

**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

**REPLY EVIDENCE OF DR BEN PETER ROBERTSON (ECOLOGY -
TERRESTRIAL) ON BEHALF OF CCKV MAITAH/MAHITAH
DEVELOPMENT CO LP AND BAYVIEW NELSON LTD**

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Introduction

- [1] My full name is Ben Peter Robertson.
- [2] I have the qualifications and experience set out in paragraphs 1 – 7 of my Evidence In Chief (**EIC**)¹. I did not prepare rebuttal evidence for the hearing.
- [3] The purpose of this reply evidence is to address/clarify key matters that have arisen during the hearing, that I believe will assist the Panel in their understanding of the key outstanding matters of concern with respect to terrestrial (and where relevant freshwater) ecology. In this statement, I:
- (a) Respond to comments made by Mr Haddon (lay witness for Save The Maitai).
 - (b) Respond to the key ecological matters raised by Dr Blakely, Councils reporting ecologist and describe how these are now reflected in the updated Structure Plan and Schedule X and accord with the outcomes expected regarding managing future ecological effects on the key ecological values.
 - (c) Addressing how issues identified by the Panel have been addressed by plan refinements, and these are set out in the table below.

Save The Maitai Inc – Mr Haddon

- [4] This part of my evidence seeks to clarify comments made by Mr Haddon during the hearing and in his lay evidence summary provided at the hearing concerning the scope of information on native plant and animal communities included within the Supplementary Terrestrial Ecological Values Assessment Report (“**Supplementary Report**”) I prepared.
- [5] In my professional opinion, Mr Haddon’s comments grossly neglect critical information underpinning PPC28, and his conclusions concerning the management of potential impacts on ecology reflect that oversight.

¹ Dated 15 July 2022.

Native flora

- [6] Mr Haddon considers that several native plant species, which he understands to be present across the PPC28 site, have not been identified. This is simply not the case, as the vast majority (if not all) of the plant species listed as “missed” within his evidence were observed on-site and recorded². In this context, I believe it is important to clarify that the field survey methods employed in the Supplementary Report provide for broad scale delineation of dominant vegetation and habitat types (i.e. an ecologically meaningful scale) within a given survey area. Certainly the method does not seek or purport to capture each and every sub-dominant plant species present within mapped dominant vegetation and habitat types.
- [7] I note that existing vegetation (native or otherwise) mapped within the gully area as shown in Figure 4.1 of Mr Haddon’s presentation, sits within the area designated as ‘Revegetation Overlay’ and will therefore be protected/enhanced by PPC28.

Native fauna

- [8] Mr Haddon (at paragraph 1-8 of his presentation) lists several species of indigenous fauna which, in his view, might occupy or utilise the site, as having been overlooked. Again, this is inaccurate. The Supplementary Report includes exhaustive lists of potential native bird and lizard species³, and provides detailed analysis as to the availability of suitable habitat for (and therefore potential presence of) long-tailed bats⁴ and *Powelliphanta* snails⁵.
- [9] Mr Haddon considers there are no provisions within Schedule X protective of native fauna. To the contrary, Schedule X requires compliance with the Wildlife Act 1953, hence appropriate management measures must be implemented to ensure that subdivision and development of the site does not result in injury or mortality of native wildlife.

² Refer Attachment A - Plant Species List, Supplementary Report – JWS Ecology.

³ Refer Attachments C & D, respectively, Supplementary Report – JWS Ecology.

⁴ Refer Section 4.4.4, Supplementary Report – JWS Ecology.

⁵ Refer Section 4.4.1, Supplementary Report – JWS Ecology.

Ecological Issues Narrowed and Resolved – Dr Tayna Blakely

- [10] I have reviewed Dr Blakely's Section 42A Summary Report and aim to reconcile/address below the key outstanding matters of concern to her with respect to ecology.

Protection, enhancement and restoration of indigenous vegetation and habitats

- [11] I agree that the policies, objectives and purpose of provisions related to the management of potential ecological effects could be more transparent and explicit within Schedule X. I concur with the need for a site-wide approach (including all of Kaka Stream and its headwater tributaries) and assessment of potential cumulative effects. I also agree with Dr Fisher regarding the need to address potential impacts on downstream receiving environments (Mahitahi River and Nelson Haven).
- [12] Further, I understand that a key matter for Dr Blakely (and Ms Sweetman and Mr Girvan) relates to how and when the 'Residential Green Overlay' and 'Revegetation Overlay' areas will be planted/enhanced. I agree that the intent and outcome of these overlays could be more explicit within Schedule X. In my experience, the most appropriate planning mechanism for such restoration planting initiatives would take the form of an Ecological Management Plan (EMP) that outlines (among other things) appropriate plant species, planting locations and management interventions required to achieve the anticipated net gain of biodiversity values within these overlay areas in the medium term.
- [13] Therefore, I have recommended the omission of Schedule X.16 and updates to Schedule X.15 and Policy RE6.4 to integrate terrestrial and freshwater values. I have discussed this with Mr Lile, Mr Markham and Mr Farrant and these changes made to Schedule X relevant to this are set out in the Table at paragraph 26 below. It is my understanding the proposed changes to Schedule X satisfies the concerns raised by Dr Blakely et al.

Biodiversity corridors

- [14] Dr Blakely and I share the view that biodiversity corridors are important for ecology, and that ecologically meaningful corridors should be included on the Structure Plan. To clarify, the intent of the areas mapped on the Structure Plan as

‘Open Space Overlay’, ‘Residential Green Overlay’ and ‘Revegetation Overlay’ has always been to promote the connection, enhancement and protection of natural environment and biodiversity features on Kaka Hill (including NCC Significant Natural Area 166), Kaka Hill Tributary, Atawhai/Maitahi ridgeline, and adjacent coastal slopes. As such, I consider these ‘overlay’ areas as biodiversity corridors. I am confident that the overall spatial extent of these areas will result in appropriate and ecologically meaningful linkages across the PPC28 site and wider Bryant Ecological District.

- [15] The level of spatial connectivity of biodiversity corridors required to ensure anticipated outcomes was a topic also covered by questions raised by the Panel. In this respect, I am comfortable with my answer to the Panel that even if corridors were separated by small gaps from roads and the like, I envisage the ecosystem services and functions of the corridors, including the movement of species through the landscape, would most likely be maintained. Various practical interventions can help achieve this, such as fencing to funnel ground active species and under-road culverting to ensure safe passage.
- [16] My position on this matter also recognises that for the ‘Residential Green Overlay’ and ‘Revegetation Overlay’ there is the requirement for ongoing revegetation work to achieve 80% canopy cover with indigenous vegetation over 80% of the area within 5 years from subdivision consent being granted for each stage. I have discussed the intent of these particular overlays with Mr Milne and Mr Lile in a vegetation management context. I understand that there may be some instances where some disturbance (e.g. from vegetation clearance) can be accommodated; however this would have discretionary activity status and the intent is to predominantly keep these areas intact and enhance them.
- [17] Another key opportunity not explicitly addressed during the hearing is promoting the use of road corridors and urban gardens for the planting of additional native vegetation. To this end, I understand there is a 20% native revegetation requirement on backdrop and skyline areas along the Malvern/Bayview ridgeline⁶. Such revegetation would provide further habitat value and green connectivity across the intervening urban matrix which sits between the key corridors of

⁶ Refer Vegetation Overlay, Page 9, EV14(2) APP, Evidence In Chief – Mr Tony Milne 15 June 2022.

connectivity constituted by the protected/enhanced terrestrial and riparian areas within the abovementioned overlays.

Bespoke vegetation clearance provisions

- [18] I have discussed the need for bespoke rules with Mr Lile and as mentioned above, my understanding is that indigenous vegetation within the 'Residential Green Overlay' area will be protected with consent notices as conditions of subdivision, and that areas of existing indigenous forest are already protected by current NRMP rules.
- [19] Additionally, as set out in my EIC⁷, if at the subdivision phase the development of any part of the PPC28 site precludes avoidance of indigenous vegetation or indigenous forest then mitigation would be required to compensate for the loss of the vegetation. Such an activity triggers Schedule X.15 to determine the appropriate type and quantum of offset, locations and management interventions required to achieve no-net-loss of biodiversity values.
- [20] I am therefore of the opinion that current NRMP rules related to vegetation clearance are sufficient and that additional provisions are not necessary.

Inclusion of waterways on the Structure Plan

- [21] As mentioned above, the updated Schedule X.15 requires identification and assessment of potential impacts on all waterways within PPC28, including all of Kaka Hill Tributary, its headwater tributaries, and key downstream environments. In my opinion, this will mean that all waterways, irrespective of their inclusion on the Structure Plan, are managed appropriately to ensure consistency with relevant statutory requirements and net gain outcomes as expected.

Realignment of lower Kaka Hill Tributary

- [22] I have considered Dr Blakely's concerns on this matter, and I agree that the ecological enhancement of the current alignment presents an option.

⁷ Refer paragraph 25, Page 7.

Nevertheless, I remain of the view that realignment, as proposed, is appropriate on ecological grounds, given that:

- (a) Any modification (e.g. to achieve realignment or enhance current alignment) would, in my experience, require resource consent supported by a robust assessment of the tributary's existing ecological functional attributes and biodiversity values and include justification as to why any form of modification could be considered appropriate with respect to achieving anticipated net gain outcomes;
- (b) Extensive works (including in-stream works) would be required to achieve ecological enhancement of the current alignment and to develop an efficient stormwater corridor, with the necessary design capacity;
- (c) I anticipate negligible difference in in-stream/riparian ecological values between the current and proposed alignments (post enhancement);
- (d) The area within the green-blue corridor shown on the Structure Plan for this realignment is topographically favorable (i.e. it represents a low point within the wider floodplain); and that,
- (e) There are no ecologically high value habitats known for the area within the green-blue corridor shown on the Structure Plan for this realignment.

Minimum riparian width, and management of ecological effects arising from co-location of stormwater treatment devices within the riparian corridor

[23] I have considered Dr Blakely's concerns related to both of these matters. Ecological outcomes in relation to these matters was a topic also covered by questions raised by the Panel.

[24] In relation to riparian width, I agree with Dr Blakely that the greater the width, the more benefits to stream ecosystem health, and that a width of 20 m on each side of Kaka Hill Tributary should be targeted where natural topography and geological features allow. I also recognise Mr Markham's opinion regarding the need for flexibility to avoid potential perverse outcomes (for ecology). I am satisfied with my answers to the Panel that establishing an esplanade reserve

with a minimum total width of 40 m and planting with species indigenous to the District is appropriate.

[25] I agree in principle to the co-location of stormwater management devices within the proposed riparian corridor, which, in my experience, allows an integrated approach and potentially provides for enhanced ecological outcomes. In my opinion, the provisions within Schedule X7, X9 and X15 and outcomes sought by Policy RE6.4 are appropriate for managing ecological impacts that may arise from such an activity. I do not consider the co-location of stormwater management devices within the proposed riparian corridor would appreciably detract from or compromise the net gain outcomes sought by PPC28.

[26] Issues identified by the Panel have been addressed by plan refinements, and these are set out in the table below.

Panel Issue	Expectations for the environmental outcomes given during the hearing	Place where these are now delivered in <i>V 4 – PPC 28</i>
Need for clarity around Schedule X provisions related to management of potential effects on ecological values	Net gain of biodiversity values for terrestrial and freshwater ecology inside and neighbouring Schedule X	Schedule X. 15 Ecological Impact Assessment Policy RE6.4 Indigenous Biodiversity
Adequacy of the extent and connectedness of biodiversity corridors	Net gain of biodiversity values for terrestrial and freshwater ecology inside and neighbouring Schedule X	X.9.15 provides for ecological linkages across areas mapped on the Maitahi Bayview Structure Plan as ‘Open Space Overlay’, ‘Residential Green Overlay’ and ‘Revegetation Overlay’

Appropriateness of co-locating stormwater management devices within Kaka Hill Tributary riparian corridor	Net gain of biodiversity values for terrestrial and freshwater ecology inside and neighbouring Schedule X	Schedule X. 7 Esplanade Reserve Standards Schedule X. 9 Ecological outcomes and freshwater Schedule X. 15 Ecological Impact Assessment Policy RE6.4 Indigenous Biodiversity
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[27] After reviewing the provisions, satisfactory management of the relevant ecological effects can be expected.

Dated: 29th July 2022



[Dr Ben Robertson]