Isherwood Consultants
35 Panorama Drive
Nelson, 7011

021 0663356
csisherwood@hotmail.com

5 March 2020

Ms Susi B Solly
Nelson City Council
110 Trafalgar Street
Nelson

Dear Ms Solly,

RE: S92 RFI Response RM 195191 & 195192

Thank you for your letter dated 5 November 2019 and email dated 12 December 2019 requesting further information in relation to the above RFI points 5, 9, 10, 11,13 and 16. Please find a full response below and supporting information attached.

5. It appears that the application site does not currently have a ROW over Proposed ROW A and no information has been provided to demonstrate that ROW A to access Proposed Lot 2 has been agreed with the landowners and that legal access can be gained to the Lot. Please demonstrate that sufficient provision has been made for legal and physical access to each allotment to be created by the subdivision in accordance with s106(1)(c) of the RMA.
Section 106(1)(c) requires that sufficient provision is made for legal and physical access and unfortunately, verbal approval is not considered sufficient. Whilst I understand that written approval to the application (as lodged) has been provided, this does not constitute the provision of legal access and it also needs to be noted that the proposed subdivision will impact on the potential of any future subdivision of 207 Lud Valley - I note the site has a size of 15ha and given the zoning, could theoretically be subdivided into five 3ha lots – in terms of the allowable number of users on the ROW (refer to Q 9 & 10 below).

Comment: Please find attached written confirmation from ROW landowner (" Kevin Andrews Letter") demonstrating sufficient provision has been made for legal and physical access. With regard to 207 Lud Valley subdivision potential, we have taken legal advice. We are advised that Council cannot request some sort of "licensing" arrangement as to who can use a right of way. A subdivision consent must be addressed and dealt with at the time it is made. We are advised Council have no authority to try and control what happens on other blocks or their future subdivision potential. The applicants are entitled to use that right of way and if that "eats up the available space" on a first in time basis, so be it.

9. Please demonstrate compliance with rule RUr.36.

10. Please provide a more detailed assessment of the existing and proposed ROW, including number of current and proposed users, width, gradient etc. and demonstrate whether or not the ROWs comply with all of the minimum requirements/ access standards of the Nelson Tasman Land Development Manual 2019 (Table 4-13 etc.). If the ROWs do

not meet all LDM requirements, please specify/ quantify any non-compliances and provide an assessment including reasons why you consider them to be acceptable.

Note: if the existing and/ or proposed ROW do not meet all LDM requirements, it is likely that the written approval from all other legal users of the ROW will be required (or, in case the application proceeds to public notification, notice would be served on those ROW users who have not yet provided written approval).
Questions 9 & 10 have not been adequately addressed. In order to demonstrate compliance with RUr.36 and the NTLDM, you need to provide details of the ROW's carriage width, legal width, gradient etc. Table 4-13 also requires that where a shared private access is more than 50m long, a passing bay will be provided at least once every 50m. The passing bays (width & intervals) need to be detailed to confirm compliance or otherwise. You state the number of current users is 4, but it appears that the ROW is also used by 227 Lud Valley. You need to clearly detail which lots have legal rights to use the ROW. A private access can only serve up to six users, thus the proposed subdivision has impacts on the future subdivision potential of other ROW users, in particular 207 Lud Valley.

Comment: Jody Postles Licenced Cadastral Surveyor, (BSurv, MS+SNZ) has confirmed that at its narrowest point at the road frontage the minimum legal width of the ROW is 8.41m . Jody confirmed the current users as follows:

LOWER SECTION - Existing ROW Area E DP 18871 – 4 current users
Lot 4 DP 17797
Lot 2 DP 370224
Lot 1 DP 18871 (Applicant)
Lot 3 DP 18871 & Lot 6 DP 17797 (Amalgamated)

UPPER SECTION - Scheme Plan proposed Area A (Existing ROW Area C DP 17797) – 2 current users
Lot 4 DP 17797
Lot 2 DP 370224

As already confirmed in the application the carriage width is 3.5m. This carriage width is significantly wider than minimum required standard of 2.5m. The minimum formation standard is all weather, the existing right of way is of a higher standard and is sealed. The average gradient of the right of way is approximately 11.5% and at its steepest will not exceed the maximum of 1 in 5 (or 1 in 4.5 over 20 m). A sight line assessment and photographs have been provided previously.

The only potential non-compliance in relation to Rur.36 and the NTLDM relates to the provision of passing bays every 50 meters, therefore an assessment of effects has been undertaken of this potential non-compliance.

AEE:
The proposed lot is served by a 270m long ROW with users and formation standards as detailed above. The existing ROW currently serves 4 current users on its lower section and 2 on its upper section. The proposal will increase the number of users to 5 current users on its lower section and 3 on its upper section.
The requirements of the NTLDM require the provision of passing bays every 50 meters, constructed to a minimum width of 5.5m (includes carriageway) and have a minimum length of 6.0m with a 4.0m long taper at each end. As shown in the attached ROW photographs the existing ROW contains only one sealed passing bay area (located at the existing driveway entrance to 205 Lud Valley Road) . This area has been constructed to the same sealed standard as the ROW. While no other sealed passing bays exist, as shown in the ROW photographs over 90% of the existing 270m ROW provides informal

passing bays with a combined minimum width of carriageway and grass verge greater than 5.5m .While not explicitly identified in the NTLDM we assume the construction standard of the passing bay areas need to meet the minimum rural ROW all weather standard formation standards, therefore a potential non-compliance exists with the NTLDM.

This assessment will therefore address the potential and actual effects of this noncompliance arising from the estimated 7 additional daily vehicle movements against an existing baseline environment of 28 daily vehicle movements. The speed environment and traffic volumes are both very low. Overall by minimum rural ROW standards this ROW is of a high standard, its carriage width is considerably wider and being sealed is of a higher standard with lower stopping distances than the minimum standard all-weather surface. There are only two corners where long lines of sight are impacted, and on the upper corner contains an existing a sealed passing bay area. Therefore, there is only one corner where the line of sight is limited on the ROW. Again, we note nearly the entire length of the ROW through the 3.5m carriageway and flat grass berm provides sufficient space for vehicles to safely pass one another.

Further to this, all other factors being equal, the best predictor of future performance is past performance. The applicant has lived and used this ROW for 25 years and advises that there has been no known vehicle accident or near misses that she is aware of. The addition of 7 vehicle movements daily is not considered to change this risk performance profile.

Given the above we consider that any adverse effects arising from this minor non-compliance to be less than minor.

Given the less than minor effects conclusion and considering the ROW is existing and known to the users, written approval on the basis of this potential noncompliance is not considered justified and places an overly onerous and unnecessary burden on the applicant. We note all ROW users have already given their affected party approval.

11. 13.

Comment: Please see attached FEL response

16. Please supply the following information to demonstrate compliance with your geo-professional and wastewater engineer's recommendations in relation to the proposed waste disposal field:

Comment: Martin Williams CGW Geotechnical Manager (BSc, MSc, CMEngNZ, CPEng, IntPE, CGeol) has reviewed the plan proposal and provides the following response:

a) An accurate plan of the proposed location of the disposal field at a scale no larger than 1:500 at A3, complete with labelled contours, the location of the proposed disposal field, and areas where no building is recommend and identified instability areas exist (as identified by the Geo-professional).

Please refer to PDF attachment – 205 Lud Site Contours.pdf

b) Regular cross-sections through the steepest slope profiles of the proposed disposal field to demonstrate that the location of the disposal field can be located on slopes that comply with the Geo-professional's recommendation. Cross-sections should extend up and down slope of the disposal filed and be a maximum of 10 m apart. If they reveal that the area of the proposed disposal field is in excess of 35% (19.3°), please provide results of slope stability analysis and commentary from the Geo-professional (as originally requested under Q16.b)

- Please refer to PDF attachment – 205 Lud Site Contours.pdf
- Of the ten cross sections, four marginally exceed the recommended 35% (19.3°), being sections A1 (21.4°), A4 (19.6°), A8 (20.9°) and section A9 (20.3°). The average slope from the ten sections is 18.9°. which meets CGW's recommendations. From an instability perspective, the localised slightly steeper angles are negligible and the increased risk inconsequential.

c) With regard to the Geo-professional response 'that sensitivity would have already become apparent following sustained rain storm events with rainfall water application rates far in excess of the effluent application rate.' We find this statement to be contradictory, as the provided geotechnical assessment of the site has highlighted that the area has already experienced instability. Furthermore, the response fails to differentiate between short term shallow infiltration rates from rainfall events and the potential to continually saturate ground from a disposal field.

- The point about rainfall intensity far exceeding water application rates is valid.
- Effluent Design – 1.5mm per day = 46.5mm per month. Rainfall, see summary https://figure.nz/chart/5IuPMt4ZwD9Sdkf7-aM8MOVf4lsUXpmte, on average exceeds this figure every month.
- The statement is not contradictory. Refer to the no build zones and the observed shallow instability on the plan. The areas of observed shallow instability are/were significantly steeper than 35%, as shown by closer spaced contours. CGW have been quite conservative with the no-build zones around these shallow instability areas … and 'no build' does not mean … 'no wastewater disposal'.

We trust that this response provides Council with sufficient information to proceed with the processing of these applications, should you require further information we would request in the first instance you informally contact us to discuss.

Yours sincerely,

Courtenay Isherwood
BRS, PG Dip Soc Sci, PG Dip T&L
Assoc. NZPI
Director
Isherwood Consultants Ltd