

BEFORE THE INDEPENDENT HEARINGS PANEL

UNDER the Resource Management Act 1991 (RMA)

IN THE MATTER OF A submission by the Ministry of Education on Plan
Change 28 to the Nelson Resource Management
Plan

BY **THE MINISTRY OF EDUCATION**
Submitter

**STATEMENT OF PRIMARY EVIDENCE OF KARIN LEPOUTRE ON BEHALF OF
MINISTRY OF EDUCATION (THE MINISTRY)**

Planning

27 June 2022

1. INTRODUCTION

- 1.1 My name is Karin Lepoutre. I am an Associate (Planning) in the firm of Beca Limited (**Beca**).
- 1.2 I have the following qualifications:
- (a) Master of Planning from the University of Otago
 - (b) Bachelor of Arts (Geography and Economics) from the University of Otago
- 1.3 I have over 12 years of planning experience. My experience relates to both private and public sector planning work in New Zealand and Australia with a focus on urban development projects. In my current role I regularly assist the Ministry in relation to a range of resource consent, planning policy and designation matters.
- 1.4 My statement sets out planning evidence on behalf of the Ministry in relation to their submission on Proposed Plan Change 28 (**PPC28**) to the Nelson Resource Management Plan (**NRMP**).
- 1.5 In preparing this evidence I have reviewed the following:
- (a) PC28 Private Plan Change Request to the NRMP (AEE) and S32 Assessment.
 - (b) Joint Witness Statement (JWS) in relation to Planning (3) dated 19 and 20 May 2022.
 - (c) PC28 s42A Hearing Report by Ms Gina Sweetman dated 3 June 2022.
 - (d) Statement of planning evidence of Mr Mark Lile on behalf of the applicant dated 15 June 2022.

2. CODE OF CONDUCT

- 2.1 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the 'Environment Court Practice Note' and that I agree to comply with it. I confirm that I have considered all material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

3. SCOPE OF EVIDENCE

3.1 My evidence will cover the following topics to assist the Hearings Panel in deliberations:

- (a) A summary of the Ministry's interest and submission; and
- (b) A planning assessment of the provisions sought by the Ministry
- (c) My response to the recommendations in the section 42A report and Mr Lile's planning evidence.

4. SUMMARY OF THE MINISTRY'S INTEREST AND SUBMISSION

4.1 The Ministry is the Government's lead advisor on the New Zealand education system, shaping direction for education agencies and providers and contributing to the Government's goals for education. The Ministry assesses population changes, school roll fluctuations and other trends and challenges impacting on education provision at all levels of the education network to identify changing needs within the network so the Ministry can respond effectively.

4.2 The Minister of Education is a Requiring Authority under section 166 of the Resource Management Act 1991 (RMA) and the Ministry is their agent. Section 9(3) of the RMA does not apply if a designation is in place. Nevertheless, the Ministry has submitted on provisions of this plan change where they are considered to impact on the delivery of education facilities.

4.3 The Ministry's submission (submitter number S376) and further submission (FS13) on PPC28 can be summarised as follows:

- (a) Nelson City Council has a requirement under the National Policy Statement on Urban Development 2020 (NPS-UD) to engage with providers of additional infrastructure¹ to achieve integrated land use and infrastructure planning (Policy 10 (b)) and ensure that additional infrastructure to service development capacity is likely to be available (Implementation 3.5).
- (b) That appropriate provision should be made for educational facilities within the plan change area (PCA) to accommodate the increase in school aged children.

¹ Additional infrastructure is defined in section 1.4 of the NPS-UD and includes social infrastructure such as schools.

- (c) The need for the PPC to adequately assess and respond to potential traffic congestion and safety effects within the PCA and access to and from the PCA.

4.4 The Ministry's submissions sought the ability for further consultation with the applicant regarding provisions for accommodating additional school aged children and educational facilities within the PCA. I acknowledge the engagement that has been undertaken with the applicant in relation to this matter.

4.5 As outlined in the further submission lodged by the Ministry and discussed during expert conferencing, I support the inclusion of an addition to Objective RE6 and to Policy RE6.1 as follows (requested additions underlined):

RE6 Maitahi Bayview Area (Schedule X)

Enabling greenfield subdivision and development of the Maitahi/Bayview Area (Schedule X) to contribute to Nelson's urban development capacity in a manner that:

....

j) Is supported by educational facilities where required.

RE6.1 Maitahi Bayview Area (Schedule X)

Development of the Maitahi Bayview area shall generally accord with the Structure Plan identified within Schedule X by providing:

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- Educational facilities where required.

5. EXISTING PROVISIONS FOR EDUCATIONAL FACILITIES IN THE NRMP

5.1 Mr Lile and the s42A reporting officer state that enabling provisions for educational facilities are already contained within the NRMP² and they therefore do not consider it necessary to add the additional provisions sought by the Ministry to the Maitahi Bayview Schedule.

5.2 In my view, the NRMP does not provide enabling provisions for educational facilities. I outline my reasons in the paragraphs below.

5.3 Chapter 2 of the NRMP (Meaning of Words) provides the following relevant definitions:

² Paragraph 254 of Mr Lile's evidence statement, Paragraph 10.26 of the s42A report and Paragraph 3.2 of the Planning (3) JWS

- (a) **Community Activity** – “... Community activities may include land and buildings used for churches, halls, libraries, community centres, health centres, schools (including preschools)...”
- (b) **Educational Facility** – “land or buildings used, or activities necessary for, the provision of regular instruction or training including the use of ancillary administrative, cultural, recreational and commercial facilities.”

5.4 Chapter 5 of the NRPM contains the District Wide Objective and Policies. In my view, it does not include any specific or relevant directives in relation to the provision of community activities or educational facilities³.

5.5 Chapter 7 of the NRMP relates to residential areas and contains objectives and policies in relation to “living style”, “residential character” and “streetscape, landscape and natural features”. In my view, it does not contain any specific objectives or policies that provide for educational facilities (or community activities) to support residential development.

5.6 Mr Lile and Ms Sweetman reference Policy RE2.8 in relation to enabling provisions for educational facilities⁴. This policy states:

It is recognised that certain non-residential activities need to locate in the residential zone, and that some existing non-residential activities may need to be explicitly provided for in the zone, and that some non-residential activities may enhance the amenity and sense of community of residential areas.

5.7 While I acknowledge that the explanation and reasons provided in RE2.8i specify that non-residential activities could include schools, I do not consider Policy RE2.8 to be specifically enabling of educational facilities. Furthermore, I note that this policy seeks to give effect to an overarching objective in relation to neighbourhood character which differs to the Ministry’s intent of providing for urban growth that is supported by required educational facilities.

5.8 Chapter 7 of the NRMP (Rules Residential Zone) provides for non-residential activities⁵ within residential zones as discretionary activities. In my view, discretionary activities are typically unanticipated within a particular zone or relate to activities

³ With the exception of DO 1.1.5 which specifically seeks to provide opportunities of Māori to establish (in appropriate zones) educational and community activities.

⁴ Paragraph 3.2 of the Planning (3) JWS

⁵ Educational facilities and community facilities are not specifically provided for within the residential zone rules

where the effects can be variable. On this basis, I do not consider that a discretionary activity status for educational facilities is enabling in this context.

- 5.9 Finally, I note that applications for resource consent for discretionary activities are assessed against any relevant objectives and policies of a plan. In the context of the substantial urban development envisaged within the precinct plan area, I consider that a more supportive planning policy framework for educational facilities is required than the existing NRMP framework provides.

6. STATUTORY CONSIDERATIONS

- 6.1 A district plan must give effect to any relevant national policy statement⁶. In my view the NPS-UD is particularly relevant to the consideration of this plan change. As stated in 4.3 of this evidence statement, the NPS-UD requires there to be regard to additional infrastructure (which includes schools) when adding additional capacity for growth. The NRMP has not yet been updated to reflect that increased focus on providing for additional infrastructure as part of urban growth.
- 6.2 Mr Lile states in his evidence that contemporary planning principles⁷ have been incorporated into proposed Schedule X and the Maitahi Bayview Structure Plan. The plan change is introducing bespoke provisions into the NRMP and in my opinion there is therefore an opportunity to give effect to the NPS-UD through the inclusion of the enabling provisions outlined above and in the Ministry's further submission.
- 6.3 In my view, the inclusion of Proposed Schedule X enables place-based provisions to be included in the NRMP. I therefore consider it to be appropriate that Schedule X address specific resource management issues that are unique to the development of the Structure Plan Area – including the potential need for educational facilities.
- 6.4 I consider that the above inclusion of enabling provisions of educational facilities in the specific schedule for the Maitahi Bayview area provides greater clarity to the community, Council and any future developer of the site in relation to the expectations for engagement with the Ministry and for the potential development of a school or other educational facility.
- 6.5 I note that several submitters have raised concern about the additional pressure that the development of the PCA may put on the local school network and in my view the

⁶ Section 75 (3)(a) of the RMA

⁷ Paragraph 34 of Mr Lile's evidence

above amendments can signal an intention to the community that educational facilities may be established within the area in future if required.

6.6 PPC28 is outside current areas zoned for residential development and is therefore considered as unanticipated growth. I am therefore of the view that additional provisions should be included within the plan change to better provide for educational facilities to service the demand of additional residential development in the plan change area. Overall, I am of the view that the inclusion of the requested amendments for educational facilities within the PCA and NRMP would:

- (a) Contribute to giving effect to the requirements of Policy 10 of the NPS-UD in relation to engaging with infrastructure providers (including education) to achieve integrated land use and infrastructure planning outcomes⁸.
- (b) Signal to the community that educational facilities may be developed within the PCA in the future.
- (c) Better enable the Ministry to plan for and deliver educational facilities within the plan change area and wider school catchment.

6.7 The approach by the Ministry of requesting the inclusion of enabling provisions for educational facilities in substantial growth areas is not unique to Nelson. I have supported the Ministry with this approach across a numerous proposed plan changes across New Zealand. Most recently, I was involved in plan changes 69 and 73 to the Selwyn District Plan and Plan Change 49 to the Auckland Unitary Plan (Drury East) where enabling provisions for educational facilities within large proposed plan change areas were similarly sought and accepted by the panel. In my view, it is important that educational facilities are provided for in a consistent manner in areas of growth and intensification across New Zealand.

Karin Lepoutre

27 June 2022

⁸ Policy 10 of the NPS-UD.