchment hydrology*
- l) *in the case of wetlands, whether it is naturally occurring or artificially created. If it was artificially created, the purpose for which it was created (eg stormwater management or wastewater treatment).*

[125] The scope of these matters are wide ranging (not restricted), even without appropriate consideration given to the scope available under section 104. Hence, while we consider it appropriate to address best practice principles within X.9, supported by the policy framework, the resource consent process provides wide scope of all relevant matters to be part of the consent process.

[126] In outlining my professional experience (above) I referred to the 270m realignment of Groom Creek, back to its historical alignment. That was a Council led project and designed to enhance water quality (to reduce fine sediment and oxidized nitrogen (nitrates)), while providing a high quality, high-profile landscape amenity area for the park and surrounding community. That application was supported by the following technical supporting documents<sup>32</sup>:

- (a) An Ecological Impact Assessment (Nelmac Limited);
- (b) A report comprehensively describing the Construction Specifications of the wetland, including Construction Drawings and Test Pit results (Morphum Environmental Ltd);
- (c) A Cultural Effects Assessment.

[127] Resource consents<sup>33</sup> for these works were granted in December 2016. The application provided an assessment of the relevant planning documents,

---

<sup>32</sup> Copies available on request.

<sup>33</sup> Copies available on request.

including the NPS-FW (as it was), with the decision recording that the proposal, was consistent with the relevant provisions.

- [128] The positive water quality benefits from the Groom Creek realignment demonstrate what can be achieved through the use of water sensitive design principles, under the current planning framework of the NRMP. Even if the statutory requirement of the NPS-FM 2020 had been integrated into a new regional plan for Nelson, I would be surprised if the application of the effects management hierarchy (Section 3.24, NPS-UD 2020) hindered the granting of the Groom Creek consents. I strongly doubt that was the intent of this national policy when considering the provisions as a whole.
- [129] Finally, another key component of PPC28 is the requirement volunteered within Rule X.8 'Cultural Values and Engagement with Te Tau Ihu Iwi'. This provision, combined with the supporting objective and policies, gives effect to a number of the principles of Te Mana o Te Wai, kaitiakitanga in particular, while providing the opportunity for active involvement of tāngata whenua in freshwater management (and more broadly in recognition of the integrated approach) within PPC28.
- [130] In summary, I consider PPC28 has given effect to the NPS-UD 2020 in an appropriate and positive manner.

#### New Zealand Coastal Policy Statement 2010

- [131] I will not again repeat my assessment of the NZCPS 2010 provided in section 7.9 of PPC28 here. Likewise, the JWS Planning (2) contains an agreement that the site is not within the coastal environment. Ms Sweetman and I have also agreed that any change to the position of the coastal environment will be through a future Schedule 1 process.

#### *National Environmental Standards (NES)*

- [132] In section 7.5 of PPC28 I provided an assessment of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS) and NES-FW. The

JWS Planning (2)<sup>34</sup> also records an agreement that these NES are only relevant to the extent that they determine what consents will be required. As such, I do not consider these regulations provide any particular further assistance to the assessment of PPC28.

*Nelson Regional Policy Statement (NRPS)*

- [133] The extent to which PPC28 “gives effect” to the NRPS is addressed under this heading. In undertaking this assessment I will provide reference to the assessment of the relevant provisions of the NRPS contained in Section 7.6 of PPC28. As a unitary authority plan, the NRMP also contains the specific methods by which the “integrated management of natural and physical resources” are to be achieved. The methods imbedded into the NRMP, addressed later, are therefore of relevance to the application of this planning framework established by the NRPS.
- [134] The matter of planning and provision for “urban spatial requirements”, including to meet the needs for residential expansion, is an identified cross boundary issue with the Tasman District Council (TDC). From my experience having worked professionally as a planner in Nelson for 28 years, it has only been since the obligations imposed under the NPS-UDC that urban spatial requirements have been actively coordinated. The FDS 2019 arose from that “coordinated and complementary approach”.
- [135] As set out in PPC28<sup>35</sup>, the FDS 2019 included the Kākā Valley site as a suitable and appropriate greenfield site to accommodate residential growth. With the requirement to review and update the FDS every three years, the draft FDS 2022 was released as a part of public consultation in March 2022 and is scheduled to be formally adopted in September 2022.
- [136] Both within the current FDS and draft FDS (including the background reports that were used in their preparation), demonstrate the coordinated and complementary approach employed by NCC and TDC to meet the

---

<sup>34</sup> Section 3.5, dated 26 April 2022.

<sup>35</sup> Section 7.3, PPC28.

needs for additional land to cater for growth. Both documents are in fact titled ‘*Nelson-Tasman Future Development Strategy*’.

[137] Chapter 6 of the NRPS (‘Development and Hazards’) are directly relevant to the assessment of PPC28 as it addresses the matter of ‘Urban Expansion’. Objective DH1 and the four supporting policies. I consider this section of the NRPS has particular relevance to the assessment of PPC28 under section 75(3), including the methods listed (DH1.4) to achieve the issue of providing for urban spatial requirements, as well as the anticipated environmental results (DH1.7).

[138] Taken as a whole, the provisions provided in DH1 provides a framework for the consideration of urban growth options. This framework requires that significant features or values are identified and appropriately protected (DH1.3.1), that regard be given to community expectations (DH1.3.2), that adequate and appropriate provision be made for services (DH1.3.4), and that:

*“Where urban expansion is considered to have greater net benefit than intensification, to provide for the most appropriate form of urban expansion for Nelson. In determining what is most appropriate, to assess the costs and benefits of various options according to the following criteria:*

- i) energy efficiency in terms of location and structures;*
- ii) infrastructure costs including opportunity costs of existing infrastructure;*
- iii) natural or physical barriers to expansion;*
- iv) existence of incompatible rural activities such as quarries or smelly activities;*
- v) susceptibility to natural hazards;*
- vi) existence of sensitive uses such as land transport links, airports or ports;*
- vii) utilisation of the land resource for primary production purposes;*
- viii) proximity to existing facilities;*
- ix) impacts on natural and conservation values associated with riparian and coastal margins, rivers and the coast;*
- x) effects on internationally, nationally, or regionally significant natural features and landscapes;*
- xi) effects on internationally, nationally, or regionally significant native vegetation and significant habitats of indigenous fauna;*
- xii) effects on ancestral land, water sites, waahi tapu and other taonga of significance to tangata whenua;*

- xiii) *effects on heritage values of sites, buildings, places, and areas of regional, national, or international significance;*
- xiv) *effects on amenity values of international, national, or regional significance;*
- xv) *effects on recreation resources of international, national, or regional significance;*
- xvi) *effects on urban form and on the demarcation between urban and rural areas; and*
- xvii) *effects on availability of land resources for future generations. (DH1.3.3, emphasis added)*

[139] The applicant has taken particular care to follow this guidance and in doing so, ensure that the PPC28 provisions avoid, remedy and mitigate adverse effects of the proposal as required by Objective DH1.2. Likewise, in response to concerns raised by stakeholders during the initial consultation phase, raised within submissions, the JWSs and within the s42A report(s), the applicant has continued to make improvements to the integrated package of provisions as a part of achieving the stated purpose and objectives of PPC28 and to achieve “sustainable management”.

[140] I have highlighted the first part of Policy DH1.3.1 above which requires a comparative assessment of the net benefits of urban expansion against intensification. I consider that approach to be superseded by the current requirements of the NPS-UD. As addressed above, the NPS-UD simply seeks to provide a well-functioning urban environment to enables people to provide for their well-being, now and in the future. The NPS-UD recognises the diverse and changing needs of people<sup>36</sup> and therefore supports all development that contributes to serving a variety of needs (Policy 8). The diversity of needs is also acknowledged in both the current FDS 2019 and the draft FDS 2022.

[141] Policy DH1.3.1 also requires that urban explanation provides for an appropriate urban form, following the assessment of the listed criteria. This is also the focus of the stated ‘anticipated environment result’:

*A pleasant, functional and coherent urban area which provides for the reasonable expectations of the community while avoiding remedying, or mitigating adverse effects on the environment” (DH1.7.3, emphasis added).*

---

<sup>36</sup> Objective 4 and Policy 1 (NPS-UD 2020).



- [142] Combined with other relevant environmental outcomes sought within the NRPS, such as transport, I consider this ‘result’ or outcome is very much aligned with the focus of Policy 1 of the NPS-UD in terms of ‘*well-functioning urban environments*’, and being the subject of agreement reached between the expert urban designers (JWS Urban Design 1, dated 5 May 2022). As such, and for the reasons I have already described, I consider PPC28 is entirely consistent with DH1 of the NRPS and has given effect to the specific directions over the strategic planning process to meet urban spatial requirements.
- [143] The high community value placed on the Maitai Valley environment, including community expectations over maintenance of recreational and amenity values, has been *front of mind* through the plan change process. The actual and potential effects on those values are addressed later in my evidence, with reference also to the agreements reached in the JWSs. In particular, I consider the JWS agreed by the recreational experts to be of importance to the matter of recreational and amenity values which are significant to a number of submitters.
- [144] Not surprisingly, the consideration of effects of urban expansion on the transportation network is also identified in DH1. Logically, this issue overlaps with Chapter 11 ‘Air Quality’, Chapter 12 ‘Energy’ and Chapter 14 ‘Infrastructure’.
- [145] The air quality implications from vehicle emissions are acknowledged in Chapter 11, with the “*proximity of areas of residence to those of employment*” (DA.1.1.2) being directly related to urban form. Chapter 12 then picks up on this in terms of energy efficiency in urban form (EN1.3.2) achieved through making decisions on the location of residential development (EN1.4.5), and provision of cycle routes and linkages (EN1.4.2 & EN1.4.3). It is through these provisions of the NRPS that it seeks “*Urban form resulting in reduced dependence on non-renewable sources of energy*” (EN1.7.4).
- [146] Chapter 14 ‘Infrastructure’ continues this consistent theme within the NRPS in terms of sustainable urban form, as summarised in the plan change request:

*Policy 2.3.1 discourages dispersed development while method 2.4.1 refers to an urban form that is readily and efficiently serviced. As a site in very close proximity to the City and proposing to link two existing areas of urban Nelson, this PPCR is not considered to result in the adverse outcomes associated with urban dispersal. Likewise, this is a site that can be readily and efficiently serviced, and so is considered to be consistent with these relevant provisions of the NRPS (PPC28, p121).*

- [147] Chapter 12 also acknowledges that there may be adverse effects from activities on land transport infrastructure, and identifies the need for policies and rules in its District Plan to control those effects (Policy IN2.4.3). I will assess this directly under the NRMP discussion below, which relates to the current ‘Services Overlay’ provisions, including those proposed to be amended by PPC28 within Schedule X.
  
- [148] Another feature of Chapter 12 are the policies that provide reference to the Regional Land Transport Strategy, and “*work with other local authorities, transport operators, organisations and individuals*”, with reference also to Transit New Zealand (Waka Kotahi NZTA). Policy IN2.4.7 also refers to Central Government. I mentioned these other policies here as there is a significant push at all levels towards ‘modal shift’.
  
- [149] A lot has changed since the NRPS was adopted in 1997. The focus and funding, now on alternative modes of transport is significant. Not to mention other fundamental changes such as with technology in the growth of sales in electric vehicles, bikes scooters and even skateboards. There is also now no requirement to even provide for on-site parking.
  
- [150] Chapter 5 of the NRPS is entitled Treaty of Waitangi and provides full recognition to the relationship of Māori to the natural and physical resources of the region. The objectives and policies in Chapter 5 recognise and seek to apply the principles of the Treaty of Waitangi.
  
- [151] One of the fundamental components of PPC28 is the specific requirement for tāngata whenua values to form a part of the design and development stages within PPC28. As expressed in the consultation process and in the submissions received, this opportunity has been welcomed by iwi of Te Tau Ihu. I consider PPC28 has given effect to these provisions of the NRPS.

[152] DH2 of Chapter 6 ‘*Development and Hazards*’ contains the relevant objective and policies associated with hazards. These provisions are essentially effects based and so there is a clear requirement to ensure risks are appropriately avoided, remedied or mitigated. Policies DH2.3.2 and DH2.3.3 are of particular relevance in this regard.

[153] Policy DH2.3.2 states:

*“Where possible Council will avoid an appropriate development on hazard prone areas. Where this is not practical or achievable Council will require that remedial or mitigation measures are undertaken in such a way as to avoid adverse environmental effects to the extent practicable. (emphasis added)*

[154] Policy DH2.3.3 also states:

*To only permit development on hazard prone areas where the developer demonstrates to Council that the hazard be avoided or adequately mitigated. In making its decision, Council will take into account the following matters:*

- i) the types, levels of risk and any likely increase in the disaster or risk potential if development proceeds;*
- ii) any measures that can be taken to avoid remedy or mitigate adverse effects of the development (both on and off-site);*
- iii) the type of risk and the consequent danger to human life;*
- iv) the potential costs resulting from hazard events and where those costs will fall;*
- v) the appropriateness of alternative uses of that particular site;*
- vi) the tentative sites available for the proposed development;*
- vii) the presence/likelihood of significant cumulative effects.*

[155] PPC28 is supported by a flooding assessment from Tonkin & Taylor that demonstrates that the flooding hazard can be mitigated. Further information has been prepared and submitted within the Flooding (3) JWS (25 May 2022) which adds support to this assessment. For the purpose of assessing this PPC28 and acknowledging the resource consent required for subdivision and development, I consider this proposal is consistent with DH2 of the NRPS.

[156] In reality, the Maitai flooding model affects a very large part of central Nelson City which remains a fundamental part of both the wider strategic documents to encourage intensification (i.e. Intensification Action Plan, FDS 2019 and draft FDS 2022) to provide for intensification. The

advantages of this site are, of course, its location away from the longer term effects of climate change and sea level rise. The same cannot be said for a large part of central Nelson, with hazard notices now applied on LIM reports to address the risk of flooding, sea level rise, liquefaction and instability.

[157] The Geotech (1) JWS (4 May 2022) addresses the matter of site suitability from a stability perspective and the controls in place to ensure subdivision and development achieves the appropriate standards.

[158] As set out in the PPC28 (pp109-16) Chapter 7 ‘Natural and Amenity Values’ of the NRPS addresses a wide range of topics of relevance to PPC28, namely:

- NA1: Amenity and conservation values
- NA2: Landscape values and natural features
- NA3: Significant indigenous vegetation and habitats of indigenous fauna
- NA4: Management of pests
- NA5: Riparian and coastal margins
- NA6: Beds of rivers and lakes

[159] In combination the assessments undertaken by Mr Tony Milne, including the ‘Natural Character Assessment’, has assessed how PPC28 has addressed the relevant landscape, natural character and amenity values relevant to this site area, thereby avoiding any conflict with the relevant objectives and policies in Chapter 7 of the NRPS.

[160] Chapter 10 ‘Soils’ addresses the matter of rural productive values. Urban expansion is acknowledged as removing soils from primary production (Policy SO1.3.7). Policy SO1.3.7 also seeks to “*provide for these activities [urban expansion] where their adverse environmental effects can be remedied or mitigated ...*”.

[161] Given the assessed and uncontested impact on productive values, providing for urban expansion in this location gives effect to the NRPS under this

topic. It is however again appropriate to acknowledge that the ‘more’ productive part of this site is on the valley floor (flood zone) and already zoned for Rural – Higher Density Small Holdings. When considered in a coordinated manner with Tasman District Council, PPC28 supports the wider strategic provision for additional land to provide for urban growth. Not providing for growth in this location will exacerbate the pressure for this type of housing demand elsewhere such as in Tasman where productive values are a more significant consideration.

[162] In summary, for the reasons set out above, I consider PPC28 gives effect to the NRPS as required by Section 75(3) of the Act.

*Nelson Resource Management Plan (NRMP)*

[163] I provided a comprehensive description and assessment against the NRMP in Section 7.8 of PPC28, and will not repeat that again here. The Planning (2) JWS<sup>37</sup> also record agreement over the relevant provisions of the NRMP.

[164] The s42A report provides a very brief summary of the NRMP within section 9.12. No issues or concerns are raised in terms of the wider objectives or policies.

[165] There are however a number of components of the NRMP that I consider as important to address here, in response to concerns raised in the s42A report, including:

- (a) The provisions that relate to the Services Overlay; and
- (b) The provisions relating to earthworks and standards for Erosion and Sediment Control Plans (ESCP).

The Services Overlay

[166] The adequacy or otherwise of the Services Overlay was the subject of a number of the JWS processes. In particular, the Transport (2) JWS dated 10 May 2022 (section 3.1) and the Planning (3) JWS dated 19 & 20 May

---

<sup>37</sup> Section 3.6, dated 26 April 2022.

2022 (Section 3.12 and 3.13). In short, I was the only planner who considered the matters of discretion in Schedule X (which repeat those in the operative plan) were sufficiently robust to consider the wider transport effects. With the exception of Ms Cabe for Save the Maitai, agreed that the concerns raised could be resolved by amendments, through identifying transport deficiencies and through requirement of an ‘Integrated Transport Assessment’ (ITA) at the time of any subdivision application.

[167] As a part of the above expert conferencing process, and in the context of the identified transport deficiencies, I gathered the provisions of the NRMP that relate to the Services Overlay and prepared the following summary:

1. The NRMP clearly includes transport as part of the infrastructure canvassed by the Services Overlay (AD11.3.3.i).
2. The NRMP states that the constraints must be addressed before development can proceed (AD11.3.3.i), but also deals with situations whereby there are constraints “*in the area*” and so would need to be developed in a comprehensive manner in conjunction with Council and other property owners (AD11.3.3.ii).
3. The Services Overlay is also a method used to ensure development occurs in an orderly manner (DO14.1.3, and DO14.1.3.ii and iv). Financial contributions are also listed as a means of ensuring subdividers and developments contribute towards the costs of providing services (DO14.1.3.i). The development contributions policy is another very relevant part of the jigsaw.
4. Objective DO14.3 ‘Services’ and the associated policy require that services be provided in anticipation of likely effects and needs and that:
 

*“It is appropriate for servicing requirements to be addressed at the time of subdivision or development to ensure that efficient and effective (including cost effective) systems are provided or enhanced and to ensure that the additional costs of servicing do not fall on the community generally”* (DO14.3.i, emphasis added).
5. Policy DO14.3.1 is directly relevant. If works are not included in the long term plan (LTP) then the developer is required to meet the

costs. The explanation is also very helpful as it reinforces this framework.

6. The consequence and risks associated with developing in the Services Overlay are clearly spelt out in Policy DO14.3.3 ‘areas without services’. In these locations, development should not proceed where it will result in significant adverse effects. The explanation to REr.108 says such applications may be declined. Again, the Services Overlay is the primary tool for regulating this activity, with the assessment criteria and NTLDM listed as methods to administer this process.
7. There are a number of matters of discretion and assessment criteria that provide wide scope for the consent authority to ensure resource consent applications address the infrastructure constraints, such as:
  - a. The matters of discretion in REr.108.3;
  - b. The transport related assessment criteria in REr.107.2;
  - c. The matters in the NTLDM;
  - d. Traffic effects.
8. Having said all the above, the assessment criteria in residential rule REr.107.4 refers to “*the matters contained in any Schedules ....*”. (my emphasis). Adding some information on infrastructure constraints would make the planning framework even more robust.

[168] In summary, the Services Overlay requires that resource consent be obtained for at least a restricted discretionary activity, with scope for consents to be declined if the constraints have not been resolved. The NRMP states that it is at the time of subdivision and development that servicing constraints must be addressed.

[169] As a part of squaring away the matter of transport deficiencies and the provisions of an Integrated Transport Assessment, Schedule X now includes X.11 and X.14.

### Earthworks and ESCP

- [170] The management of earthworks within the current planning framework is also a relevant consideration when considering the temporary effects associated with construction activity. Those effects are the subject of the s42A report from Mr Ridley (Attachment X to the s42A) and the evidence of Mr Parsonson for the applicant.
- [171] Firstly, I was generally quite surprised that this issue was not the subject of a JWS agreement. This is because the NRMP requires consents for earthworks as well as for the discharge of sediment and flocculant associated with temporary earthworks activity. These processes are, in my experience, now quite arduous due to the elevated attention on water quality. The activity status is typically restricted discretionary (pursuant to REr.61.3), with *essentially* no limitation of the scope of discretion, and with an expectation (and requirement) from Council that a very high level of information will be provided, including use of best practice principals in all respects.
- [172] The relevant earthworks rules of the NRMP are as summarised in **Table 3** on the following page. This table does not include the ‘soil disturbance’ rules, nor the ‘vegetation clearance’ rules.
- [173] For clarification, and as addressed already above in terms of the planning framework, the ‘freshwater’ rules are contained within Appendix 28 (Volume 3) and linked at the bottom of each rule table within Chapter 2.
- [174] There are of course a number of variables that determine the activity status of earthworks activities. For example, the Riparian Overlay only relates to the esplanade widths identified in Table 6.2 Appendix 6, NRMP), of the banks of the watercourses (Maitahi/Mahitahi River and Kākā Stream), and likewise, the Flood Overlay only relates to the lower flood plain.
- [175] In addition, a separate summary of the freshwater relates rules would be required when looking at the multiple triggers requiring consent under the freshwater plan (Appendix 28), when it comes to works within freshwater



environments. I have only included the discharge related rules as they are triggered by general earthworks activities.

	<b>Residential Zone</b>	<b>Rural Zone</b>	<b>Open Space &amp; Recreation Zone</b>
Earthworks	REr.61 <sup>38</sup>	RUr.27 <sup>39</sup>	OSr.49 <sup>40</sup>
Riparian Overlay	REr.71 <sup>41</sup>	RUr.58 <sup>42</sup>	OSr.56 <sup>43</sup>
Flood Path, Flood Overlays	REr.82 <sup>44</sup>	RUr.62 <sup>45</sup>	OSr.57 <sup>46</sup>
Archaeological sites	REr.98 <sup>47</sup>	RUr.59 <sup>48</sup>	OSr.73 <sup>49</sup>
<b>Freshwater</b>			
General discharges to land where it may enter water	FWr.25 <sup>50</sup>	FWr.25	FWr.25
Point source stormwater discharges to water	FWr.22 <sup>51</sup>	FWr.22	FWr.22
<b>Coastal Marine Area</b>			
Discharge of contaminants	CMr.39 <sup>52</sup>	CMr.39	CMr.39
Discharge of storm water	CMr.44 <sup>53</sup>	CMr.44	CMr.44

**Table 3:** Current Rules in the NRMP regulating earthworks and associated discharges

[176] The resource consents obtained by Bayview Nelson Limited (BNL) is a good example of the nature of the consents and the level of attention and detail given to the effects associated with earthworks and associated discharges.

<sup>38</sup> Chapter 7, pp60-61, NRMP

<sup>39</sup> Chapter 12, pp26-27, NRMP

<sup>40</sup> Chapter 11, pp42-43, NRMP

<sup>41</sup> Chapter 7, pp66-67, NRMP

<sup>42</sup> Chapter 12, pp56-57, NRMP

<sup>43</sup> Chapter 11, pp46-47, NRMP

<sup>44</sup> Chapter 7, pp74-75, NRMP

<sup>45</sup> Chapter 12, pp60-61, NRMP

<sup>46</sup> Chapter 11, pp48-49, NRMP

<sup>47</sup> Chapter 7, pp92-93, NRMP

<sup>48</sup> Chapter 12, pp58-59, NRMP

<sup>49</sup> Chapter 11, pp58-59, NRMP

<sup>50</sup> Appendix 28, pp74-75, NRMP

<sup>51</sup> Appendix 28, pp68-69, NRMP

<sup>52</sup> Chapter 13, pp68-69, NRMP

<sup>53</sup> Chapter 13, pp72-73, NRMP

[177] The Bayview Nelson Limited earthworks consent was obtained as a part of the integrated package of consents obtained for the residential subdivision (as a special housing area). I have attached the latest version<sup>54</sup> of that consent (RM215306) to my evidence. Note: this consent has been amended a number of times since then as a result on variations to the subdivision design.

[178] The Bayview Nelson Limited discharge consents (RM205043 & RM205332) were first obtained in December 2020, and related to the following activities:

***“The activity to which this decision relates:***

*To discharge water from a sediment retention ponds that may contain contaminants from bulk earthworks associated with Bayview Special Housing Area into the Coastal Marine Area (CMA) as well as temporary discharges of sediment or Poly Aluminium Chloride as a result of failures of erosion and sedimentation control measures to either the CMA or Oldham Creek.”*

[179] I have also attached a copy of the Decision Report<sup>55</sup> and the separate Consent Conditions<sup>56</sup> to my evidence.

[180] The above-described planning framework regulating to earthworks and discharges will equally apply to the land area for PPC28. What these examples clearly show is that there is already significant attention given to all aspects of earthworks and their associated discharges. I understand the requirement to obtain resource consent for the discharge of Poly Aluminium Chloride (commonly used in chemical treatment of sediment collection ponds), also exceeds the requirements in Auckland.

[181] The information provided in support of these applications was also comprehensive, with additional ecological assessments and further information provided in response to very detailed reviews by Council staff (Mr Fisher). During these processes the further information requests also drilled down deep into then matters of best practice, with the ESCP

---

<sup>54</sup> See Attachment EV16(4) APP.

<sup>55</sup> See Attachment EV16(5) APP.

<sup>56</sup> See Attachments EV16(6) APP & EV16(7) APP.

attached to the applications (from Tonkin & Taylor) having to demonstrate those best practice methods being employed.

- [182] It is with this local experience, as the lead consultant in drafting and obtaining such consents, that I strongly disagree with Mr Ridley's conclusion that:

*“Overall, I conclude that the current NRMP provisions and the identified PPC 28 Schedule X.9 principles that apply provides negligible certainty of achieving an appropriate outcome in managing erosion and sediment control for the PPC 28 area. This conclusion is reached due to the current NRMP provisions having no direct linkage to the PPC 28 specific circumstances that exist and the principles themselves providing no mention of earthworks or erosion and sediment control and hence no future consenting guidance” (my emphasis).*

- [183] The reality is quite different to what Mr Ridley assesses it to be. Quite simply, until such time as Council is satisfied with the manner in which earthworks are to be managed, and until the Council is satisfied that the actual and potential effects are avoided, remedied or mitigated to become less than minor, consents are not forthcoming. There is essentially full discretion available within the process for all the appropriate measures to be volunteered or imposed.

- [184] I believe what Mr Ridley is referring to is the absence of an earthworks plan (location and extent) in support of PPC28, as he considers he is unable to judge the effects of the proposed rezoning with one. However, agreed in the Planning JWS (2) dated 26 April 2022 (Section 3.8):

*“**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”.*

- [185] I stand by this agreement and consider it has particular relevance to the focus of the assessments on Erosion and Sediment Control Plan (ESCP) matters. As explained above, the relevant temporary effects associated with earthworks (and discharges) are fully able to be managed within the consenting regime of the operative NRMP.

- [186] I acknowledge that Mr Ridley, is preparing his s42A assessment, did so without having the amended Structure Plan, Vegetation Overlay,

Stormwater Management Plan, and the updated set of rules contained within Schedule X. I expect this additional information will also help with his assessment.

- [187] What is also now relevant to Table 4 above, and as recommended by Mr Parsonson, Schedule X proposes to add to the earthworks provisions within the PPC28 area and so an additional row could be added to the above summary as follows:

	<b>Residential Zone</b>	<b>Rural Zone</b>	<b>Open Space &amp; Recreation Zone</b>
<b>Schedule X</b>	REr.106D	---	---

- [188] Despite my assessment above, the inclusion of these additional assessment criteria are volunteered and incorporated as a way to again provide a more robust level of management than that currently provided in the NRMP. In short, where we considered there was an opportunity to improve the planning framework and we have willingly taken the opportunity to do so.

#### *Assessment of Actual and Potential Effects*

##### Need for Greenfield land

- [189] This matter is summarised in section 10.9 of the s42A report and was also the subject of agreement in the JWS Economics (1) dated 27 May 2022. I agree with the summary in the s42A report and the agreement in the Economics JWS.

- [190] I consider PPC28 will have significant positive effects through enabling people to meet their needs for a range of housing types, and costs, close to Nelson City.

##### Housing Affordability

- [191] The matter of housing affordability is addressed in Section 10.10 of the s42A report and also in the JWS Economics (1) dated 27 May 2022. I generally agree with that summary.

[192] In my experience, greenfield land provides a more affordable option than a townhouse or apartment, to the majority of the housing sector. Quite simply, it is cheaper to purchase residential land on a greenfield site and control your own build, than it is to purchase an apartment or townhouse, particularly around Nelson City. One only needs to look at recent sales and costs of purchasing new townhouses or apartments in Nelson City to appreciate the expense of those formats. In addition, despite the recent adjustment to the market, the costs of new builds in Nelson today, essentially relate to historical development (land and construction) costs. If the same projects were started today, they would be even more expensive to construct, and hence the problem the community is facing when attempting to meet the demands for urban spatial requirements or relying on intensification.

[193] In my opinion, the key to addressing the affordability problem is only through *supply*, and at a rate that “at least” exceeds demands (as directed by Policy 3 of the NPS-UD 2020). PPC28 seeks to provide supply at a more meaningful rate than the likely speed of intensification projects in Nelson City.

#### Mana Whenua Values

[194] The close relationship of Māori with the natural and physical resources in this part of Nelson City, including the formal recognition given in the Statutory Acknowledgements to the Maitai/Mahitahi River and its tributaries, has been fully embraced within PPC28.

[195] One of the key features of PPC28 is that this recognition is imbedded into the proposed new objectives, policies and rules contained within Schedule X. Overall, the submissions received from Mana Whenua groups of Te Tau Ihu, including also a number of the individual iwi members, are very positive and supportive of this proposal.

[196] In response to the submissions from Ngāti Koata and Ngāti Rarua, a number of amendments have been made to the PPC28 provisions. These amendments correct some of the language used and also more clearly

articulate the outcomes sought by those provisions. The applicant has volunteered those changes and integrated them into the revised set of provisions that are attached to the evidence and legal submissions. The JWS Planning (3) also records an agreement that these changes are appropriate.

- [197] From my perspective, the applicants commitment to the principles of the Treaty of Waitangi, and the principles of Te Mana o te Wai, are clearly articulated within PPC28, especially through Rule X.8. As outlined above, this rule requires that tāngata whenua values form part of the subdivision and development design processes. There are no other equivalent requirements in the NRMP.
- [198] At a Plan Change level, I consider the actual and potential effects on mana whenua values of PPC28 are appropriately addressed. However as outlined in PPC28, resource consent is required for the activities that involve subdivision and developments enabled by the PPC28. There is a lot more work to do, and a lot more input from iwi, before those applications for resource consent could be prepared. The framework of PPC28 will not allow that to be overlooked, nor will its shareholders.
- [199] The s42A report also assesses the 'Māori Cultural Values' within section 10.19, acknowledges the consultation undertakes in section 7, and addresses the Statutory Acknowledgements in Section 9.1.
- [200] In terms of section 10.19.3 'Matters raised by submitters', the s42A report addresses the original submission (S328) made by Te Atiawa Trust and also their letter of 18 March 2020 updating their position.
- [201] For clarification and respecting that Te Atiawa Trust may also choose to do the same, the applicant further engaged with Te Atiawa Trust following the receipt of their submission as their submission what out of sync with the feedback from Te Atiawa as summarised fully in Attachment C1 'Iwi Engagement Summary' of PPC28, in particular Appendix 3 of that attachment. I have also attached<sup>57</sup> to my evidence the follow up email

---

<sup>57</sup> See Attachment EV16(8) APP.

correspondence with Te Atiawa Trust (dated 1 October 2020) which confirmed their ‘comfort’ provided to their initial concerns. The June 2022 letter from Te Atiawa confirms their “support” and the “responsible approach taken”. It is on this basis that I consider there are no outstanding issues that remain of concern.

[202] I am firmly of the opinion that the actual and potential effect on mana whenua values have been appropriately addressed in PPC28.

#### Heritage Values

[203] PPC28 as notified was supported by a ‘Historical & Archaeological Assessment’ (Attachment C2) prepared by Amanda Young, a local consulting archaeologist. Earlier in 2022, following the further advice from Ms Young around information requirements for an archaeological authority, the applicants commissioned a specialist heritage building report from Mr Robin Miller of Origin Consultants Ltd. Mr Millers memo is dated 6 April 2022 and is attached to JWS Heritage (16 May 2022).

[204] The Origin Consultants memo provided a detailed assessment of the likely age of the structures assessed by Ms Young, namely the shearing shed, chimney and concrete/stone remains. It was then due to the different assessment and conclusions made between Ms Young and Mr Miller that the applicants required these experts to prepare and jointly prepared addendum memo (dated 11 May 2022) as a part of reconciling the differences, and coming up with a combined assessment that would help inform the assessment of PPC28. This addendum memo is also attached to JWS Heritage (16 May 2022) and was the subject of the expert conferencing with Ms Ann McEwan as a part of the s42A assessment process. Ms McEwan also signed the JWS dated 16 May 2022.

[205] The JWS Heritage dated 16 May 2022 contains an agreement that is consistent with that provided within Section 6.12 of PPC28. That being, there is no protection to the subject heritage structures beyond the need to obtain an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014.

- [206] The joint addendum report (16 May 2022) also assessed that using the Council's heritage assessment criteria, the shearing shed would attract a Group C listing under the NRMP. Group C buildings listed in Appendix 1 of the NRMP may be removed or demolished as a permitted activity, pursuant to REr.88.1 if two months-notice is given to the Council prior to any work being done. As a side note, I understand that Group C listings are not being used in the draft Nelson Plan, with only Group A and B items to remain on the heritage list.
- [207] During the process of assessing the structures as described above, the applicants themselves agreed that the graffiti covered internal wall of the shearing shed should be retained for re-use in a commercial building at some stage in the future, preferably within the application site. Likewise, a photographic record should be gathered as a part of the information used in the application for the Archaeological Authority and also photos used again for signage and/or on the walls of commercial buildings in the PPC28 area. A professional photographer has already taken these photos.
- [208] These measures volunteered by the applicant were not expected to form part of the rules in Schedule X. Nor do I consider such requirements would necessarily be justified under section 32 of the Act.
- [209] The s42A report now contains a report from Mr McEwan which includes a new assessment of the heritage values on this site. This assessment has been addressed in the evidence of Mr Miller, who disagrees with Ms McEwan's assessment for the reasons he has explained.
- [210] For the purposes of simply securing the applicants commitment to the mitigation measures recommended by its experts (16 May 2022 Joint Memo), we have now added this requirement into Schedule X, through Rule X.10<sup>58</sup>.
- [211] At a broader level however, having regard to the wide range of factors that make up PPC28, I consider it necessary to also point out that the shearing shed, hay shed, and yards are located in the position of the proposed green-

---

<sup>58</sup> See EV15() APP.



blue corridor (on the Structure Plan) to accommodate the realignment and enhancement of Kaka Stream.

- [212] In summary, the history of this site has been acknowledged from the outset within PPC28. Appropriate steps will be taken to ensure any remaining archaeological values are recorded. Beyond the measures volunteered, which arguably go beyond what is expected from such structures, the effects on built heritage have been appropriately addressed.

Water quality, stormwater and water sensitive design

- [213] These topics are addressed in Section 10.14 of the s42A report. The s42A report also grouped the matters of ESCP and flooding under this heading, however I consider those topics to be sufficiently discrete and so have addressed those separately.
- [214] The matters of water quality and water sensitive design are addressed in the evidence of Mr Farrant for the applicant. Mr Farrant's evidence responds to the s42A assessments from Dr Fisher (Attachment I) and also Mr Wilson (Attachment K). Note: the matter of stormwater management and the SMP is also addressed in the evidence of Mr Mills for the applicant.
- [215] I consider Mr Farrant has provided a very positive assessment of the water quality effects associated with PPC28. This assessment compares the water quality outcomes associated with the proposed change in land use, as well as the integration of water sensitive design principles into the Schedule X provisions. I agree with Mr Farrant.
- [216] Currently, both the Kākā Stream and the Maitahi/Mahitahi River suffer from degraded water quality as a direct consequence of forestry and farming activities. Mr Farrant led the design of the Groom Creek realignment (270m) for the very purpose of enhancing the quality of water discharging from that catchment. This demonstrates the opportunity available here to do the very same, with an overall benefit of restoration and enhancement in line with the NPS-FM. Likewise, Mr Farrant has addressed the opportunity to deliver more integrated outcomes than those currently

required by the NRMP and NTLDM. The new requirement for an Integrated Catchment Management Plan (ICMP) secures that outcome.

[217] A range of measures are also available to ensure the effects associated with the increased quantity of runoff are addressed as a part of subdivision and development. This is demonstrated also in the SMP submitted in the evidence of Mr Mills for the applicant.

[218] Overall, I consider the provision of the SMP along with the volunteered ICMP, will ensure that the associated effects of subdivision and development within the PPC28 area can and will be appropriately managed.

### Ecology

[219] It is within Section 10.15 of the s42A report that the effects of PPC28 in relation to ecological outcomes are addressed, along with the Ecology – Terrestrial & Freshwater (1) JWS dated 13 May 2022 and in the evidence of Dr Ben Robertson and Mr Markham. The evidence of Mr Stu Farrant and Mr Tony Milne for the applicant also overlap into ecology.

[220] Following the receipt of the Supplementary Terrestrial Ecological Values Assessment, Dr Blakely agreed in May 2022 that there was sufficient information available for the Structure Plan to be updated. That information has since been incorporated into the Maitahi Bayview Structure Plan and graphical information attached to the evidence of Mr Tony Milne, while also informing the preparation of the SMP. This has also resulted in new provisions surrounding the Vegetation Overlay, and changes to the zoning maps.

[221] The s42A report also records<sup>59</sup> the disagreement still over the minimum 40m width of the esplanade reserve as provided within X.7 of Schedule X. Dr Blakely states:

*60. The Structure Plan should also provide for a minimum of 5-10 m (on each side) of riparian margin planted with ecologically suitable indigenous vegetation*

---

<sup>59</sup> See paragraph 393-394, s42A.

*along the length Kaka Stream. The Structure Plan should also avoid impervious surfaces and other structures within 5 m of Kaka Stream.*

- [222] This matter was also addressed in the Ecology (1) JWS dated 13 May 2022, however it is appropriate I address this again here.
- [223] Firstly, X.7 states that the esplanade reserve have a minimum width of 40m. Given the shape of the Kākā Stream corridor is very likely that the total width will be well in excess of 40m. However, the approach of proposing a minimum total corridor was considered to provide some flexibility that enabled better outcomes than the typical (blunt) approach of nominating a minimum width above each bank. In addition, X.7 needs to be read alongside X.9, which contains a number of principles of water sensitive design that will inform the design process and ultimately lead to the final blue-green corridor design.
- [224] Significantly, it is with the consent process that the Consent Authority will decide what it wants and does not want. That process is not a controlled activity but is (at least) a restricted discretionary activity. Hence this is not a situation of saying “*here is the reserve that meets your minimum standards, and you must take it*”. Rather, this is a process that requires the applicant to take an integrated approach, with specialist reports demonstrating the application of the principles of X.9 and the outcomes proposed within the SMP (prepared by a multi-disciplinary team), supporting the resource consent application.
- [225] This approach has also been addressed in the ecology evidence of Mr Markham<sup>60</sup>:

*36. The proposed riparian widths along Kākā Stream are greater than the total width of 40 m recommended in the ecological report. The concept of the green-blue corridor has been informed by the proposed ecological enhancement, integrated stormwater management and water sensitive design, surrounding typology and the proposed structure plan. It is my opinion that this fully integrated approach has resulted in a better ecological outcome than setting minimum riparian widths on each bank.*

---

<sup>60</sup> Evidence of Josh Markham (see Attachment EV8 APP).

- [226] In summary, I consider the provisions making up PPC28 are not only enabling, but require best practice and truly integrated management, to ultimately be demonstrated at the time of resource consent applications within which the Council retains overall discretion.
- [227] In summary, I consider the application has appropriately taken into account and provides for an enhancement of ecological values, both terrestrial and freshwater.

#### Recreational Values

- [228] The s42A report address this topic under the heading 'Parks, reserves, and recreation' (Section 10.23). This topic was also the subject of the Recreation and Open Space JWS dated 13 May 2022 and has been further addressed in the evidence of Mr Greenaway for the applicant. The Urban Design JWS (1) dated 5 May 2022 also records agreements that overlap and complement the recreation experts.
- [229] Given the concerns raised about the effects of PPC28 on recreational values and amenity values, I consider the above JWS agreements are of particular importance.
- [230] A key feature and positive outcome proposed by PPC28 is the significant additional contribution toward recreational values. Existing users, future residents (both on-site and in the City), and the many visitors to our region, will benefit from the additional linkages, such as that planned between Sir Stanley Whitehead walkway and Bayview Road. Likewise, the new link up the Kākā Valley to the ridgeline. With Kākā Hill transferring into the ownership of Ngāti Koata Trust, is also likely that new opportunities will open up within their landholding. Just like the addition of the Maitai Cricket Ground, and 'Riverbank Reserve', secured at the time that the Ralphine Way subdivision was consented, there are also significant advantages and benefits to come from this proposal.

### Urban Design Outcomes

[231] The urban design related considerations and effects are addressed in Section 10.21 of the s42A, in the Urban Design (1) JWS dated 5 May 2022, and in the hearing evidence of Mr Nicholson for the applicant.

[232] Over the course of the last few weeks the applicant has undertaken further work to update and improve the Structure Plan to address the ‘lose ends’ identified in the above-mentioned documents. This has been explained in the evidence of Mr Hugh Nicholson and Mr Tony Milne.

[233] Significantly, the urban design experts agreed in their JWS that, subject to the Walter Bluff link being added:

*“... the urban development of the PPC 28 area as shown in the Structure Plan will give effect to the NPS-UD Policy 1 and achieve a well-functioning urban environment. ...”*

[234] I consider this represents positive endorsement to the applicants design team, but also to the multi-disciplinary team that contributed to the preparation of PPC28. Also, given the weight to be placed on the national directions contained in the NPS-UD, I consider this to be of particular significance to this statutory assessment.

[235] I should add, this praise for PPC28 was given before the improvements made and submitted as a part of the applicants hearing evidence. This was because the key attributes of this site and PPC28 components enabled that assessment to be made at the time. This was the topic of the Planning (3) JWS dated 19 & 20 May 2022.

### Transportation and Transport Effects

[236] The matter of transportation and traffic effects is addressed in Section 10.17 of the s42A report, in the Transport (1) JWS dated 4 May 2022 and Transport (2) JWS dated 10 May 2022, and in the evidence of Mr Gary Clark.

[237] The report from Mr Mark Georgeson, including his conclusion (section 7), is very helpful in that there now remains very little outstanding with him.

It is also important to note that Mr Georgeson agreed with me that the current provisions of the Services Overlay were adequate. The Walters Bluff link, the other item identified as outstanding, has been added to the Structure Plan.

[238] I addressed the matter of the Services Overlay in some detail within paragraphs 166-169 of my evidence. Within that discussion I also addressed the changes proposed to Schedule X to pick up the matter of network deficiencies<sup>61</sup> and the requirements for an Integrated Transport Assessment<sup>62</sup> (ITA).

[239] The close proximity of this site to Nelson City, combined with the opportunity to provide a multi-modal network that connects into the current network and improvements planned by the Council, is a fundamental feature and strength of PPC28. There is a long list of policy documents that place significant emphasis on the development of a multi-modal transport system, including those prepared by NCC but also jointly with TDC, and with Waka Kotahi. PPC28 is entirely consistent with that outcome.

#### Landscape Effects

[240] In it within Section 10.20 of the s42A report that the matter of landscape, visual amenity and natural character are addressed. These topics are also addressed within the Landscape (1) JWS dated 11 May 2022, Planning (3) JWS dated 19 & 20 May 2022, and in the evidence of Mr Tony Milne for the applicant.

[241] The additional information provided within the evidence of Mr Tony Milne, including the updated Structure Plan, inclusion of the Vegetation Overlay, natural character assessment, and cross sections, have all been provided to address the outstanding matters. Likewise, I have worked alongside Mr Tony Milne to improve various provisions within Schedule X to address assessment from Mr Girvan for Council.

---

<sup>61</sup> Refer to EV16(3) APP (Schedule X, new rule X.11).

<sup>62</sup> Refer to EV16(3) APP (Schedule X, new rule X.14).

[242] I agree with Mr Tony Milnes assessment and conclusions. Overall, I consider that this site can absorb a relatively high amount of development. PPC28 has been prepared, and recently improved, in response to the opportunities and constraints (sensitivities) across the total site. Where necessary and deemed appropriate, the zoning and degree of management through regulation differs. In many ways, it is also considered that the landscape, amenity values and natural character will be enhanced through the subdivision and development process. The low section of Kākā Stream is a prime example of this opportunity, especially if coordinated with the enhancement works planned by NCC in terms of Project Mahitahi<sup>63</sup>. The Vegetation Overlay shows how through a structure planning process the long-term landscape (and biodiversity and water quality) can be positive outcomes when compared to the status quo.

#### Productive Values

[243] The matter of productive values is addressed in Section 10.12 of the s42A report, was the subject of the Planning (3) JWS dated 19 & 20 May 2022, and has been addressed in the evidence of Mr Bennison for the applicant.

[244] What has been agreed is that PPC28 does not result in the loss of highly productive land. This is important in terms of the coordinated strategy of addressing urban spatial requirements, as directed by the NRPS and as also addressed in the two FDS documents. In other words, providing for growth on unproductive land helps alleviate pressure on the more productive land.

[245] It is also worth mentioning under this subheading that it is the productive activities that is the cause of elevated sediment and nutrients in the Maitahi/Mahitahi River. Hence it is appropriate to assess PPC28, and the potential effects on natural and physical resources, in an integrated manner.

---

<sup>63</sup> See s42A report from Paul Fisher (Attachment I)

### Geotechnical Risks

[246] The geotechnical suitability of this site is addressed in Section 10.12 of the s42A report, in the Geotech (1) JWS dated 4 May 2022, and in the hearing evidence of Mr Foley. There are no matters outstanding in this regard. Helpfully, Mr Horrey (on behalf of the Consent Authority) understands the planning framework and the steps required in future to address the risks in more detail as a part of resource consent applications.

### Flooding Risks

[247] The matter of flooding effects is addressed in Section 10.14 of the s42A report, was the subject of Flooding (2) & Stormwater (2) JWS dated 13 May 2022, Flooding (3) JWS dated 25 May 2022, and the evidence of Mr Velluppillai for the applicant.

[248] I consider Mr Velluppillai has demonstrated that there are feasible and appropriate options available for mitigating the potential effects on flooding from PPC28. The level of information made available within the JWS processes has further increased the level of confidence in this regard.

[249] The preparation of the SMP, with multi-disciplinary input from the applicants team, has also added to this assessment. The reduction in zoned residential land and addition of the Vegetation Overlay to the Structure Plan has also helped in this regard. The applicant has also now provided a Stormwater Management Plan within the evidence of Mr Mills. This SMP has been prepared also to address the integrated catchment management principles. This has avoided the adverse cumulative effects associated with long term stormwater and flood management from incremental subdivision applications.

[250] As with all other components of the activities enabled by PPC28, resource consent is required for earthworks (including any filling of the flood plan), subdivision and any changes to the alignment of the Kākā Stream. It is through that process that the applicant will be required to comprehensively address the full range of effects, without any limitation or restriction on the



discretion available to Council to ensure the relevant statutory considerations are properly addressed.

#### Infrastructure Servicing (Water and Wastewater)

[251] The feasibility of servicing the PPC28 area with reticulated water and wastewater is addressed in Section 10.13 of the s42A report, in the JWS agreements, and in the evidence of Mr Mills for the applicant. There are no areas of disagreement and so there nothing is further to address under this topic.

#### Air Quality Effects

[252] The matter of air quality and related effects from PPC28 are addressed in Section 10.16 of the s42A report, and was the subject of the Planning (2) JWS dated 26 April 2022. I have nothing further to add, except to again emphasise the corresponding benefits of the location of this site in close proximity to Nelson City, which has long been identified as a benefit in terms of energy efficiency.

#### Health & Safety

[253] This matter is addressed in Section 10.24 of the s42A report and I agree with that assessment.

#### School Capacity

[254] In section 10.26 of the s42A summarised the issues arising from the submission from the Ministry of Education and recorded within the Planning (3) JWS dated 19 & 20 May 2022. I have no reasons to change my assessment as recorded in this JWS agreement. The NRMP already contains a policy framework that supports education activities. The relief sought by the Ministry is unnecessary in my opinion.

[255] While Ms Sweetman may disagree with me over the relevance of the limited area suitable for a school, I do consider that to be some relevance when considering the merits of PPC28 against the relevant submissions.

*Overall Assessment*

[256] I consider PPC28 gives effect to the NPS-UD, NPS-FM and the NRPS, particularly in terms of the provisions of Chapter DH1 'Development and Hazards' (NRPS). The NPS-UD also requires that planning decisions be responsive to plan changes, including privately initiated plan changes. Doing otherwise would, I consider, be contrary to the very purpose of the NPS-UD.

[257] PPC28 provides a significant opportunity, on a large piece of land in close proximity to Nelson City, to contribute to a well-functioning urban environment and achieve the purpose and principles of Part 2 of the RMA.

Dated 15 June 2022



---

[Mark A. B. Lile]