

**BEFORE INDEPENDENT HEARING COMMISSIONERS APPOINTED BY THE NELSON
CITY COUNCIL**

IN THE MATTER OF

The Resource Management Act 1991
(**RMA** or **the Act**)

AND

IN THE MATTER OF

Hearing of Submissions and Further
Submissions on Plan Change 29 to
the NRMP

AND

IN THE MATTER OF

Submissions on

Proposed Plan Change 29 by

GP Investments Limited

SUPPLEMENTARY EVIDENCE

MARK A.B. LILE

Dated: 27 August 2024

INTRODUCTION

1. My name is Mark Lile and this supplementary evidence (planning) has been prepared only in response to Addendum 1 to the s42A Report – *Commercial and Infrastructure* from Mithran Gopinath (dated 19 August 2024).
2. It is also important to record here that significant progress was made between the experts within expert conferencing sessions, as formally recorded in the agreed Joint Witness Statements (JWS). The expert conferencing sessions that I attended (excluding others where an agreement was not reached) are listed below. The City Centre JWS (dated 5 August 2024) is relevant to the submissions made by GP Investments Limited (GPI) and addressed within this supplementary evidence:

Date	JWS Topic
24 July	Infrastructure
30 July	Flooding
31 July	Geotechnical
1 August	Heritage (REr.18T/19T)
5 August	City Centre
5 & 6 August	Strategic, Residential and Planning
7 August	Infrastructure
7 August	Infrastructure Part 4 (Services Overlay)
14 August	Heritage Part 3 – Rules REr.18T/19T

3. GPI also appreciates the assistance provided by Ms Oliver and Mr Munro for their independent facilitation of the JWS processes.
4. The Panel will be fully aware that GPI has also made submissions on PC29 in relation to the *hazards* topic. Those submissions are not addressed here, although the impact of the new flood hazard provisions do overlap with the wider consideration of the changes planned for the St Vinsent Street / Vanguard Street area.

MATTERS UNRESOLVED

5. For GPI, the matters that remained unresolved following the JWS processes include:
 - (a) the proposed change to Objective IC3;
 - (b) the provisions relating to reverse sensitivity;
 - (c) the requirement for new building and building additions to obtain resource consent approval;
 - (d) large scale activities.

6. I have addressed each of these matters below, and in doing so, will also address the s42A addendum report from Mr Gopinath

Inner City Amenity and Character Outcomes

7. In terms of Objective IC3 the JWS recorded that:

3.5 Objective IC3

*MG, RM, CW, ML discussed the notified amendments and RM referred to objective IC2 as part of the Council's response to the amenity and character outcomes it seeks. MG, RM, CW, ML agreed that the current wording of **IC3 should be improved** to better relate to the proposed new heritage provisions, **while ensuring that other objectives still appropriately manage other aspects of amenity and character.***

*MG, RM, CW, ML agreed to continue working on the policy framework outside of expert conferencing. **(emphasis added)***

8. Mr Gopinath's s42A addendum report discusses this matter in paragraphs 60-64. The recommended change to Objective IC3 is set out in paragraph 62 as follows:

Site development which:

- a) ~~is appropriate to the streetscape of the area, and~~*
- b) ~~is sympathetic to the form and function of the locality, and~~ **contributes to a pleasant and attractive place for people to visit and use.***
- c) is sympathetic to the character of the heritage buildings in the Inner City.*

9. Without (b) (as recommended) I consider this Objective would be far too narrowly focused. I support this change.

10. I also support the following recommended addition of IC3.ii:

IC3.ii There are many heritage buildings in the Inner City that contribute to the identity of Nelson. These buildings and areas are protected through rules. Development is also managed where it adjoins a heritage building and the Hardy Street Heritage Precinct. This requires applicants to consider design techniques and methods that ensure new development is sympathetic to adjoining heritage buildings, but it is not intended to reduce the building height achievable on those sites.

11. This also relates directly to Mr Gopinath's recommendation for additional explanation be provided within ICr.37B.5:

The matters of discretion and assessment criteria in ICr.37B.3 and ICr.37B.4 are focused on managing the design related effects of development and address matters of building form and layout, not scale. Even though new buildings and additions are a restricted discretionary activity, the matters of discretion and assessment criteria do not reduce the building height enabled in the Inner City.

12. I also support this additional explanation as it further secures the proposed additional building height that is to be enabled by PC29.

Reserve Sensitivity

13. GPI submitted in support of the rezoning of the St Vincent/Vanguard Street area, but also submitted in opposition (in part) to policies IC4.1 and IN4.2 to ensure appropriate recognition is given to the legally established industrial activities that are likely to remain in the valley for many years to come. This issue was also the topic of the JWS (5 August 2024):

3.1 St Vincent Street/Vanguard Street Industrial Zone to Inner City – Fringe

3.1.1 Reverse sensitivity matters of discretion.

All experts discussed the Inner City policy framework and considered the activities and standard for permitted activities proposed. All experts agree that amendment of IC4.1.ii to include reverse sensitivity effects would be appropriate. MG, RM, CW, ML agreed to continue working on the content of the rule outside of expert conferencing.

All experts agreed to amend IC4.2.ii to recognise that the expanded Inner City Fringe area will transition over time from industrial to mixed use. MG, RM, CW, ML agreed to continue working on the content of the explanation outside of expert conferencing.

- 3.1.2 *Agreement in principle that reverse sensitivity assessment matters (ICr.37B.4(c)(iii)) that also captured residential and potentially sensitive activities so as to maintain a workable permitted activity additions and alterations framework could be acceptable. MG, RM, CW, ML agreed to continue working on the content of the rule outside of expert conferencing.*

14. Mr Gopinath's s42A addendum report discusses this issue within section 3.8.1 (pp20-21). This addendum report recommends a package of changes to Chapter 9 to recognize the established industrial activities in the area. This recognition is provided within the explanation to Policy IC4.2 (to acknowledge the need to manage cross boundary effects), and within the listed method (IC4.2.viii) and rule (ICr.37B) to require that new development for sensitive activities address the nature of neighboring industrial activity. The changes to the rule are set out in Appendix 1 of the s42A addendum report.
15. I consider these amendments recommended within the s42A reports do now address the concerns raised by GPI, which means there will be consideration of the reverse sensitivity issue as new development occurs and land uses changes.
16. The recognition of the reverse sensitivity matter in the planning framework will not remove the land use conflicts that will arise as a part of this land of land use over time. Once more people move into the area the complaints about noise etc will increase. This is a cost and outcome that must be recognized in the decision making process, including the section 32AA assessment.

New Buildings

17. GPI also submitted on the new rule ICr.37B, initially as considered the rule was unclear as to what was meant by “minor alteration” and also where (geographically) this rule was intended to apply. I explained my concerns in my expert evidence (paragraphs 17-23). Within my evidence I questioned the need for such regulation over building alterations given the nature of the valley environment compared to the City Centre. Quite simply, the valley is not, and will never have, the same amenity of the City Centre. However given the rezoning and application of ICr.37B to the valley area, I raised a concern that this would trigger the need for many more resource consents for very minor changes to existing established activities.

18. As recorded in the JWS of 5 August 2024:

MG, RM, CW, ML, JA agreed that the plan should enable reasonable ongoing use and adaptation and that there is a relationship between the scale of an alteration or addition and whether the underlying use is proposed to also change. MG, RM, CW, ML, JA agreed that the combination of activity status, restrictions or reservations, and assessment matters are relevant. The experts agreed to continue working on these provisions outside of expert conferencing. (Section 3.3)

19. Mr Gopinath has addressed this further in his s42A addendum, with reference also to the rebuttal evidence of Mr Wallace. The amended rule now provided within Appendix 1 of the s42A addendum retains the requirement for resource consent (as a restricted discretionary activity) **for new buildings** (processed on a non-notified basis, and without the need for approval from affected persons). The recommended changes to rule ICr.37B then also separately provide for both **building alterations** and **building additions** as a permitted activity. I address these recommended amendments below.

20. In terms of the provision for **alterations** to existing buildings as a permitted activity, I consider clause c.(ii) is not necessary (see below). If an alteration is internal to the site, not facing the street, then I consider a resource consent should not be required.

1. *Alterations to existing buildings are permitted where they involve:*
 - a. *maintenance or repair of an existing building; or*
 - b. *internal alterations to an existing building; or*
 - c. *external alterations to an existing building that are:*
 - i. *less than 25m² of any street facing building facades; and*
 - ii. *less than 100m² of any non-street facing building façade.*

21. I also consider deletion of c.ii (above) would make this rule consistent with the provisions for **additions** in clause #2 (below) which provides for additions that are not located on a street facing building façade.

2. *Additions to an existing building are permitted where they:*
 - a. *Are less than 25% of the existing floor area of the building or 250m², whichever is the lesser; and*
 - b. *are not located on a street facing building façade or within 10m of a street boundary; and*
 - c. *do not include a residential activity.*

22. For **additions or alterations** that do not comply with the permitted standards, I consider the controlled activity rule is a lot more appropriate. This is because those proposals will not get assessed as an RDA where “*the building design and development layout on the visual quality and interests of the streets and public places*” is a listed consideration. I do not see that to be justified in the valley area when it comes to additions and alterations. I would however ask that the rule also include the “*without notification, or obtaining written approval*” pathway.

23. In summary, the expert conferencing process has constructively allowed further consideration of the differences between the City Centre and the valley area which has a well-established cluster of light industrial businesses. I consider the provisions as recommended, with my requested changes above, strike a more appropriate balance in response to the specific circumstances relevant in that location. I would however be happy to discuss further with the s42A officers if directed.

Large Scale Activities

24. As set out in Section 3.4 of the JWS, the experts agreed that policy IC1.2 needed to be amended to recognize that the retailing framework had also changed with the removal of Schedule J. Consequential changes have now been recommended in the s42A addendum report, with an explanation of those changes provided within section 3.7.2. I agree with these recommended consequential changes.

SUMMARY

25. In summary, while GP Investments has supported PC29 in so far as it proposes changes to the Inner City, it has also stated its reservations about the land use change in the valley area. Change in that environment will be very slow as a consequence of there being many businesses that are well established and suited to that location. For example, many serve the Port and businesses in the City. Many are light industrial in nature.

26. Moving out of the valley is also not simple, and nor cost effective for many. The introduction of new hazard overlays will also impede those decisions. It is likely to be cheaper to simply stay put.

27. Thank you again for the time available to present the submissions for GP Investments Limited.
28. I am happy to answer any questions.

A handwritten signature in black ink, appearing to read 'M. Lile', with a stylized, cursive script.

Mark A. B. Lile
27 August 2024