

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

IN THE MATTER

of an application by **CCKV Maitahi/Mahitahi 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

**RUBUTTAL EVIDENCE OF TONY MILNE (LANDSCAPE) ON
BEHALF OF CCKV MAITAHİ/MAHİTAHİ DEVELOPMENT CO LP
AND BAYVIEW NELSON LTD**

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Section A – Introduction and Scope of Evidence

Name, qualifications and experience

[1] My full name is Tony Douglas Milne.

[2] I have the qualifications and experience set out at paragraphs 2 - 8 of my Statement of Evidence (EIC) dated 15 June 2022.

Expert Code

[3] While this is not an Environment Court hearing I have met the standards in that Court for giving expert evidence.

[4] 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.

Scope of Evidence

[5] The purpose of this evidence is not to restate matters that are already contained in reports or information erroneously/mistakenly overlooked in expert evidence. Rather it is to address/clarify key matters that I believe will assist the Panel in their understanding of the disagreement between experts.

[6] My rebuttal evidence responds to the landscape evidence filed for Save the Matai Inc (**STM – Ms Anne Steven**), and the Section 42A Peer Review Landscape Addendum (**NCC – Mr Rhys Girvan**). My rebuttal evidence responds to the relevant key themes in this evidence and, as such, addresses the following:

- (i) Natural Character Assessment.
- (ii) Residential Green Overlays and Revegetation Overlays.
- (iii) Skyline Effects
- (iv) Significant Landscape Categorisation.

(v) Extent of Visual Effects.

(vi) Landscape Gateways

[7] Attached to my evidence as **Appendix A** are updated cross sections (specifically cross sections FF, GG, II and JJ). These cross sections were contained in the GA-E to my EIC. Following further discussion with Mr Girvan, these cross sections have been updated to contain additional information showing indicative future development adjacent to the lower reaches of the Kāka Stream.

[8] I also acknowledge the indicative masterplan that has been prepared, referenced in my EIC, and now contained as an attachment to Mr Nicholson's rebuttal urban design evidence. I would like to reiterate that the master plan is indicative of one possible feasible outcome enabled by PPC28. The Google Earth model has been updated to include the indicative master plan as an overlay.

[9] I now make comment in regard to both Mr Girvan's addendum and Ms Steven's evidence.

Section B – Evidence

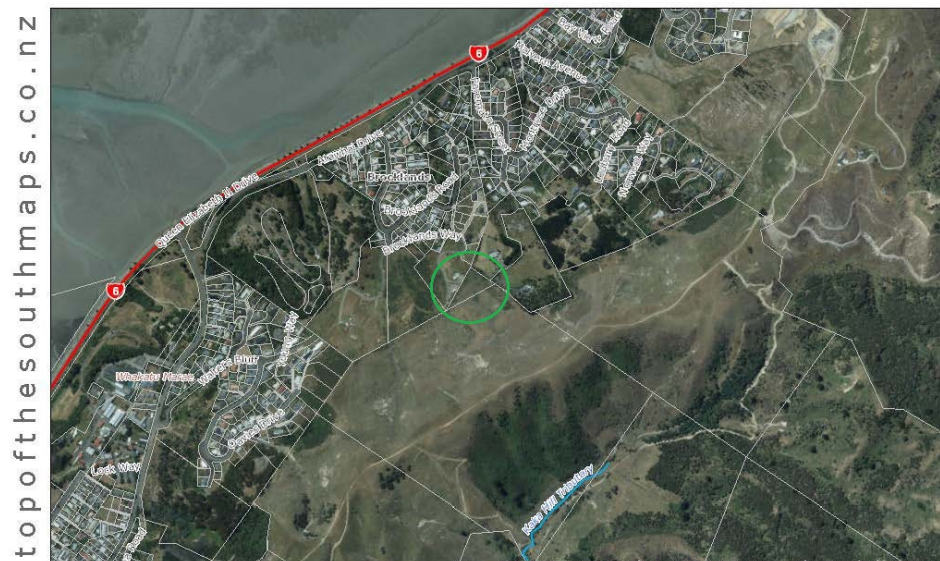
Section 42A Peer Review Landscape Addendum for NCC – Mr Rhys Girvan

[10] Following my review of Mr Girvan's s42A peer review landscape addendum, it would appear that the amended structure plan and additional information supplied with, and covered by my EIC, goes a long way to addressing the concerns of Mr Girvan.

[11] In his s42A peer review landscape addendum, Mr Girvan raises some additional matters. The majority of these Mr Girvan and I have discussed, both prior to his addendum and following, and I make the following comments.

Natural Character Assessment

[12] It is noted that Mr Girvan disagrees with the natural character starting point for the area of land contained within the property of 4 Chamerion Way (now excluded from the PPC28 site – see Figure One below) and the Lower Kākā Stream.



of the proposal will be to improve the natural character value of the Lower Kākā Stream.

‘Residential Green Overlay’ and ‘Revegetation Overlay’

[16] I agree with Mr Girvan [11] [12] that the intent and outcome of these ‘overlays’ could be more explicit within Schedule X. Ms Steven [167] raises similar concerns and in respect to the ‘overlays’. I have discussed this with Mr Lile and the following changes have been made, which Mr Lile will also address. I believe the proposed changes to Schedule X satisfies the concerns raised by Mr Girvan and Ms Steven.

- (i) Addition of text that ensures the Green and Revegetation Overlays are ‘captured’ in the objective and policy framework of Schedule X.
- (ii) Refinement of X.16 – Vegetation and Fauna Management Plan.

Skyline Effects

[17] I have considered the matters raised at [13 – 15] of Mr Girvan’s peer review landscape addendum, particularly in reference to Policies NA2.3.1 and NA2.3.2 of the Nelson Regional Policy Statement and Policy Do9.i of the Nelson Resource Management Plan. Regarding the sensitivity of the skyline above Walters Bluff from key viewing locations, I accept greater discretion is required when determining the appropriateness of development in this area. It is my recommendation that development within this area should be a restricted discretionary activity and Schedule X5 now reflects this.

[18] Relating to this area Ms Stevens concerns regarding ridgeline and skyline effects. It is not my intention to go through these one by one, however in the context of ‘primary ridgelines’ [161][218] and the photograph contained at page 42 of her evidence, the knoll Ms Steven identifies has an Open Space zoning under PPC28. I consider that protection enough, although I accept it could be identified on the “Malvern Hills and Botanical Hill Ridgeline” plan B1.2, at Figure 8 of the

GA-E to my EIC. This has not been updated, however I do not foresee any reason why this cannot be done.

[19] Following the above, I believe the remaining shortfalls as identified by Mr Girvan have now been addressed. Therefore, Mr Girvan can have confidence in the conclusion he draws at paragraph [22] *“Provided such shortfalls are addressed, I consider the revised structure plan layout has potential to avoid significant landscape, natural character and visual effects to the extent that enables the successful absorption of subdivision development in the context of the Kākā Valley and Bayview Ridgeline.”*

Save the Matai Inc – Landscape Evidence of Ms Steven

[20] Regarding the evidence of Ms Steven, while there are several matters of agreement between the two of us, we fundamentally reach different conclusions. I certainly respect Ms Stevens position, and the full, and considered landscape, visual amenity and natural character assessment and evidence that she has provided.

[21] Ms Steven identifies three key factors which, in her opinion, result in PPC28 not being appropriate. These can be summarised as being that PPC28 does not:

- a. Maintain the amenity values of the significant landscape of the Kākā Valley and Lower Matai Valley and Malvern Hills Ridge;
- b. Preserve the Natural Character of the Coastal Environment; or
- c. Maintain or enhance the open rural landscape character of the ridgelines and skylines.

[22] I disagree that there is a ‘Significant Landscape’ in relation to the PPC28 site (except for acknowledging that the Matai/Maitahi River itself, which encroaches upon the southern site boundary, is a significant landscape/feature).

[23] I agree with the Coastal Environment extent as identified by Boffa Miskell Natural Character Study and recorded in the landscape JWS. As such the PPC28 site is not situated within the coastal environment and will not compromise the values associated with nearby areas that are located within the coastal environment.

[24] I consider that the refinement of the Structure Plan and suite of controls which will regulate development near ridgeline/skylines is sufficient to maintain openness in key locations along the Malvern Hills/Botanical Hill ridgeline/skyline.

[25] Further to that, I would like to draw the Commissioners attention to the following matters.

Significant Landscape Misrepresentation

[26] Ms Stevens has outlined a number of key observations regarding the suite of Nelson Landscape studies undertaken by Boffa Miskell [92]. Bullet point 3 of that paragraph connects the purpose of the 2015 study to, in part, ‘Significant Landscapes’ (SL) which are afforded consideration under “*RMA s7c*”. Bullet point 4 then implies that the Matai Valley landscape “*The Maitai Valley landscape qualified as a SL on account of its Very High associative values and High perceptual values. It was ranked Low to Moderate for biophysical values.*”

[27] This has also been mapped by Ms Stevens within Attachment A – Figure 4. However, I consider this to be in an incorrect interpretation¹ of the Boffa Miskell Nelson Landscape Study.

[28] It is actually the ‘Matai/Maitahi River’ which is identified as a SL with its values set out². A review of these factors reinforces that it is the value of the river corridor which has been recognised, not the wider Matai Valley character area, as the summary evaluation states (my emphasis) “*The Maitai River within the Maitai Valley and Upper Maitai landscape character areas is considered to form a Significant Landscape [SL/F].*”³

[29] I have discussed this with Mr Girvan and he confirms my understanding. It is not the entire Maitai Valley landscape character area which has been identified as a significant landscape. It is the Maitai River within this broader landscape character

¹ There appears to be a typo which incorrectly uses the term ‘Matai Valley’ within a bullet point list, rather than ‘Matai/Maitahi River’. The error is only apparent when comparing the other two significant landscape features that are identified in the same list, being Nelson Haven and Tahunanui Beach.

² Boffa Miskell – Nelson Landscape Study – Landscape Evaluation 2016 – pg28.

³ Boffa Miskell – Nelson Landscape Study – Landscape Evaluation 2016 – pg28.

area which has been evaluated as a significant landscape and, this has been subsequently mapped⁴ for the Draft Nelson Plan.

[30] Notwithstanding this, and noting Ms Stevens further comments regarding significant landscapes, I reiterate that my observations accord with the Boffa Miskell Landscape Study 2016. I am still of the opinion that the PPC28 site does not contain any additional significant landscape or significant features, therefore further special landscape status beyond that identified in the suite of recent Nelson landscape studies undertaken is not required.

Natural Character Assessment

[31] Further to my comments in paragraphs 11 – 14 above, Ms Steven notes that in her opinion [183] *“The natural character of the remainder of the Site would drop markedly as urban development replaces open landscape dominated by vegetation and landform.”*

[32] It is my understanding from a statutory context, that the direction around the preservation or management of natural character within the NRPS is focused on areas within coastal and riparian margins, and this follows through to the NRMP. There are clearly areas of the site which will change from pasture to residential development, however these areas are not contained within the riparian margins (excluding the occasional crossing). Within the riparian margins, extensive native ecological enhancement is planned that will improve natural character values, and beyond the riparian margins a high-quality environment is being provided for.

Visual Effects Overstated

[33] Ms Steven has suggested that [82] *“This valley is visually and spatially integrated with the Maitai River corridor, and is looked down into from surrounding public elevated places such as Botanical Hill, Branford Park and Olive Hill, and Sharlands Hill.”*

[34] Yes, there are those four example locations where a view can be obtained of the Kākā Valley, or a part of the valley. However, while you do get clear views of parts of the Kākā Valley, from a limited number of elevated locations, as Ms

⁴ <https://nelson.isoplan.co.nz/eplan/>

Steven has identified, it is my experience that from most of these locations Kākā Valley or that part of it you can see, only forms part of the view.

[35] As I have set out in my EIC the users of these tracks and trails experience these views intermittently. Further to this, in Ms Stevens photo examples from Botanical and Sharlands Hill, if you were to pan left slightly, then your focus would be on a rather stunning coastal view overlooking the city.

[36] Using the Botanical Hill Lookout as an example, in my opinion I would expect most users to be focusing on the view across the city toward Tasman Bay and the distant Kahurangi and Abel Tasman National Park landforms, rather than back toward the inland valley. Although there is a 360 degree field of view from this location, the constructed viewing platform and its interpretation panels are clearly orientated to emphasis the more dominant eastern coastal views while enabling identification of these distant landforms.

[37] As outlined in my EIC, in some of these elevated locations there are seats, often memorial, that provide the user a place to sit, view and perhaps contemplate. These are also orientated towards the wider view, and while the tracks (often informal) to these seats (for example off Jacks Track on Sharland Hill) in places afford views of Kākā Valley, these are in the context of the wider view.

[38] Regarding visual amenity effects, the expectation of the user of the Maitahi/Mahitahi Valley and surrounding landscape amenity needs to be considered.

[39] For over 40 years I have run, walked, biked, played golf, and camped within the Maitahi/Mahitahi Valley and swum in the Maitahi/Mahitahi River. I suggest my use of the Valley is not atypical. The aforementioned activity has been year-round, albeit swimming and camping predominantly confined to summer months. I have first-hand experience of a variety of environmental conditions, from peaceful tranquil autumnal mornings shrouded in mist, to hot summer days filled with laughter and fun. At times rushing water and birdsong are dominant, while at other times the sound of lowered cars with enhanced exhausts and motor bikes fills the valley.

[40] All of this personal experience as a Matahi/Mahitahi Valley recreational user has assisted with informing my professional judgement. I am also aware of the continued development of the Matahi/Mahitahi Valley as a recreation destination. One example of this is the 'Maitai Recreation Hub', at Waahi Taakaro Golf Club, that opened earlier this year. A development that has seen a number of groups, including the Nelson Mountain Bike Club, Nelson City Council, Ngati Koāta and the Waahi Taakaro Golf Club working together. An example also of the evolving landscape and use of the Matahi/Mahitahi Valley.

[41] The point I am trying to make, is that while users of this landscape are engaged in recreational activity, for the most part views are not concentrated on Kākā Valley and the amenity experienced is influenced by several external factors, not simply the presence/absence of development.

[42] I concur with Ms Steven when she suggests [165] *"The visibility and visual change caused by the development that would be enabled by PPC28 must be considered in a long timeframe, of more than a hundred years."* I suggest if one was to adopt this long-term lens, then the proposal must be viewed favourably within its landscape setting.

[43] Finally, regarding views and visual amenity effects, in relation to the picturesque setting, I think it is worth noting the benefits of public access provided by PPC28. The proposed public access and connections to existing recreation trails will provide the opportunity for greater access to picturesque views, and appreciation of the overall setting.

Gateway Landscape

[44] Ms Steven states [31] *"The lower Maitai Valley is a gateway landscape. The proposed urban expansion would detract from this landscape and undermine its function."* Ms Steven reiterates this at [225 and 226].

[45] It is my understanding from a statutory context, that both the Nelson Regional Policy Statement (Policy NA2.3.3) and the Nelson Resource Management Plan (Policies DO9.i, DO15.1.3), provide policy direction regarding the urban rural interface. When one examines the explanation and reasons, these policies seek to reinforce the transition from rural to urban areas on the periphery of Nelson city. Furthermore, this policy structure recognises the amenity values of the 'rural areas',

especially the recreational and scenic value of areas relatively close to the urban area.

[46] From a landscape perspective, the concept of a 'gateway' is an interesting one. As landscape architects we like edges, in a landscape sense they set up opportunities of juxtaposition, transition and interest. To mark the Millennium, as part of a scheme called Turning Point 2000, we were engaged to prepare a landscape strategy for the township of Dunsandel in Canterbury. We pushed the 'gateway' and arrival experience some 500- 800 metres beyond the town edge further along State Highway One, through roadside tree planting. The intention was to provide a cue for, and a sense of arrival.

[47] As children, and I think I still do now, as we breached the summit of the Spooners Range on State Highway 6 south of Nelson, we would exclaim with excitement that 'we were there'. That is, we had arrived in Nelson. From here it was/is a vignette of landscapes and townships on our journey to our arrival in the city itself. I realise this is an example of personal perception and experience and it will differ for all.

[48] Today, instead of orchards and farmland between Stoke and Richmond, there is housing, industrial subdivision, sports fields and complexes, retirement villages and the two are now joined. Nelson as a city has over time grown, pushing in a north south alignment as well moving east into valleys such as Marsden and Brook.

[49] Strong physical elements such as rivers, the sea, and landform will provide obvious boundaries and containment to an urban form. In other places as a town or city spatially flexes, the edge or boundary can be subject to change. Depending on the landscape condition of this edge, such expansion can 'make sense' or not.

[50] A finger of recreation associated with Nelson city extends into the Maitahi/Mahitahi Valley. Residential development along Mill Street extends towards Denby Park on the true left bank of the Maitahi/Mahitahi River. A cluster of housing is located to the east of the Maitai Cricket Ground and on Ralphine Way. The latter exists as a result of a previous subdivision that did not proceed any further into Kākā Valley as planned.

[51] This is a transitional landscape in that while the prevailing character is rural, there are elements within it they are associated with the city. While I understand the underlying zoning, in my opinion in this location the edge of the city could be variously defined. Unlike Ms Steven, I am not sure if there is a clear gateway. In some ways the current zoning of part of Kākā Valley for small holdings, serves to dilute the edge of the city.

[52] Notwithstanding Ms Stevens comments regarding the role of ‘off site’ vegetation in views, the fact is there is a considerable amount of vegetation growing along Maitai Valley Road and its associated recreation areas. There exists a mix of deciduous and evergreen vegetation, and when the deciduous trees are in leaf (summer and shoulder seasons) Kākā Valley is almost totally hidden from view from the Road.

[53] In this location, the bend in the Maitahi/Mahitahi River and cricket ground also serve to set the PPC28 site back away from views. In this respect the valley is somewhat ‘tucked away’. Furthermore, the planting that could establish within the riparian enhancement area within the PPC28 site, will also provide some screening over the longer term.

[54] PPC28 would ‘reset’ the edge of the city in this location. The extent of urban form would reach Ralphine Way, and from a landscape perspective, would not have significant adverse effects on the arrival into, or departure from, the city and the Maitahi/Mahitahi Valley. In this regard and returning to the NRMP and policy DO15.1.3⁵, I am of the opinion PPC28 is not discordant with the outcomes sought by this policy, the greenbelt function of the Maitai Valley remains, and accordingly the RPS is generally satisfied in this regard.

⁵ DO15.1.3 rural greenbelt

Adverse effects on existing rural character and amenity values should be avoided, remedied or mitigated in the Maitai Valley, between Bishopdale Saddle and Wakatu, and between Stoke and Richmond, in order to maintain a greenbelt between existing built up areas.

Explanation and Reasons

DO15.1.3.i This policy reinforces the existing clear transition from rural to urban areas. This recognises the amenity values of these areas, especially the recreational and scenic value of areas relatively close to the urban area.

[55] Likewise, for the reasons as set out in my EIC, I am of the opinion that development enabled by PPC28 on the Malvern Hills, will not degrade or detract from the arrival or departure experience on State Highway 6 north of Nelson city.

[56] PPC28 seeks to change the zoning within Kākā Valley, the lower slopes of Kākā Hill and along Botanical Hill and Malvern Hills, providing for future residential development. This will allow Nelson to grow in a logical manner and form consistent with current urban development and as anticipated by the Future Development Strategy.

[57] I am still of the opinion that the site of the PPC28 has been identified as an area within Nelson that can absorb a relatively large amount of development to assist in providing for the needs of a growing community. PPC28 represents the opportunity for a comprehensively designed extension to Nelson City, proximate to the city centre. It is considered a strong rural urban boundary will be reinforced and the key landscape values of the Maitahi/Mahitahi Valley maintained. Future residential development will be set within a strong rural backdrop, reinforcing the sense of place and sense of difference between the city and the valley.

Dated: 7th July 2022

A handwritten signature in black ink, appearing to read 'Tony Milne', with a horizontal line extending to the right.

[Tony Milne]

Appendix A – Graphic Attachment