

**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 REBUTTAL EVIDENCE OF MARK A. B. LILE

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Section A – Introduction and Scope of Evidence

Introduction

- [1] My full name is Mark Addie Bernard Lile. My evidence in chief is dated 15 June 2022 and my qualifications and experience are set out within that statement.
- [2] I have read all of the expert evidence submitted by Save the Maitai Inc (STM), Friends of the Maitai, and also the s42A addendum evidence.
- [3] In accordance with Directions 4 and 5, this rebuttal evidence strictly responds to the matters raised in the submitters' evidence and s42A addendum reports.

Expert Code

- [4] While this is not an Environment Court hearing I have met the standards in that Court for giving expert evidence.
- [5] 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.

Section B – Rebuttal Evidence

Kelly McCabe (Planning, for Save the Maitai)

- [6] Ms McCabe has assessed¹ PPC28 as containing inadequate information. One of the reasons for her assessment is that she now considers a “comprehensive” Stormwater Management Plan (SMP) is required to address the effects of stormwater runoff on receiving environments. During the expert conferencing process, the stormwater experts sought a

¹ McCabe, 27 June 2022, Paragraph 29.

high level SMP in accordance with GD05², to demonstrate it is feasible to manage the effects associated with changing the stormwater runoff environment. I consider the Applicant has submitted a SMP that contains the level of detail appropriate for a Plan Change Request as set out in the rebuttal evidence of Mr Mills.

- [7] Ms McCabe also states³ that PPC28 seeks to create a Rural-Higher Density Small Holdings Area. The changes to the Structure Plan and zoning pattern addressed in the Applicant's evidence removed that part of the proposal.
- [8] Following on from (7) above, there are a number of similar statements in Ms McCabe's evidence suggesting little or no account has been given to the additional information and expert evidence provided. For example, in her introduction⁴ Ms McCabe has not addressed the further information provided within the applicant's expert evidence, including the numerous improvements to the Structure Plan which the Applicant committed to in the Joint Witness Statement (JWS) agreements.
- [9] Ms McCabe also states⁵ that the application is deficient as the wider scope of transport deficiencies have not been identified through an evaluative Integrated Transport Assessment (ITA). This is despite all planning witnesses agreeing that an ITA could be requested as a part of the resource consent process⁶. Notwithstanding this, this information requirement was added into Schedule X in response to the Transport JWS dated 10 May 2022 and Planning JWS dated 19 & 20 May 2022. I consider it would be illogical to undertake that assessment now as the transport environment is likely to change before the subdivision and development is designed and a resource consent application is prepared. The assessment of previous urban growth plan changes⁷ in Nelson have also confirmed the Services Overlay tool as providing the trigger for that more detailed assessment. I

² Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region.

³ McCabe, 27 June 2022, paragraph 16(a).

⁴ McCabe, 27 June 2022, paragraph 16.

⁵ McCabe, 27 June 2022, paragraph 3.

⁶ Planning JWS (Section 3.12, 19 & 20 May 2022)

⁷ Such as Plan Change 17.

disagree with Ms McCabe that this leads to a misalignment with the NPS-UD.

[10] Ms McCabe also considers PPC28 will not contribute to a well-functioning urban environment, nor contribute to development capacity. Her rationale for this assessment is based on PPC28 not adequately demonstrating that the site can be adequately serviced⁸. No acknowledgement is however given to:

- (a) the JWS Infrastructure agreements dated 20 May 2022 and 26 May 2022 which confirm the feasibility of water and wastewater serviceability; and
- (b) the considerable space available to manage stormwater; and
- (c) the detailed engineering design and resource consent process, including comprehensive information requirements of the NRMP and NTLDM; and
- (d) the relatively small number of transport constraints, some of which are already targeted to be addressed in the LTP. NCC has also been actively making improvements to its cycleway networks over the last 10 years or more. Further improvements, i.e. Nile Street, are budgeted in the current LTP.

[11] I disagree with the weight Ms McCabe has placed⁹ on the potential housing capacity that may be enabled through a future WWNP. That formal process is yet to start and so it would be inappropriate, in my professional opinion, to speculate on the outcomes from that First Schedule process. Likewise, no information is currently available on Council's planned residential plan change referenced in the memorandum¹⁰ from Ms Day.

[12] Ms McCabe has also addressed the NTFDS 2019 and states that PPC28 is intended to bring forward the phasing of potential development. This

⁸ McCabe, 27 June 2022, paragraphs 3 and 141.

⁹ McCabe, 27 June 2022, paragraph 36.

¹⁰ S42A Addendum (Appendix J)

matter was addressed in the JWS Economics process (Section 3.3, 27 April 2022) when the experts agreed that sequencing was no longer relevant. Likewise, as explained in my evidence in chief¹¹, the timeframes for development of the site are no longer significantly out of line with the NTFDS 2019.

- [13] Under the heading of ‘Council Long Term Plan (2021), Infrastructure Strategy, and Financial Strategy’ Ms McCabe emphasises that the PPC28 project is not provided for¹². Funding decisions cannot however be made in advance of planning decisions given the uncertainty surrounding those processes. Within the Planning JWS (Section 3.14, 19 & 20 May 2022):

“All planning experts agree that infrastructure funding is not determinative as to whether PPC 28 is approved”.

- [14] Ms McCabe also questions the expert agreement reached in the JWS Economics (27 April 2022) with respect to the beneficial competitive effects to the housing market from PPC28. It is my understanding this matter is beyond challenge.
- [15] Ms McCabe is also concerned¹³ that PPC28 has not proposed amendments to any regional plan provisions. As with the planning provisions surrounding the Services Overlay, I addressed¹⁴ the matter of regional rules in my evidence. In doing so, I addressed both the current earthworks rules, including those within Schedule U¹⁵ and also explained that best practice WSD would already be part of subsequent resource consent processes¹⁶.
- [16] As set out in the applicant’s evidence, a number of improvements have been made to the PPC28 provisions to better communicate the outcomes planned and to ensure the package of provisions are the most appropriate. The change to the Structure Plan, addition of the Revegetation Overlay, and consequential changes to the zoning maps are examples of those changes. And again, in response to the s42A addendum evidence and the evidence

¹¹ Lile, 15 June 2022, paragraph 110.

¹² McCabe, 27 June 2022, paragraphs 44-46.

¹³ McCabe, 27 June 2022, paragraph 17.

¹⁴ Lile, 15 June 2022, paragraphs 85-100.

¹⁵ Lile, 15 June 2022, paragraphs 170-188.

¹⁶ Lile, 15 June 2022, paragraph 125.

of STM we have again made changes to the provisions within Schedule X. I refer to those here as they address some of the issues raised by Ms McCabe and other experts. The updated version of Schedule X is labelled '*Schedule X (V3, 7 July 2022)*' and **attached** to this rebuttal. Schedule X will continue to be improved to address the concerns raised and suggestions made.

- [17] With the assistance of the wider team such as Mr Milne, but also following the input from Mr Girvan, we have made changes to Schedule X (in particular X.16) to clarify the outcomes sought by the Green and Revegetation Overlays. I consider those changes also address the concerns raised by Ms McCabe. Having said that, I consider it a step too far to be expected to provide a planting plan with plant spacings¹⁷ etc. The Vegetation Management Plan volunteered within X.16 combined with the supporting policy framework and the resource consent application process is more than able to ensure the stated/planned outcomes are achieved.
- [18] Ms McCabe also raised concerns about the additional earthworks requirements (X.12). We have again made improvements to remove any administrative uncertainties. However, I remain of the opinion that the scheduling tool combined with the bespoke provisions added into the zone chapters takes the users of the NRMP direct to these provisions. This has been the way the NRMP has worked since 1996, and is very clearly set out within Chapters 1¹⁸ and 3 of the NRMP. The step by step guidance in AB3.1 (including the steps) is of particular relevance to those unfamiliar with the workings for the NRMP.
- [19] There is a lot in Ms McCabe's evidence under the headings of NPS-UD, NPS-FM, NZCPS, and NES-FM that I disagree with. I consider I have already provided a comprehensive assessment of these planning documents in my evidence, with the addition of the JWS Planning agreements dated 26 April 2022 and 19 & 20 May 2022.
- [20] On the topic of the NRPS, Ms McCabe highlights some of the relevant objectives and policies and concludes that PPC28 has not given effect to

¹⁷ McCabe, 27 June 2022, paragraph 80

¹⁸ Refer to AB3 'How to use this Plan' and AB3.1 (page 3, Chapter 1)

those provisions. Ironically however, the NRMP is the primary tool /method for giving effect to the higher-level provisions in the NRPS, and in doing so, has provided a flexible framework centred around DO15.1.3. This provision, and the assessment of Ms McCabe¹⁹, is provided below:

Policy DO15.1.3 *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.*

229. This policy contains flexibility as to the manner in which it is achieved (avoid, remedy or mitigate), but is directive in terms of its outcome (maintain a greenbelt). This is one of the few NRMP provisions that relates specifically to the Maitai Valley rather than to the resources and places of Nelson more generally. For those reasons I consider it should be given significant weight. As I have previously outlined, Ms. Steven has considered that PPC28 will result in a loss of the greenbelt. In my view, PPC28 is contrary to this policy. (my emphasis)

[21] I also consider this policy has particular relevance, alongside the rest of the DO15 of the NRMP which I addressed in full in policy assessment within PPC28. These provisions are also directly related to DH1 ‘Urban Expansion’ of the NRPS, and alongside the Structure Planning tool provided within AD11.4A²⁰ of the NRMP, provide the flexible opportunity for urban growth to be planned in a manner that avoids, remedies and mitigates the relevant effects on the environment. As a *flexible* policy, I disagree with McCabe as to PPC28 being contrary to it. In addition, the opportunities available to maintain the character of the Maitai Valley within PPC28 have been addressed by Mr Milne, including within his rebuttal evidence.

[22] Along with not undertaking her own s32 analysis, I note that Ms McCabe has also not undertaken a full ‘Assessment of Effects’ in that her evidence has only addressed:

- (a) Housing affordability;
- (b) Stormwater and Flooding;
- (c) Landscape and Amenity;

¹⁹ McCabe, 27 June 2022, paragraph 228-229

²⁰ NRMP, Chapter 3, pp28-29.

- (d) Earthworks;
- (e) Streams, rivers and Wetlands;
- (f) Traffic.

[23] There are a number of other very important components to the assessment of this PPC28, important in the context of Part 2 of the RMA, the NPS-UD and the numerous other planning documents. This is no better highlighted than in the JWS agreements reached between the economics, recreation, urban design, infrastructure and geotechnical experts.²¹ And significantly, the overall support from the Te Tau Ihu iwi. Without doing that assessment I consider Ms McCabe cannot draw the conclusions²² she has.

Gina Sweetman (Section 42A addendum)

[24] This part of my rebuttal addresses the issues addressed in the rebuttal of Ms Sweetman (dated 29 June 2022). I have also read the rebuttal of the other s42A officers, along with the rebuttal of the experts for the Applicant. This rebuttal has therefore been prepared with this other rebuttal evidence in mind.

[25] I consider it important to acknowledge here that Ms Sweetman's rebuttal is not a full update of her s42A report. Helpfully, Ms Sweetman has however again provided some commentary on the PPC28 provisions in her '*Appendix A – Review of PPC28 Provisions*'.

B. Section 32 Evaluation

[26] Under this subheading Ms Sweetman has noted that it would have been helpful if I had provided an updated Section 32 evaluation or Section 32AA evaluation of the changes set out in the applicant's evidence in chief (circulated on 15 June 2022).

²¹ JWS Economics dated 27 April 2022, JWS Recreation dated 13 May 2022, JWS Urban Design dated 5 May 2022, JWS Infrastructure dated 20 May 2022 and Infrastructure (2) dated 26 May 2022 and JWS Geotech dated 4 May 2022.

²² McCabe, 27 June 2022, paragraphs 244-248.

- [27] The reasons why I did not provide that updated section 32 were that the changes/improvements made were directly and clearly in response to issues raised by submissions or in the s42A report, as explained in the evidence. In addition, my interpretation of section 32AA is that it is only required with the decision on PPC28.

C. Achievability of the Structure Plan – Realignment of the Kākā Stream

- [28] Ms Sweetman and some of the other s42A officers again raise concern about the achievability of the stream realignment. The need for resource consent to realign the lower (highly modified) section of the stream is openly acknowledged in X.9 of Schedule X with this consent requirement being widely accepted.
- [29] The realignment component of this proposal has been chosen after having regard to all of the options, including keeping the stream where it is, however it was considered that the positive freshwater, ecological, and wider environmental outcomes (i.e. urban design) would be maximised if the stream was relocated back to the west, against the vegetated embankment. Our multi-disciplinary team consider that this would be the best outcome, and better achieve the objectives of the NPS-FM. I also note that none of the s42A addendum reports, nor the submitters, have acknowledged the demonstrated benefits of the 270m Groom Creek realignment undertaken by NCC.

D. Non-Notification Clauses for Rules X.2 and X.3

- [30] The approach taken in the drafting of X.2 and X.3 is explained in the PPC28 Request, recorded in the JWS Planning dated 19 & 20 May 2022 (section 3.26), and in my evidence in chief. Quite simply, I have followed the current planning framework. This is not a case of including a streamlined process more favourable than the current NRMP provisions.
- [31] X.2 adopts the same CHD provisions as in the Residential Zone - Higher Density Area in The Wood. This is enabling, however non-notification of the CHD activity is only on the basis that the proposal can achieve the listed performance standards.

- [32] X.3 is a subdivision rule that combined that subdivision rules of the NRMP, including the rules for subdivision in the Services Overlay. Again, there are a number of performance standards in X.3 that would trip an application out of the RDA classification.
- [33] If it is the concern over the skyline about Walters Bluff that is the cause of this concern, that has been addressed in line with Mr Girvan's addendum, address in paragraph [67] below.

E. Heritage Items

- [34] Mr Miller for the applicant has prepared rebuttal evidence on this topic and I agree fully with his assessment.
- [35] Ms Sweetman states²³:

... Mr Lile's approach appears to be that because it is the applicant's intention to demolish these buildings and structures that this step of categorisation is not necessary.

- [36] This is incorrect. We have assessed the shearing shed as having heritage value as a Group C building, not Group B. The reasons for this are again addressed by Mr Miller. What PPC28 is proposing is in terms of salvage, recording and dissemination (as per X.10) is what Mr Miller has assessed "as realistic as can be reasonably achieved given the condition of the building"²⁴. I agree.

F. Urban Design

- [37] As set out in the rebuttal evidence of Mr Nicholson for the applicant, further improvements have been made to the Structure Plan which mean there is no disagreement between the urban designers. I also note Mr McIndoe's support for the realignment of Kākā Stream and Mr Nicholson's further commentary on those urban design benefits.
- [38] Attached to Mr Nicholson's rebuttal is the Indicative Masterplan (Figure 1). Mr Nicholson has explained the basis upon which this has been prepared.

²³ Sweetman, s42 addendum, 29 June 2022, paragraph 21.

²⁴ Miller, 5 July 2022, paragraph 20.

G. Earthworks

- [39] Mr Parsonson has prepared rebuttal evidence for the Applicant and I agree with his assessment.
- [40] While both Mr Parsonson and I disagree with Mr Ridley and Ms Sweetman, no doubt based on our local experience working with the current rules of the NRMP, we have taken on board the concerns and made one further improvement to X.12 which I have addressed under the heading 'Additional Earthworks Requirements X.12' below.
- [41] Mr Ridley has also raised concerns about the adequacy of the current NRMP to manage earthworks from secondary earthworks as he considers the permitted activity standards to be inadequate. Mr Parsonson and I have discussed this issue and consider this is better addressed as a part of the WWNP, which Ms Day says should be notified in the end of 2024. In reality, changes to the earthworks regime would come about before much (if any) development of this site occurs.

H. Structures in the Stream Corridor

- [42] The issue raised by Ms Sweetman (and other s42A officers) is that there remains the potential for structures to be located in the Kākā Stream corridor as a consequence of Open Space Rule OSr.56 and also the new X.7 requirements for esplanade reserve. This is despite the agreement reached in the Planning JWS of 19 and 20 May 2022 (section 3.18) that:

“They do not consider any further provisions are required to specifically to the PPC28 Open Space & Recreation zoned areas”.

- [43] I do not share the same concerns as Ms Sweetman as:
- (a) The Open Space Rule Table links to the '**Freshwater Rules** (Refer to Appendix AP28.9 for freshwater rules)'. There are multiple rules in Chapter 28 that restrict the placement of structures in the beds of river and streams; and
 - (b) The subdivision and development process itself provides the consent authority wide scope to influence the related outcomes,

including with reference to the numerous assessment criteria and information requirements relevance under the NTLDM and Appendix 14; and

- (c) There are multiple relevant planning documents that will need to be thoroughly considered as a part of the subdivision and development process, including the NPS-FM and NES-FW; and
- (d) The water sensitive design principles contained within X.9 require the applicant to provide a professional assessment with any subdivision and development application; and
- (e) The applicant has also volunteered a SMP and also a Cultural Impact Assessment whereby those outcomes will need to be thoroughly assessed in *an integrated manner*.

I. Stormwater Management Plan

[44] Despite now having provided a SMP with PPC28 and volunteering to provide an updated SMP with the Applicant for subdivision and development, the s42A addendum evidence has raised a multitude of additional questions. The requirement has seemingly moved from providing a 'high level SMP' to one that is more akin to a preliminary design. Much of the information identified in the s42 addendum evidence as missing is in fact not missing at all. This is addressed by Mr Mills in his rebuttal.

[45] It is however evident that the s42A experts consider we have made good progress.

J. Water Quality and Water Sensitive Design

[46] This section of Ms Sweetman's s42A addendum serves to highlight the challenge of trying to satisfy the concerns of the officers, as articulated by Mr Fisher²⁵:

²⁵ Fisher, s42A addendum, paragraph 31.

The proposed provisions, the existing provisions in the NRMP and requirements of the NTLDM together may not be sufficient to address the effects of development, especially the catchment-scale and cumulative effects, and also where existing controls (e.g. flood overlays) may not correctly reflect the future developed form, high intensity rainfall events, erosion and flood extent.

[47] And also Ms Sweetman summarises the assessment of Mr Wilson:

Mr Wilson remains of the view that the existing and proposed plan provisions together still do not provide sufficient control on future subdivision to ensure Water Sensitive Design outcomes are achieved.

[48] The applicant's approach has been to volunteer best practice WSD as a part of the subdivision and development of this site, despite the NTLDM also containing such WSD provisions including references to GD04. This is in advance of the draft WWNP being released with a district wide set of 2nd generated provisions to give effect to the NPS-FM. The Council is yet to complete that work and has advised through Ms Day²⁶ that this will be notified by the end of 2024.

[49] I remain of the opinion that PPC28 provides an appropriate set of provisions that require WSD in response to the particular characteristics and constraints for the PPC28 site.

K. Workability of the Proposed New Provisions, including Schedule X

[50] It would seem now that the additional explanation I provided in my evidence in chief²⁷, essentially repeating that in PPC28 as notified, has provided assistance to the provisions of Schedule X and how they integrate with the NRMP as whole. Drawing on her extensive experience in policy development, Ms Sweetman has however identified some unresolved workability issues which I have proceeded to address in the revised set of Schedule X (V3) attached to this rebuttal evidence. As noted above, further improvements will continue to be made.

[51] I will continue to keep track of any additional or outstanding issues that arise so that the final set of Schedule X provisions are up to date.

²⁶ Day, s42A addendum, Attachment J.

²⁷ Lile, 15 June 2022, for example paragraphs 36-44, and 85-100.

Achievement of the Structure Plan as a whole

- [52] Ms Sweetman has raised a question as to how Schedule X will apply to the Rural Zone and Open Space & Recreation Zone.
- [53] The relevant links to Schedule X are however provided in the associated changes proposed to Chapters 11 and 12. Aside from removing the reference to the provision of Rural -Higher Density Small Holdings area, these provisions remain unchanged. This is the same format used with other Schedules in the NRMP, with the cross references provided and linked to the specific provisions in Chapter 7 and in the schedules at the back of the residential zone chapter. Because of these linkages, I disagree with Ms Sweetman where she says²⁸ that *“Quite simply, as proposed, there would be no requirement to consider the Structure Plan or PPC28 provisions beyond X.8 and X.9 in respect of a controlled activity subdivision on Kaka Hill”*.

New Green and Revegetation Vegetation Overlay

- [54] In response to the questions raised over the new Green and Revegetation Overlays²⁹, X.16 has been amended to now include the words:

A Vegetation and Fauna Management Plan shall be prepared and submitted with any application for subdivision or development within Schedule X. This shall address the ‘Residential Green Overlay’ and the ‘Revegetation Overlay’ as shown within the Maitahi Bayview Structure Plan and include 100% indigenous species and in general accordance with the planting palettes as set out in X.4, X.5 and X.7.

- [55] Further explanation and policy support has also been added to Schedule X³⁰.

Additional Earthworks Requirements X.12

- [56] Also in response to the questions raised about the application of the earthworks assessment criteria in X.12, and alongside Mr Parsonson, I have further improved amended X.12 to make specific reference to the relevant

²⁸ Sweetman, s42 addendum, 29 June 2022, paragraph 52.

²⁹ Milne, Graphic Attachment, Figure 9.

³⁰ Objective RE6, Explanation RE6.i, Policy RE6.3,

earthworks rules (REr.61, RUr.27 and OSr.49) identified in my evidence in chief³¹. See paragraph [59].

[57] In adding these rule references I consider Schedule X makes is very clear what is expected and that there are some additional matters that need to be considered within Schedule X.

[58] Ms Sweetman³² says:

“I am not clear what is it proposed to be (a rule, standard, assessment criteria or matter of discretion). It is also unclear how it would apply in addition to the suite of rules that Mr Lile has set out in paragraph 175 of his evidence”.

[59] I consider the paragraph at the start of X.12 makes this clear:

To ensure that that development within the Structure Plan area appropriately minimises adverse sediment effects, and is consistent with the relevant ecology, water quality and recreation provisions of the NRMP and NPSFW, the following principles shall be adopted during the design, consenting and implementation of earthworks. These principles are complimentary to, and shall be adopted in conjunction with, the matters of control and discretion listed in earthworks rules [REr.61, RUr.27 and OSr.49](#) of the NRMP. (my emphasis)

Ecological outcomes and freshwater

[60] Ms Sweetman remains unclear as to how X.9 will be implemented, and:

“If this is intended to be an information requirements, as X.2 and X3 would imply, then this needs to be clearly stated as such, with the product being a report that addresses these principles”³³. (my emphasis)

[61] I believe I have already provided very clearly stated requirements in this regard. Here I refer to the heading in front of X.8 which reads:

“Special Information and Design Requirements with Schedule X”.

[62] I am unsure how I could draft this any clearer, but have always been willing to make improvements.

³¹ Lile, 15 June 2022, Table 3, paragraph 175.

³² Sweetman, s42 addendum, 29 June 2022, paragraph 59.

³³ Sweetman, s42 addendum, 29 June 2022, paragraph 59.

- [63] In addition, with regard to this requirement becoming ‘a report’, I have now made an amendment to X.9 as follows:

Alongside the NTLDM 2020, the following best practice principles shall be used in the subdivision and development design process, with an assessment report to be submitted from a suitably qualified person demonstrating the application of these principles: ...

Mechanism to achieve the “Kānuka Vegetation and Kahikatea Tree to be Protected”

- [64] Ms Sweetman seeks clarification³⁴ as to how the Kānuka Vegetation and Kahikatea Tree would be protected, and raises some concerns also over the colours of the Neighbourhood Reserve and Vegetation on the Structure Plan.
- [65] The issue of distinguishing the colour on the Structure Plan is an easy fix and this is being addressed by Mr Milne for the Applicant. Note: As with my attention on Schedule X, Mr Milne is keeping a close eye on any improvements to be made to the Structure Plan, with this issue of colour already brought to his attention.
- [66] With respect to the Kānuka Vegetation and Kahikatea Tree identified on the Structure Plan, it is anticipated that these features/values would be protected as a part of the subdivision process. It is through that process that these features would be located within vested Open Space & Recreation zoned land and so then fall within the long term management of the Council. In the meantime, given the protection given to ‘indigenous forest’ in the NRMP (i.e. OSr.49.1(f)) the Legend in Figure 8 of the Structure Plan could be amended as follows ‘Kānuka Vegetation and Kahikatea Tree to be Protected as indigenous forest’.

X.5 Skyline Area

- [67] Mr Milne has prepared rebuttal evidence on this topic, and in doing so, has further discussed the matter with Mr Girvan. As a result, and as set out in Mr Milne’s rebuttal³⁵, changes have been made to X.5. This includes:

³⁴ Sweetman, s42 addendum, 29 June 2022, paragraph 63-64.

³⁵ Milne, 7 July 2022, paragraph 17.

- (a) Amending this rule to require Restricted Discretionary Activity (RDA) status for building within the Botanical Hill Landscape Overlay (capturing the Walters Bluff skyline area); and
- (b) Some further refinement of X.5 in terms of the height when viewed from State Highway 6 and from the Maitai Valley.

[68] Mr Girvan has also stated that X.5 should refer to Figure 8 of the RMM Graphical Attachment (GA). Mr Milne has since spoken to Mr Girvan and explained that Figure 8 of the GA is Attachment B1.2 of the Schedule X. No change to X.5 has therefore been made in this regard.

L. Transportation

[69] Mr Clark has prepared rebuttal evidence and addressed the issues raised by Mr Georgeson in his constructive s42A addendum report. Changes and improvements have been made to Schedule X in response to that addendum report, as set out below:

- (a) Rule X.11 'Transport Constraints and Required Upgrades' has been amended. This includes the column entitled '*Development Threshold*' whereby the wording has adopted that recommended by Mr Georgeson. In addition, a new row has been added to either Ralphine Way or Walters Bluffs once the Bay View connection reaches the indicative connection to Walters Bluff; and
- (b) Rule X.14, which requires the Integrated Transport Assessment, now includes a definition as per the wording recommended by Mr Georgeson; and
- (c) A change to subdivision rule X.3(c) whereby two bespoke transport standards are provided in response to the issues raised by Mr Georgeson.

[70] Mr Clark and Mr Georgeson disagree as to some of the other components of the 42A addendum report which I do not comment further on.

M. Recommendations

- [71] I see no need to provide rebuttal on this topic as it is simply a summary of the position Ms Sweetman has now reached, without having time to complete her assessment.

N. Update on the Nelson Plan Programme

- [72] The update provided by Ms Day usefully provides some information around the timeframes surrounding the preparation of the draft WWNP, and the incomplete work in the areas of *‘housing, freshwater, coastal inundation and lower Maitai flooding and air quality’*³⁶. Combined with the updated hazard maps, this work is likely to have a significant influence on the Housing Plan Change 29 and the feasibility of intensification opportunities.
- [73] Ms Day has also confirmed that the draft WWNP (November 2020) did not include provisions that addressed the requirements of the NPS-FM 2020. Furthermore, those provisions are still under discussion with iwi with the deadline for notification being met by the end of 2024, *‘depending on iwi capacity’*. Given this, I interpret that the Housing Plan Change 29 will not include new provisions that give effect to the NPS FM 2020, which is relevant as Nelson City all drains into the Maitahi/Mahitahi River. It also remains unclear whether there will be a suite of changes to the NTLDM 2020.

Dated 7 July 2022



[Mark A. B. Lile]

³⁶ Day, s42A addendum, 29 June 2022, Appendix J.