

12 July 2022

1. I am an investor in and director of Bayview Nelson Ltd.
2. My father arranged the purchase of what was known as the “Maitai Run” farm from the Richardson family in 1968 / 69, by a group of (mostly) Nelson families.
3. I made a written submission (joined by my two sisters) in support of PC 28.
4. I wish to address five points at this hearing:
 - (a) The level of current and future demand for new residential sections in the Nelson City urban area – and the planning documents detailing projections for the next three decades. There are two subsets to this:
 - i. Nelson Tasman’s adoption of what was a 60% level of intensification – now said to be 65%; and
 - ii. The adequacy of existing residential zoned land within the Nelson City urban area – said to be likely sufficient for about two decades.
 - (b) The inherent complexity, length of time, and costs in the process of bringing residential zoned land to fruition in completed residential sections in the Nelson City urban area, particularly for hillside areas at scale. Bayview’s experience is about 10 years. The Toi Toi Street development is even longer.
 - (c) The approach taken by Nelson City to its evaluation of PC 28, particularly through Ms Sweetman, and most of the experts supporting STM’s opposition. My submission is that they seek to convert (subvert is probably the better word here) the RMA’s private plan zoning change process into what is a substantial hybridisation of the residential subdivision design, earthworks, and civil works, roading, drainage and stormwater runoff during and post construction, controlled by the RMA’s consent application rules and processes that are specifically tailored in detail to that very end. There are two subsets to this:
 - i. Because this is a zoning private plan change to rural land, the Bayview / CCKV owners cannot be trusted to progress their eventual residential development aspirations in ways that meet the best standards and practices for geotechnical, civil engineering, ecology and water management within the legal requirements specified for such activities by the RMA’s residential subdivision rules. Rather, it is necessary to require now a very detailed and highly specified development code or protocol to overlay and pre-empt any zoning decision. From the land-owner perspective, the design / engineering impracticability of this approach does not get recognised; and
 - ii. Cost. The approach significantly front-ends substantial costs to would-be developers in economically inefficient form. While the land may be rezoned, it may never be capable of economic residential development because of impractical design specificity and conditions.
 - (d) The continued planning dogma with ridgeline housing and roading, particularly with night-time lighting effects, to the detriment of using the best available land for housing in an efficient and environmentally attractive environment; and

- (e) The contention that the Kaka Valley woolshed has serious historical merit, requiring preservation. I rebuilt a part of that in 1971, with one of the farm managers. On one view it is flattering that something I did as a student using second-hand salvaged materials could be seen in such light 50 years on, but the more realistic appraisal is that the idea is bizarre. I do not consider it necessary to say more below about that preservation contention.

Nelson City urban area residential land supply – intensification

5. I have not found any data that supports the assumption in Nelson – Tasman’s planning documents, that intensification will provide 60%+ of new housing in the next three decades. There is no explanation of how that level is derived.
6. For the detailed reasons explained in my submission, I am sceptical. (My submission Summary at [33]; Mr Lile’s evaluation is the same.)
7. If that level turns out to be only half right, the unmet demand levels are very significant within the next decade. The Nelson City urban market for residential housing demonstrates that today.
8. For Nelson City urban, there is currently a significant unmet demand for residential sections, causing capital value inflation. That has been the position for at least 20 years.
9. While the current high demand will likely reduce as New Zealand’s Reserve Bank returns us to more orthodox Official Cash Rates to temper inflation (the World has never seen a period of such monetary stimulus from central banks and Governments, from the GFC in 2008 onwards, and then boosted to meet the disruption from the Covid epidemic), nevertheless Nelson Tasman population growth including immigration means that more people need housing every year.
10. Subject to price constraints, Nelson City urban shows that for house sales and in demand for residential sections. The pent-up demand is evident from the Bayleys’ statistics (Douglas McKee submission; see also the submission of Tony Healey).
11. Nelson City Council has failed persistently to facilitate and support a sustained and deep residential section market, particularly in the urban area. Its RMA and other planning processes are byzantine, and slow. They are unresponsive to the needs of people and their desire for housing within this area. The fundamental and persistent problem is under-supply.
12. Many of STM’s supporters assert that there is sufficient residential land within the Nelson City urban catchment to meet demand over the next two decades, relying upon the HBA 2021 analysis. On this basis, STM’s supporters assert that consideration of the PC 28 land should be deferred until currently “available” residential land is used in residential development. Ms McCabe at [3 – 2nd last bullet point] [244] adopts that approach.
13. The problem is that the assertions do not address (and nor does the expert opinion evidence of Dr Lees, Sense Partners, led for Nelson City Council):
 - (a) the current market evidence of failure in supply going back many years;
 - (b) why current owners of land within Nelson City urban suited to residential section development have not sought to bring that land into development;

- (c) the time frame and practical funding difficulties those current owners wishing to bring their land into residential development face, if they were able to start today:
- (d) what the consequences are if the assumed 60%+ intensification does not materialise in terms of exacerbated under-supply; and
- (e) what is the underlying RMA policy rationale for preferring a market that does not deliver residential sections that at least meets market demands over a sustained period – instead, preferring to confer on existing house and residential section owners within Nelson City urban an economic rent (inflated capital values and hence sale prices) from their ownership status based on systemic supply shortage within that market.

Nelson City's approach to facilitating residential subdivision within the urban area

- 14. Of the three large residential subdivision projects currently underway, the Bayview and (apparently) Toi Toi have lead times of 10 years / and upwards from initial planning to earthmoving. The evidence is that Nelson City has not seen, and does not now see, any urgency in facilitating the supply of residential sections within the urban area, outdistancing the unsatisfied demand (my Submission at [84]-[85]).
- 15. Historically, it may be said that Nelson City's approach has been benign. That, however, is not how I would characterise Ms Sweetman's s 42a reports as supplemented. They are highly argumentative, diminish at most points the expert opinion evidence led for the Applicants – and for the most part, their lengthy practical experience in residential subdivision development in design and compliance with RMA consent conditions. There is coruscating criticism of the PC 28 Application itself, and the substantial volume of supplementary material proffered in support leading up to this hearing, the constant themes being "inadequate detail" "cannot be satisfied that" and similar language. The tone is obstructive. It is not facilitative towards an empathetic recognition of a need to meet housing demands in an under-supplied market.

There is a substantive difference for a zone change, and applications of RMA consents to commence residential subdivision earthworks

- 16. Primarily, this is a contention that is for legal argument through Counsel.
- 17. I offer what is a practical perspective from a landowner considering residential subdivision in future.
- 18. As noted above, what has become Bayview's land (the primary focus of this discussion is the Malvern Hills area of rural land) was originally acquired from the Richardson family in the late 1960s. When Bayview commenced its first residential section development around Ledger Road in 1992, no thought was given to the rest of the rural land. Of course, there was hope that eventually some of might be suited to residential development eventually. But there was already so much residential land (over 75 hectares then) at the Bayview Road end, nothing was done with the rest of the Maitai farmland. It was minimally maintained and grazed.
- 19. Here we are – 50 years later. For PC 28 to be considered, Nelson City through Ms Sweetman's s 42a approach (supported by most of STM's submitters and experts) seeks to require a suite of highly designed and proven stipulations, ranging from initial development earthworks, construction stormwater catchment management plans, hillside rain fall runoff management plans, water quality management plans especially

affecting the Kaka stream and its outflow to the Maitai river, roading plan specificity including stormwater runoff, and so on and on. The approach should be seen as cart-before-the-horse.

20. Regardless of whether PC 28 is approved, if the Malvern Hills area is eventually rezoned residential, Bayview's initial step would be to scope a practical development plan for some discrete sub-area. It has long been obvious that some areas are not suited topographically (too steep, inaccessible) and / or geotechnically (unstable). PC 28 appropriately designated these. Of the remaining land, Bayview would choose an area that should be evaluated for residential development potential.
21. The starting place for that would be a detailed geotechnical assessment of the chosen sub-area. Bayview currently has no idea of where that may be located – it could be at the top of the current development area ridgeline, back south towards the Malvern Hills area. But there are two other potential areas Bayview would likely appraise for whether they were relatively simpler, or could offer more attractive sites, or could facilitate extending development access to other parts of the land.
22. If PC 28 were to be approved today, Bayview would not be evaluating such prospects for at least five years.
23. The selected site would likely involve a choice of drilling or excavator test pits or both, across a grid pattern specified by geotechnical engineers. From the data derived, the engineers will set out the literally underlying basic ground conditions of the site, which will inform the civil engineering design and land formation earthworks for the overall selected area of land.
24. Bayview knows from experience that hard data is everything in testing design assumptions rigorously and informing decision-making. All of this is essential in the preparation of the earthwork's development RMA consent applications (being the first part of the suite of consents necessary to conduct such land development). Bayview also knows from experience that, during the earthworks construction being conducted on such a site, further valuable data will be obtained from substantial deep excavation. This can lead to detailed re-design, and the need to seek new RMA consents so that different works can be carried out. This is an iterative process.
25. From what is a lay-person's understanding based on experience, Nelson City's s 42a approach is unreal – it requires substantive guesswork from Bayview. But we know that the initial test data will prove to be different in material respects, making the guesses sterile. Of the Malvern Hills land that is currently assessed as having residential section development potential, that is all that can be said of it from a high-level appraisal made by our experts.
26. It is inappropriate to require what is minutely fine-grained specificity by guesswork, to justify what is simply a zone change. That zone change is a pre-condition, providing a legal platform from which Bayview can then choose to seek RMA consents for residential subdivision of a chosen area of land. The entire RMA subdivision consent process is then governing. Bayview cannot make any assumption that, because the land is appropriately zoned residential, therefore it will be able to minimise or reduce the AEE prescription and the suite of both National and Nelson City planning requirements.
27. Nelson City's s 42a approach, if accepted, front ends even more of what are substantial costs on to landowners seeking to bring their land residential development. It is an ironic approach, given that Nelson City itself asserts in its planning documents that landowners

have the perverse incentive to withhold land from development because of expected higher values.

28. There is a final point to be made here: the subliminal message from Ms Sweetman's s 42a analysis is that Bayview / CCKV cannot be trusted to comply with the minutia of the National and Nelson City rules, especially when it comes to freshwater and stormwater runoff. From that prejudice, the argument is that it is necessary for the Panel to be satisfied that the entire body of those detailed rules is transported into the plan-change terms and conditions, despite the existing RMA consent regime and how it operates.
29. There is no basis for such suspicion, which is insulting. The Applicants are law abiding, for whom meticulous compliance is their business standard and practice. We wish to be proud of everything we do. If we needed separate reminding or reinforcing of those standards, our association with Ngati Koata should be seen in that light. STM's suggestion that the Applicants' have used Ngati Koata's mana in a self-serving way is unworthy.

Ridgeline protection

30. My submission challenged the planner's dogma as to the asserted values skyline and ridgeline protection from residential housing development (Submission at [71]-[75]). In essence, I argued that the result of the detailed (now revised) structure plan for the ridgeline provided for large areas to be green space because of the nature of most of the land and its topography. The balance areas that are suited to residential development should be available – otherwise we are wasting what is a finite and precious resource, need for housing. In that regard, I brought the Wellington perspective – for instance the Mt Victoria, Kelburn, Ngaio and Khandallah hillsides. For Nelson, I referred to the Port Hills and Princes Drive perspectives.
31. Ms Steven for STM in her expert opinion evidence (at [175]) refers to the northwest face of the Malvern Hills ridgeline / height running from north to south, being the Botanical Hill end, asserting that:

"There is no other ridge of this altitude around Nelson with housing right to the top and over the other side." (my emphasis)
32. I disagree with Ms Steven concerning the emphasised section of her statement. The southern (and highest) end of Princes Drive, and its more recent extension south to Tasman Heights is higher than most of the southern end of the Malvern Hills ridgeline.
33. From the Rabbit Island / Nelson airport/ Tahunanui Beach perspectives, the entire western hillside face has housing right to the top of the ridgeline, in most places with Princes Drive being on the downhill / Nelson city face. My understanding is that the Tasman Heights development contemplates that it will indeed extend over the ridgeline / Nelson city face. Substantial ridgeline earthworks are now underway.

Conclusion

34. People who wish to live in Nelson City's urban area deserve a City Council that fosters and facilitates a robust and sustained level of supply. Nelson City's approach to PC 28 exemplifies why there is a shortage of desirable housing in this area. As submitted for the Applicants, the RMA does not prescribe the half-way house approach taken by Nelson City to PC 28. When the practicalities are considered, the approach taken – based on guess work - does not make sense.

35. STM and its experts substantially overstate the asserted detrimental visual effects of PC 28, for both areas of land affected. PC 28 provides residential sections to meet the housing aspirations of people who wish to live in Nelson City's urban area on land that has no alternative utility. The very nature of the land means that large areas will remain open space, eventually to be reafforested (hopefully restoring the historical native flora).
36. My sisters and I are proud to acknowledge the extraordinary foresight shown by our father when acquiring the Maitai Run. Through the generosity of spirit he and the other co-owners showed, Nelson City and its people have extensive green space, parks, cricket ground and the golf course. PC 28 will add extensively to these trophies. STM's Mr Haddon's home at Ralphine Way has resulted from an early development of that Kaka Valley area by Maitai Farm Ltd – our father's initiative. Mr Haddon seeks to protect the land ownership preference he enjoys, advocating that other Nelson aspirant homeowners cannot be allowed to share with him. Of course, he is entitled to seek to protect that favoured position, rather than share the dream.
37. This Panel should see protectionism for what it is – PC 28 will eventually provide a magnificent residential housing village within the Kaka Valley with minimal effects. This is by far the largest area of land within about six minutes' driving time of the City centre. Bayview sees itself as Nelson's premier residential subdivision developer and is proud to join with CCKV in the shared vision.

G J Harley