

**BEFORE THE HEARING PANEL
APPOINTED BY NELSON CITY COUNCIL**

IN THE MATTER of Private Plan Change 28 – Maitahi Bayview

**EVIDENCE OF DAVID JACKSON
DATED 8 JULY 2022**

INTRODUCTION

1. My name is David Jackson. I am a retired planner and former full member of the NZ Planning Institute. However, I am not appearing as an expert witness. I mention some of my experience by way of background, and the Panel can give it and my evidence what weight it considers relevant.
2. I worked for the Commission for the Environment, the Ministry for the Environment, Nelson City Council (20 years) and most recently for a major engineering and planning consultancy.
3. At Nelson City Council (NCC) I led to notification and through hearings the Nelson Resource Management Plan, and the Nelson Air Quality Plan.

EXECUTIVE SUMMARY

4. In summary my evidence is:
 - a. The lower Maitai Valley, with its swimming holes and picnic areas, nestled on the edge of the city is a special treasure – Nelson’s Hagley Park. It should be preserved from intense housing development. Once developed, it cannot be undone. I oppose in its entirety the Kākā Valley part of the PPC28.
 - b. The Kākā Valley housing is unnecessary at this stage – infill and intensification of the existing urban area is identified by the Nelson City Council to deliver 56% of housing growth¹. Infill and intensification ought to be given a chance first before contentious and irreversible greenfield areas are developed.
 - c. If the PPC is approved the non-notification provisions for resource consent applications should be removed.
 - d. The consent notices on subdivision that the applicant proposes to restrict the installation of woodburners in Kākā Valley is commendable but unenforceable as part of this Plan Change. Instead, I propose that, if the PPC is approved, a rule be included in

¹ NCC Our Nelson Issue 148, 29.6.22

Schedule X, to prevent the installation of woodburners (but not low emission pellet fires).

- e. I do not oppose the Bayview portion of the PPC in principle. I support addition of connection to Walters Bluff, including Mr Georgeson's suggested trigger for its construction. But that would initiate construction of the road only on the applicant's land. It could be a road to nowhere, unless agreement from neighbouring landowners is obtained to connect the road to Davies Drive in Walters Bluff. I believe the PPC should not be approved unless there is a legal guarantee in place to ensure a connection to Davies Drive is possible. Otherwise, the traffic effects of the development would be much greater than stated – and not what the Panel was presented with when it makes its decision.
- f. I believe the landscape sensitivity of the Bayview-Malvern hills is overstated. I cite the Tahunanui Hills as a very pleasant urban environment. I urge greater density on those hills (which would also compensate for not developing Kākā Valley).

OVERALL COMMENTS

- 5. PPC28 if approved would be a very large and substantial increase to the Nelson urban area.
- 6. It would involve significant and irreversible changes, particularly to the character, amenity, and recreational enjoyment of the lower Maitai Valley.
- 7. Therefore the PPC requires careful consideration of whether it represents sustainable management of Nelson's natural and physical resources.

MAITAI VALLEY

- 8. The lower Maitai Valley is a stunning, much beloved and well-used area for walking, cycling, running, picnicking and swimming.
- 9. I have used this area for over 40 years, and my family use the various swimming holes several times a week over summer.

10. I am not sure if the Commissioners (or many of the experts) have had the opportunity to view the area in summer, as I am aware that the formal site visit was in autumn, which does not do justice to the swimming and picnicking attributes of the valley.
11. On 3 January 2022 at Sunday Hole I counted approximately 50 people in the water or on the shingle, and another 35 or so on the banks and lawn area (below – Photo 2).
12. These photographs were taken at 5pm – not at peak time. In photo 2 below you can see cars parked on Maitai Valley Road (behind the toilet block). There were odd spaces in the carpark, indicating so the on-road parking indicates the carpark must have been fuller earlier.
13. Sunday Hole is well used, especially by families, often with picnics or BBQs, frisbee or cricket being played. Although there are some houses in Ralphine Way, they are low density, and the amenity of the Sunday Hole reserve is peaceful and rural/semi-rural.



Photo 1: Sunday Hole from true left bank, looking towards lawn adjoining Maitai Valley Road. 5pm 3 January 2022.



Photo 2: Sunday Hole lawn area. Maitai Valley Road in the background and carpark beyond play equipment. 5pm 3 January 2022

14. Photos 3-5 below are at Black Hole, New Year's Day also late in the day (5pm). I estimated there were 45-50 people swimming or on the beach, with another 30 on the grass above the banks. The carpark was full with over 40 cars. The Council BBQ area was being used.
15. I also did a head count at Black Hole on 12 January 2022 at 3pm. There was a similar number of users to New Year's Day.
16. From my observations, Black Hole is particularly popular with young people and families who may not have a lot of money, including migrant families. It costs nothing to use, it is close to town, and it has tall trees with ropes to jump and swing off. The adjoining BBQ area and large field is also well used for families staying for a picnic or to play games.
17. I also swam several times with my family last summer at Dennes Hole but did not have my camera and at the time did not do detailed head counts. But on each occasion, I'd estimate there were 30-40 people present. Dennes involves a short walk if people come by car, but is very popular despite this and the hole not being as large as Sunday or Black Hole.

18. All the lower Maitai swimming holes provide free and wholesome fun for people right on their doorsteps (but the doorsteps are not so close that they compromise the quality of the swimming holes).
19. The incredible thing is that these 3 swimming holes are on right on the edge of the city, and extremely accessible (hence the high number swimming at 5pm – people often pop up after work or before their evening meal).
20. Should these swimming holes get compromised by the proposed development, both from construction and ongoing discharges, the alternatives are the swimming rivers are Aniseed Valley or the Lee Valley 25-29km away. For Nelsonians, these are more day trips, as opposed to the ready accessibility of the lower Maitai.



Photo 3: Black Hole from true right bank. Much of the swimming area, including the two trees used for jumping and ropes is invisible, beyond the left of the photo. 5pm 3 January 2022



Photo 4: Family using BBQ area Branford Park, beside Black Hole 1.1.22



Photo 5: Lawn area above Black Hole 1.1.22

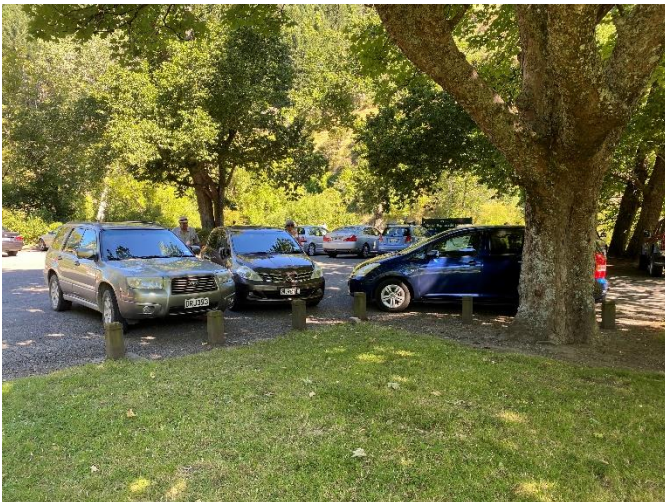


Photo 6 (left): Part of the full carpark at Black Hole. 5pm 1.1.22

21. It is my submission that to allow residential zoning into the lower Maitai would be a travesty, one that would be regretted forever.
22. If it goes ahead, future generations will rightly ask “Who allowed that to happen?” I urge the Panel not to be those remembered for making a wrong decision.
23. The lower Maitai Valley to Nelson is akin to Christchurch’s Hagley Park, New York’s Central Park or Wellington’s Greenbelt – it’s a treasure, a taonga. To be able to swim and recreate in an essentially rural environment so close to town is very special and something to be that should be cherished as all costs.

24. This Plan Change if approved would change that irreversibly. Once done the genie cannot be put back in the bottle. Housing in Kākā Valley would change that both in terms of the experience of naturalness, but also from sedimentation and pollutants from the housing areas once established (during construction and ongoing - car washing, Wet n Forget-type products, etc.). Sedimentation and pollutants would also travel downstream and adversely affect the health of Nelson Haven.
25. Notwithstanding conditions of consent, promises to use best practice during the years of earthworks and construction (including installing infrastructure adjacent to the Maitai River to service the proposed development) I believe there will be adverse effects on the river and the Haven, and this will be exacerbated by extreme rainfall events accelerated by climate change.
26. Threatening also on the horizon, which residential development in Kākā Valley could be a precedent for, is housing development flagged in the FDS 2022 for Orchard Flat.
27. Orchard 'Flat' is the ironically named steep area on the opposite (true left) bank of the Maitai River. The area identified in the FDS 2022 starts at Black Hole, extending upstream beyond Sunday Hole (see Figure 1 below). This FDS proposed area would flank and overlook these two swimming holes, further adversely affecting their amenity and water quality.



Figure 1: Extract from draft Future Development Strategy 2022-2052 showing in yellow proposed Orchard Flat housing area (lower picture) and Kākā Valley (upper picture)

28. It beggars belief that Nelson City Council thinks, in its FDS, that housing there would be appropriate, for a potential gain of 200 houses, but with such permanent impacts on the character and use of these areas.
29. Certainly there is a drive for more houses. But where does it stop? Ultimately there will be a limit to growth – the city cannot grow infinitely. Do you stop growing when all buildable land is used, or do you keep back some of that which is special as you develop (not just the hazard-prone and land unfit for development)?
30. The citizens of New York, Chch and Wellington must thank their forebears for setting aside and protecting their special treasures. They don't develop them – even though they are flat and conveniently located, and would yield lots of allotments. I argue that we should treat the lower Maitai in a similar light.

31. In my view there is no need to make this irreversible decision on the Plan Change before the Panel. Under the FDS 2022-205, 56% of Nelson's residential growth would come from intensification and infill development of existing built-up urban areas².
32. My submission is that intensification ought to be given the chance to work before large scale – and controversial - greenfield developments, like PPC28, are green lit.
33. Put simply – why stuff up such a special place when it's not necessary or imperative.

ANDREW PETHERAM

34. I have an enormous amount of respect for Mr Petheram, but I was surprised at his conclusion that *'adopting PPC28 will not significantly detract from the existing recreation facilities and opportunities currently provided in the nearby area of the Maitai Valley'* (AP Evidence para 61).
35. I note that his analysis at his paras 44-47 mainly concerns the increase in recreational demand from residents in the proposed development. There is no consideration of change in character and amenity, experiential changes for users such as swimmers and picnicker, potential impact on water quality during construction and ongoing operation of the suburb un the Kākā Valley.
36. I think that is a significant deficiency, and I respectfully disagree with Mr Petheram's conclusion and opinion.
37. Also, I would add that the outcome of the PPC if approved would be experienced differently for by swimmers and picnickers than walkers, runners and cyclists, for example. For the former, their experience is very location and amenity-specific, and they spend much longer in their recreation location. On the other hand, walkers, runners and cyclist are mostly passing through and are potentially less impacted by the amenity changes that may.

PROXIMITY

38. The applicant makes much of the proximity of Kākā Valley making it suitable for housing:

² NCC 'Our Nelson', Issue 148, 29.6.22

- a. The Rough and Milne assessment (Section 6.8) states the Kākā Valley would be a contiguous extension of the existing urban area.
 - b. The TIR (Section 10.6) also stresses the connection to the existing city: *With the proximity of the PPCR area, it is very likely that a high percentage of trips and especially those in the peak periods will be by cycle or walking*, while the Conclusion states: *The location of the PPCR area will encourage the use of alternative transport modes and particularly cycling and walking to work and other activities.*
39. In my view, the proximity to the city and existing city is overstated.
40. I have walked from the CBD (outside Farmers store) to the top of Ralphine Way. I walked along Hardy St, Domett St, Nile St, through Branford Park and then along Maitai Valley Rd. At a brisk walk it took 34 minutes. I would add another 5 or 10 minutes to get to top of the proposed housing in Kākā Valley, making it upwards of a 45minute walk (at a minimum) for some.
41. That is not proximate. And the area is physically separated from the existing built-up area by Branford Park and the Maitai Cricket Ground. They form a permanent barrier between the existing residential area and the proposed Kākā Valley one, and this will always be the case.
42. I also found the environment not ideal. Branford Park and the river paths do not provide a very safe walking environment at dawn or dusk, nor an environment well suited to people in business attire.
43. In my view, the transport study's estimate (TIR further information, Table 2) of 12% of trips to and from Kākā to be walking are unrealistic.

NON-NOTIFICATION

44. I continue to oppose the non-notification provisions proposed by the applicant. The applicant's planner supports the non-notification provisions as following that used elsewhere in the NRMP.
45. However, any Plan Change should be treated on its merits and the facts of the case. This plan change is large, highly contentious and is in a very sensitive receiving environment, particularly as regards the Maitai Valley and the Maitai River. It is legitimate to have specific and tougher notification provisions for controlled or restricted discretionary activities.

46. Should the PPC be approved, it is vital that the public get a further say on how well the high level (or vague) proposal in the Plan Change is implemented.
47. I found the Plan Change as notified **very underwhelming**. I would have expected the applicant to try harder given the sensitivity of the environment and the already known public concern about the area and the proposal. I find statements that the development will be an “environmental masterpiece”³ to be not substantiated in the application.
48. Under the scrutiny of the public and this hearing process the applicant has made changes to the proposal and provided more information. But it is still a minimalist and reluctant approach, in my view.
49. To me the applicant has shown:
- a. They are not particularly environmentally-focused – but rather focused on the bare-minimum to get their project over the line.
 - b. They respond to public scrutiny and a public hearing process to make improvements.
50. The Plan Change is very high level, and, if the PPC is approved, the devil will be in the detail– at the resource consenting stage. The applicant needs public scrutiny to ensure they try harder at the consenting stage.
51. If the PPC is approved, the resource consenting should not be done without public notification or service. The public needs to be involved in how the PPC is given effect to. The area is too important to leave decisions behind “closed doors between consenting planners and experts”.
52. **As they say, even before Covid times “sunlight is the best disinfectant”. The non-notification and service of notice provision need to be removed, if the PPC is approved by the Panel.**

AIR QUALITY

53. Ms Sweetman the Planning Experts in their Joint Witness Statements (JWS) have misunderstood my submission regarding air quality.

³ Nelson Mail, 8 July 2022

54. They all conclude that “no additional rules are required as sought by David Jackson” (JWS (3) para 3.11). The reasoning (at 3.13 of JWS (2)) is because the definition of Urban Area in the Nelson Air Quality Plan (NAQP) “means that creating any sites of less than 500m² are deemed to fall with an Urban Area and therefore the rules applicable to Airshed C will apply”.
55. I know that. I wrote the definition of Urban Area in the NAQP.
56. I know that any new burners installed in the PPC28 area would come under the NAQP rules, and I said as much in my original submission (Air Quality Reason 3). What I was saying was that an additional rule is required to restrict the installation of burners into Kākā Valley. This is because of geography of the valley which could lead to accumulation of problem particulate (PM₁₀) levels during winter.
57. This is important so please bear with me:
58. Under the NAQP after 2003 no new solid fuel burners were allowed to be installed in new homes or ones that didn’t already have a burner at that date (i.e. burner numbers were capped to limit ambient pollution exceeding the National Environmental Standard (NES) for particles).
59. In my submission I said:

Plan Change A3 to the Nelson Air Quality in 2016 enabled a new type of ‘ultra’ low emission wood burner (ULEB) to be installed in two of the 3 airsheds in Nelson.

Modelling was done by Council to establish the number of new burners that could be allowed into Airsheds B and C without compromising the air quality improvements and staying compliant with the NES.

*Under the new rules in the Air Plan, a total of 599 ULEBs can be installed in Airshed C. As at late October 2021, 204 out of 599 Burner Allocation Certificates had been issued – leaving a remaining 395 that can be installed as of right in the airshed. If the PC zoning were to be zoned residential, it would take on the Airshed C rules (see p22 of PC). Theoretically, all the remaining ULEB (nearly 400 ULEBs) could be installed in Kākā Valley. This unlikely but there is no rule to prevent them going there. **The Kākā Valley is very confined with topography that could trap air pollutants. The modelling done for***

Plan Change A3 to the Air Quality Plan of course did not model for such a scenario as the land was not residential. [emphasis added as part of this evidence].

60. Nelson City Council has advised me that, as at 1 July 2022, 233 permits had been issued for installation of ULEBs in Airshed C, meaning there are 366 allowable ULEB permits left. I would stress that the Council cannot stop the installation of a ULEB in Airshed C provided the total numbers do not exceed 599. The permit the Council issues is simply to keep count of the available ULEB capacity. Anyone in Airshed C can install a ULEB (with the permit) until all 599 permits are issued.
61. My submission is (and was) that theoretically all the 366 ULEBs could be installed, as a permitted activity, in Kākā Valley if it is rezoned and becomes part of the Urban Area. I said in my submission that this is unlikely but it is possible legally if the area is rezoned as proposed.
62. My key point is that NCC when it modelled the airshed to see if the emissions from 599 ULEBs could be accommodated and stay within the NES, did not model for dense development within a confined airshed (air catchment) like Kākā Valley. Therefore, installation of 366 (or even 100) ULEBs in Kākā Valley could cause air pollution problems.
63. The application, at para 34 of its further information response to Ms Sweetman, says that ULEB will not be able to be installed in Kākā Valley as they propose restrictive covenants to prevent this.
64. That is to be welcomed but it is difficult to see how that could be enforced as part of this PC decision-making, as we are not dealing with a subdivision at this stage.
65. **That is why I propose that [an additional] a rule be included in this Plan Change to apply to Kākā Valley to have that effect.**
66. The rule, if the PPC were approved, would need to prevent the installation of new solid fuel burning appliance including ULEBs (but exclude low emission pellet fires which are allowed in any airshed under NAQP rule AQr.26.1. These pellet fires are automated and reliably low emissions, so are permitted).

67. This could be done in the NRMP under this PPC as the NRMP is a combined regional and district plan, so air rules could be included under the Council's regional functions.
68. In my original submission I noted that the installation of ULEBs in the Bayview part of the PC is not an issue. That is because that area has free air drainage out to sea, much the same of the Tahunanui Hills where localized poor air quality is not an issue.
69. Notwithstanding the above, I remain opposed to the PPC28 changing the current zoning of Kākā Valley.

BAYVIEW

70. I don't oppose in principle the Bayview portion of PPC28 but I believe it needs much better transport connections, including to Walters Bluff and Frenchay Drive. For such an extensive area of land, having road connections only at Bayview Rd and Ralphine Way is inappropriate. It would provide very poor connectivity and make for an over reliance on cars for transport.
71. As I said in my submission, a connection to Walters Bluff is imperative to create a more livable city:
- a. The stub road on Davies Drive was built in the 1990s to enable connection to the Bayview land (it is wide and better fit for purpose than Bayview Road, and is denoted as a sub-collector road (including the stub) in the NRMP indicative of its intention to service the Bayview etc land). The rest of the streets in Walters Bluff are 'local roads'.
 - b. It would provide quicker and closer bus and vehicle connection to Founders, the Milton St shops, Sprig and Fern etc, and to the CDB and points south.
 - c. The Walters Bluff connection would provide access for e-bikes and fit cyclists.
 - d. It would avoid the need for a connection to Ralphine Way, which I oppose as I oppose the Kākā Valley development in its entirety, including the road connection to Ralphine Way (see original submission).

72. I am pleased to see that a proposed connection to Walters Bluff has been made by the applicant in amendments since the close of submissions. I sought this in my submission. I note from Mark Lile's EV16 - Planning:

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. [EV16 APP Mark Lile – Planning [69]]

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; [EV16 APP Mark Lile – Planning [78(5)]]

73. There is some confusion in my mind. Tony Milne's EV142-APP shows the indicative road to Walters Bluff on the revised Structure Plan. But, on the zoning map, only the proposed road from Bayview to Ralphine Way is shown. I accept that proposed roads are shown on the left-hand NRMP maps, but why show the Bayview Rd to Ralphine road, but not the one to Walters Bluff.

74. Mr Georgeson, consultant transport expert to NCC at his [21] supports the connection to Walters Bluff. Later in his evidence he talks about a trigger for the connection to occur.

*24. Given the importance of completing both this through site link and the external site connection to the west (adjacent Walters Bluff) in delivering efficient access and permeability to development within the PPC28 site, **it is in my view appropriate to a include a trigger for their introduction in the context of the subsequent staged resource consent applications.** [emphasis added]*

25. I therefore recommend that once development within the northern portion of the site reaches the indicative western site connection, then completion of the spine road or formation of the western site link be operational.

75. I support Mr Georgeson's proposal as regards the timing of the link to Walters Bluff. But it still leaves the issue of the missing piece of road, between the applicant's sub-collector road where it reaches the edge of their land and the connection with Davies Drive on Walters Bluff.
76. I maintain the view in my original submission that legal access for this "missing link" needs to be in place before consideration could be given to approving the Bayview part of PPC28.
77. In my view either:
- a. The applicant needs to secure a legal agreement with the 'missing link' landowner(s) to roading connection to Davies Drive, or
 - b. NCC needs to give an undertaking to designation a route from Davies Drive to the applicant's proposed Walters Bluff connection.
78. Without one of these being in place, I fail to see how the Panel can be sure that a link to Walters Bluff can and will be built, even if the portion on Bayview land is mandated in a resource consent. If the connection is not ultimately built, the adverse traffic effects, via Bayview Road and Maitai Valley Road/Nile St, will be greater and not those on which any PPC decision was made.
79. **If a full connection to Davies Drive cannot be guaranteed at the time of decision-making on PPC28, then the plan change request should be rejected.**

MORE DENSITY – BAYVIEW

80. I remain opposed to the low-density provisions on the Bayview part of the PPC. 1500m² (and even 800m²) allotments seem excessive to me. Can there not be more incentive to a mix of housing styles and sizes, even on the hills e.g. 2 storey terrace houses on larger lots rather than just a single dwelling. Larger lots would make this more difficult, requiring resource consent for multiple dwellings on an allotment. My original submission seeks removal of the 1500m² and 800m² minimum lot sizes from the relevant rules for the Bayview area.
81. I also as believe the landscape significance of the Malvern-Bayview Hills is overrated and that their development would be softened by the higher hills behind (Kākā etc), as it is on the Tahunanui Hills and other existing hill developments in the city. See photographs 7 to 9 below.

82. I appreciate the landscape architectural evidence on this. But landscape is not just a matter of expert opinion, it is validly a social and community construct. I believe the Bayview/Malvern foothills could accommodate denser development, and that would be preferable to compromising the lower Maitai and Kākā Valley.



Photo 7: Panorama of Bayview/Malvern Hills from sea. Dated 20.10.21



Photo 8: Bayview Hills from sea showing how taller hills define the view.



Photo 9: Developed Tahunanui Hills softened by taller Jenkins Hills behind

David Jackson
8 July 2022