NELSON CITY COUNCIL

Nelson Resource Management Plan

Proposed Plan Change 25
Technical Fixes

Section 32 Report

25 September 2010

Nelson City Council
te kaunihera ō whakatū

953031

1.0 Introduction

1.1 Purpose of report

Section 32 of the Resource Management Act 1991 (RMA) requires Council to consider alternatives and assess the benefits and costs of adopting any objective, policy, rule or method in a Plan or Policy Statement prepared under the RMA. Before publicly notifying a proposed Plan or Plan Change, the Council is required to prepare a Section 32 report summarising these considerations.

The purpose of this report is to fulfil these Section 32 requirements for proposed Plan Change 25 (Technical fixes).

1.2 Steps followed in undertaking the Section 32 evaluations

The 7 broad steps which this section 32 evaluation follow are:

1. identifying the resource management issue;
2. evaluating the extent to which any objective is the most appropriate way to achieve the purpose of the RMA;
3. identifying alternative policies and methods of achieving the objective;
4. assessing the effectiveness of alternative policies and methods;
5. assessing the benefits and costs of the proposed and alternative policies, rules, or other methods;
6. examining the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods; and
7. deciding which method or methods are the most appropriate given their likely effectiveness and their likely cost, relative to the benefit that would likely deliver.

1.3 Description of proposed Plan Change

Plan Change 25.1 – Hazardous substances

This change to Appendix 21 (hazardous substances) is to reflect the update of a NZ Standard since the Plan became operative. AS/NZS 1596:2008 The storage and handling of LP Gas has replaced the former standard, the AS/NZS 1596:1997 Storage and Handling of LP Gas.

This Plan Change also corrects two inconsistencies between the total effects ratios rule (shown in Table 21.2.4) and the reasons for the industrial zone effects ratio (AP21.4.16).

Plan Change 25.2 – Noise

This change corrects an inconsistency in the noise rule in three zones (REr.43, ICr.42 and SCr.36). REr.43.3, ICr.42.3 and SCr.36.3 state activities that contravene a permitted condition are discretionary. The explanations in REr.43.5, ICr.42.5 and SCr.36.5 incorrectly state that noise in excess of the permitted standard will be assessed as a non-complying activity. The Plan Change deletes this sentence from the explanations.

Plan Change 25.3 – Tahunanui Slump Slope Risk Overlay

The change amends the rule (REr.76) controlling heavy structures in the Tahunanui Slump Slope Risk Overlay, to include control over reductions in structure weight as well as increases. This change has been made because weight reductions can also impact on slope stability.

Plan Change 25.4 – Soil disturbance, earthworks and vegetation clearance

The change amends the soil disturbance rules in three zones (REr.60, OSr.48 and RUr.26), earthworks rules in seven zones (REr.61, ICr.55, SCr.48, INr.54, OSr.49, RUr.27 and COr.25) and the vegetation clearance rules in four zones (REr.59, OSr.47, RUr.25 and COr.25) to require remediation of bare soil areas as soon as practicable but no later than six months after the soil disturbance has occurred, rather than allowing soil to remain bare for up to 12 months. This change has been made to reduce the risk of erosion and soil sedimentation occurring after earthworks.

Plan Change 25.5 – Definitions

This change:

- amends the wording of the road boundary definition to improve consistency with other, related definitions in the NRMP (with no change in effect).
- adds a definition for 'drip line' (around trees) to provide more certainty in the implementation of rules REr.95, ICr.68, SCr.65, INr.67, OSr.70 and RUr.70 (Activities within the dripline of a Heritage or Landscape Tree identified in Appendix 2).
- amends the defensible space definition by allowing for a lesser area to apply if this has been approved in writing by the Principal Rural Fire Officer.
- amends the 'net area' definition to simplify it.
- adds a definition for 'predominant slope'. This term is used in the soil disturbance rule to determine activity status (less than 25 degrees from horizontal is a permitted activity, 35 degrees or less is a controlled activity, and a greater slope is a discretionary activity). It is therefore important to clearly define how to determine this slope.
- amends the definition for 'revegetation' to remove the reference to 60% coverage of soil surfaces.

Plan Change 25.6 – Landscape rules in the Rural Zone

The changes to the landscape rules in the Rural Zone improve the link between the controlled activity rules related to structures (RUr.54), earthworks (RUr.56) and subdivision (RUr.80) within the Landscape Overlay, and Appendix 7 (guide for subdivision and structures in the Landscape Overlay).

Definitions for construction and erection have been added, to provide certainty that these terms include the relocation of a building or structure. This activity has similar effects to construction and erection of new buildings and structures.

1.4 Consultation

Plan Change 25 involved advice from NCC Resource Consents planners on small changes that could be made that would assist with implementation of the Plan. The Council's Geotechnical Advisor suggested the change to Rule REr.76 (which controls heavy structures in the Tahunanui Slump Slope Risk Overlay) because decreases in weight within the Tahunanui Slump Slope Risk Overlay are also a potential hazard.

2.0 Resource Management issue

2.1 Resource Management issue being addressed

An issue is an existing or potential problem that must be resolved to promote the purpose of the RMA. The RMA does not require the identification or analysis of issues within Section 32 evaluations. Notwithstanding this issues are being included in this report because it will be helpful to users to understand the basis and origin of the issue as this provides a context for the evaluations of the objectives and policies that follow.

The Plan Change does not add or alter any issues within the Plan. Instead it relies on existing operative issues. The issues which related to this proposed Plan Change are outlined in Chapter 4 – resource management issues of the Plan and include:

Hazardous substances, contaminant discharges, and waste management

RI17.1.i Contamination of land, air and water and the associated impacts on cultural values and the health and safety of ecosystems and communities resulting from the generation, use, storage, transportation and disposal of hazardous substances and contaminant wastes.

Adverse environmental effects of activities

RI15.1.iv Risk to public health, safety, and amenity values associated with traffic, aircraft and vessel movement, noise, and other contaminant discharges.

Risk from natural hazards

RI19.1.i Risk to property and human life associated with community use and occupation of hazard prone areas.

RI19.1.ii Accentuated risk of natural hazards as a result of land use practices such as slope excavation, disturbance of soil and vegetation, and structures.

Soil

RI7.1.i Erosion and degradation of soils and the life supporting capacity of soils as a result of inappropriate land use and development.

Landscape, seascape and open space values

RI5.1.i Adverse visual effects on the remote backdrop to the District through structures, tracking, land clearance, and planting technique.

3.0 Appropriateness in achieving the purpose of the RMA

3.1.1 Evaluation of the objective(s) – the environmental outcome to be achieved

Section 32 requires an evaluation of the extent to which the objective is the most appropriate to achieve the purpose of the Act. Appropriateness is not defined in the Act. In undertaking the evaluation it has generally been helpful to consider alternative forms of the objective and test them in terms of how well they met the environmental, social/cultural, and economic outcomes in Section 5, plus achieving other Part 2 matters. Often these assessments require value judgements because they are not

readily quantified. Usually the objective is also tested against how well it addresses the elements of the issue.

In the case of Plan Change 25 no new objectives are being proposed. Instead the Plan Change relies on existing operative objectives within Chapter 5 – District Wide Objectives and Policies of the Plan, specifically:

> *DO3.1 hazardous substances*
>
> *Management of the actual and potential effects arising from the storage, use, disposal, and transportation of hazardous substances to ensure that any potential or actual adverse environmental effects are avoided, remedied, or mitigated.*
>
> *DO2.1 natural hazards*
>
> *An environment within which adverse effects of natural hazards on people, property, and the environment are avoided or mitigated.*
>
> *DO13.1 soil erosion and sedimentation*
>
> *An environment where the adverse effects of accelerated soil erosion are avoided, remedied or mitigated.*
>
> *DO9.1 landscape*
>
> *A landscape that preserves and enhances the character and quality of the setting of the city and in which its landscape components and significant natural features are protected.*

The Plan Change also relies on an existing operative objective in the Nelson Regional Policy Statement:

> *DA2.2.1 An environment in which unreasonable noise is avoided, remedied or mitigated.*

3.2 Whether the policies, rules, or other methods are the most appropriate for achieving the objectives in terms of their efficiency and effectiveness, benefits and costs, and in regards to the risk of acting or not acting

3.2.1 Introduction

The evaluation of appropriateness assesses the alternative policy options under the headings of efficiency, effectiveness, benefits, costs, and the risk of acting and of not acting.

A range of criteria/matters have been used to assist in undertaking the evaluations:

efficiency the ratio of inputs to outputs. Efficiency is high where a small effort/cost is likely to produce a proportionately larger return. Includes the ease of administration/administrative costs e.g. if the cost of processing a grant or collecting a fee exceeds the value of the grant or fee, that is not very efficient;

effectiveness how well it achieves the objective or implements the policy relative to other alternatives. The likelihood of uptake of a method;

benefits social, economic, environmental - as both monetary and non monetary cost/benefits;

costs social, economic, environmental - as both monetary and non monetary cost/benefits; and

risk the risk of taking action and not taking action in say the next 10 years because of imperfect information e.g. the cause/effect relationships are not fully understood.

The report concludes with a summary of the analysis undertaken and outlines which option best meets the requirements of Section 32 of the RMA.

3.2.2 Format of the evaluation

The following tables provide an evaluation of the costs and benefits of the proposed policies, and considers whether these policies are the most appropriate for achieving the objectives, having regard to their efficiency and effectiveness. The terms efficiency and effectiveness are not defined in the RMA and, therefore, the criteria set out in Part 3.2.1 of this report have been used to help focus the analysis.

Costs and benefits have largely been assessed subjectively and or comparatively because of the great difficulty in assessing/quantifying intangible costs e.g. environmental costs. In some cases quantitative assessments of costs have been given.

The concept of risk has two dimensions, the probability of something adverse occurring and the consequence of it occurring. For example, if there is low risk associated with acting but high risk associated with not acting, then taking action is clearly the sensible thing to do. Risk is usually expressed as 'probability times consequence' and associated with a cost – usually a severe economic, social or environmental cost. Assessing the risk of acting or not acting means assessing the probability of a cost occurring and the size of that potential cost.

The policy alternatives assessed in this section will achieve the objective to different degrees and combinations of policy approaches will be used to form the final preferred option.

3.2.3 Plan Change 25.1 – Hazardous substances

The following two broad options are evaluated in Table 1 (Part 3.2.4 of this report):

- Option 1 Do not proceed with the Plan Change
- Option 2 Proceed with the Plan Change

3.2.4 Table 1: Assessment of Alternative Options for Plan Change 25.1 – hazardous substances

	Option 1: Status quo	Option 2: Proceed with Plan change
Benefits	Economic Benefit (Council): Very small financial saving from not having this Plan Change, and subsequent share of reporting and hearing costs.	Environmental Benefit (Council and Community): Application of the most up to date standard for management of LP Gas. Avoids confusion about the total effects ratios that apply in the Industrial Zone.
Costs	Environmental Cost (Council and Community): Potential confusion about the total effects ratios that apply in the Industrial Zone. Failure to apply the most up to date approach to management of LP Gas.	Economic Cost (Council): Very small financial cost of undertaking this Plan Change, and subsequent share of reporting and hearing costs.
Benefit and Costs Summary	The potential costs outweigh the benefits of the status quo option.	The environmental benefits from pursuing this plan change outweigh the cost of undertaking the Plan Change.
Effectiveness and Efficiency	The status quo option is an inefficient and ineffective way to meet the objectives of the Plan, because it does not reflect current best practice for management of LP Gas, and allows inconsistencies to remain in Appendix 21 (hazardous substances).	The Plan Change is an efficient and effective way to address the operative issues and achieve the objectives because it enables the Council to manage the risks associated with LP Gas and to clarify the total effects ratios for hazardous substances in the Industrial Zone.
Risk of Acting or Not Acting if there is uncertainty or insufficient information	Council has sufficient information on Option 1 to make a decision on its effects. Therefore there is no risk of acting of not acting.	Council has sufficient information on Option 2 to make a decision on its effects. Therefore there is no risk of acting of not acting.

3.2.5 Plan Change 25.2 – Noise

The following two broad options are evaluated in Table 2 (Part 3.2.6 of this report):

- Option 1 Do not proceed with the Plan Change
- Option 2 Proceed with the Plan Change

3.2.6 Table 2: Assessment of Alternative Options for Plan Change 25.2 – noise

	Option 1: Status quo	Option 2: Proceed with Plan change
Benefits	Economic Benefit (Council): Very small financial saving from not having this part of the Plan Change, and subsequent share of reporting and hearing costs.	Environmental Benefit (Council and Community): Avoids confusion about the activity status of noise in excess of the permitted standard.
Costs	Environmental Cost (Council and Community): Potential confusion about the activity status of noise in excess of the permitted standard.	Economic Cost (Council): Very small financial cost of undertaking this Plan Change, and subsequent share of reporting and hearing costs.
Benefit and Costs Summary	The potential costs outweigh the benefits of the status quo option.	The environmental benefits from pursuing this part of the plan change outweigh the cost of undertaking the Plan Change.
Effectiveness and Efficiency	The status quo option is an inefficient and ineffective way to meet the objectives of the Plan, because it allows inconsistencies to remain in the noise rule in each zone.	The Plan Change is an efficient and effective way to address the operative issues and achieve the objectives because it clarifies the activity status of noise in excess of the permitted standard.
Risk of Acting or Not Acting if there is uncertainty or insufficient information	Council has sufficient information on Option 1 to make a decision on its effects. Therefore there is no risk of acting of not acting.	Council has sufficient information on Option 2 to make a decision on its effects. Therefore there is no risk of acting of not acting.

3.2.7 Plan Change 25.3 – Tahunanui Slump Slope Risk Overlay

The following two broad options are evaluated in Table 3 (Part 3.2.8 of this report):

- Option 1 Do not proceed with the Plan Change. Do not amend Rule REr.76.1 (Tahunanui Slump Fringe Slope Risk Overlay – heavy structures)
- Option 2 Proceed with the Plan Change. Amend Rule REr.76.1 (Tahunanui Slump Fringe Slope Risk Overlay – heavy

structures) to include control over reductions in structure weight as well as increases.

3.2.8 Table 3: Assessment of Alternative Options for Plan Change 25.3 – Tahunanui Slump Slope Risk Overlay

	Option 1: Status quo **Do not amend Rule REr.76.1**	**Option 2: Proceed with Plan change** **Amend Rule REr.76.1 to include control over reductions in structure weight.**
Benefits	Economic Benefit (Council): Small financial saving from not having this Plan Change, and subsequent reporting and hearing costs.	Environmental Benefit (Community): More control over activities with potential to impact on slope stability. Social Benefit (Community): A safer approach to management of activities within the overlay. Economic Benefit (Community): Reduced risk of damage to property.
Costs	Social Cost (Community): Potential safety risk. Economic Cost (Community): Potential risk to property.	Economic Cost (Council): Small financial cost of undertaking this Plan Change, and subsequent reporting and hearing costs. Economic Cost (Landowners): Cost of resource consent for property owners within the Overlay who remove heavy structures (more than 1000 kg) from their property
Benefit and Costs Summary	The potential costs far outweigh the benefits of the status quo option.	The environmental, social and economic benefits from pursuing this plan change far outweigh the cost of undertaking the Plan Change, and the cost of a small number of resource consents.
Effectiveness and Efficiency	The status quo option is an inefficient and ineffective way to meet the objectives of the Plan, because it does not control significant reductions in structure weight within the overlay.	The Plan Change is an efficient and effective way to address the operative issues and achieve the objectives because it enables the Council to assess the risks associated with any significant reductions in structure weight within the overlay.
Risk of Acting or Not Acting if there is uncertainty or insufficient information	Council has sufficient information on Option 1 to make a decision on its effects. Therefore there is no risk of acting of not acting.	Council has sufficient information on Option 2 to make a decision on its effects. Therefore there is no risk of acting of not acting.

3.2.9 Plan Change 25.4 –Earthworks

The following two broad options are evaluated in Table 4 (Part 3.2.10 of this report):

- Option 1 Do not proceed with the Plan Change
- Option 2 Proceed with the Plan Change

3.2.10 Table 4: Assessment of Alternative Options for Plan Change 25.2 – earthworks

	Option 1: Status quo	**Option 2: Proceed with Plan change**
Benefits	Economic Benefit (Council): Small financial saving from not having this part of the Plan Change, and subsequent share of reporting and hearing costs.	Environmental Benefit (Council and Community): Clarifies that protection from soil erosion cannot be delayed for 12 months after soil disturbance, earthworks or vegetation clearance has occurred.
Costs	Environmental Cost (Council and Community): Potential to interpret the earthworks, soil disturbance and vegetation clearance rules as allowing for protection from soil erosion to be delayed for 12 months after soil disturbance or earthworks has occurred.	Economic Cost (Council): Small financial cost of undertaking this Plan Change, and subsequent share of reporting and hearing costs.
Benefit and Costs Summary	The potential environmental costs outweigh the economic benefits of the status quo option.	The environmental benefits from pursuing this part of the plan change outweigh the cost of undertaking the Plan Change.
Effectiveness and Efficiency	The status quo option is an inefficient and ineffective way to meet the objectives of the Plan, because there is potential for the rule to be interpreted as allowing a 12 month delay in works to prevent soil erosion.	The Plan Change is an efficient and effective way to address the operative issues and achieve the objectives because it clarifies the requirement to begin works to prevent soil erosion as soon as practicable after soil disturbance and/or earthworks have occurred.

	Option 1: Status quo	Option 2: Proceed with Plan change
Risk of Acting or Not Acting if there is uncertainty or insufficient information	Council has sufficient information on Option 1 to make a decision on its effects. Therefore there is no risk of acting of not acting.	Council has sufficient information on Option 2 to make a decision on its effects. Therefore there is no risk of acting of not acting.

3.2.11 Plan Change 25.5 – Definitions

The following two broad options are evaluated in Table 5 (Part 3.2.3 of this report):

- Option 1 Do not proceed with the Plan Change
- Option 2 Proceed with the Plan Change

3.2.12 Table 5: Assessment of Alternative Options for Plan Change 25.5 – definitions

	Option 1: Status quo	Option 2: Proceed with Plan change
Benefits	Economic Benefit (Council): Small financial saving from not having this part of the Plan Change, and subsequent share of reporting and hearing costs.	Economic Benefit (Council and Community): Improved clarity around interpretation of the NRMP will improve consistency and efficiency when processing resource consent related to these matters.
Costs	Economic Cost (Council and Community): Potential for delays in resource consent processes as a result of differing interpretations of definitions (or lack of a set definition in some cases).	Economic Cost (Council): Small financial cost of undertaking this Plan Change, and subsequent share of reporting and hearing costs.
Benefit and Costs Summary	The potential costs of inefficient resource consent processes outweighs the economic benefits of the status quo option.	The economic benefits from pursuing this part of the plan change outweigh the cost of undertaking the Plan Change.

	Option 1: Status quo	Option 2: Proceed with Plan change
Effectiveness and Efficiency	The status quo option is an inefficient and ineffective way to meet the objectives of the Plan, because it fails to improve clarity of interpretation of the NRMP.	The Plan Change is an efficient and effective way to address the operative issues because it improves clarity around interpretation of the NRMP.
Risk of Acting or Not Acting if there is uncertainty or insufficient information	Council has sufficient information on Option 1 to make a decision on its effects. Therefore there is no risk of acting of not acting.	Council has sufficient information on Option 2 to make a decision on its effects. Therefore there is no risk of acting of not acting.

3.2.13 Plan Change 25.6 – Landscape rules in the Rural Zone

The following two broad options are evaluated in Table 6 (Part 3.2.3 of this report):

- Option 1 Do not proceed with the Plan Change
- Option 2 Proceed with the Plan Change

Table 6: Assessment of Alternative Options for Plan Change 25.6 – landscape rules in the Rural Zone

	Option 1: Status quo	Option 2: Proceed with Plan change
Benefits	<u>Economic Benefit (Council):</u> Small financial saving from not having this part of the Plan Change, and subsequent share of reporting and hearing costs.	<u>Environmental Benefit (Community):</u> Greater protection of landscape components in the Rural Zone when the structures, earthworks or subdivision are proposed to occur as controlled activities within the Landscape Overlay.
Costs	<u>Environmental Cost (Council and Community):</u> Potential for impacts on landscape components in the Rural Zone to be overlooked when the structures, earthworks or subdivision are proposed to occur as controlled activities within the Landscape Overlay.	<u>Economic Cost (Council):</u> Small financial cost of undertaking this Plan Change, and subsequent share of reporting and hearing costs. <u>Economic Cost (Landowners):</u> More consideration of the impacts of activities on the landscape values in the Rural Zone may result in some additional costs to mitigate the effects of these activities.

	Option 1: Status quo	Option 2: Proceed with Plan change
Benefit and Costs Summary	The potential environmental costs outweigh the economic benefits of the status quo option.	The environmental benefits for the wider community from pursuing this part of the plan change outweigh the cost of undertaking the Plan Change, and potential economic cost for individual landowners of mitigating the effects of their activities on landscape values.
Effectiveness and Efficiency	The status quo option is an inefficient and ineffective way to meet the objectives of the Plan, because of the potential for Appendix 7 (guide for subdivision and structures in the landscape overlay) to be overlooked when considering controlled activities which relate to the Landscape Overlay in the Rural Zone.	The Plan Change is an efficient and effective way to address the operative issues and achieve the objectives because it improves the link between the Rural rules related to the Landscape Overlay and Appendix 7 (guide for subdivision and structures in the landscape overlay).
Risk of Acting or Not Acting if there is uncertainty or insufficient information	Council has sufficient information on Option 1 to make a decision on its effects. Therefore there is no risk of acting of not acting.	Council has sufficient information on Option 2 to make a decision on its effects. Therefore there is no risk of acting of not acting.

3 Conclusion

An evaluation of two alternative options of status quo (do nothing) and proceed with the Plan Change has been undertaken for these plan changes. The report has evaluated these alternative options against the benefits, costs, effectiveness, efficiency, the risk of acting and the risk of not acting. This evaluation has clarified that Option 2 (proceed with this Plan Change) is the best option in each case, due to greater benefits than costs, and in regards to its efficiency and effectiveness with minimal risks of acting and potential higher risks of not acting.

The alterations to the Plan as a result of the proposed Plan Change will:

- update a NZ standard for handling of LP Gas referred to in Appendix 21 (hazardous substances),
- fix inconsistencies between rules and their explanations,
- control significant reductions in structure weight as well as increases within the Tahunanui Slump Slope Risk Overlay,
- amend and add some definitions, and
- improve the link between the controlled activity rules within the Landscape Overlay regarding structures (RUr.54), earthworks (RUr.56) and subdivision (RUr.80), and Appendix 7 (guide for subdivision and structures in the landscape overlay).

The Plan Change relies on existing operative issues:

- Hazardous substances, contaminant discharges, and waste management,
- Adverse environmental effects of activities,
- Risk from natural hazards,
- Soil, and
- Landscape, seascape and open space values.

The issue and objectives are not being considered in this report because of their operative status.

The Plan Change also relies on existing objectives in the Nelson Resource Management Plan (hazardous substances, natural hazards, soil erosion and sedimentation, and landscape) and an existing operative objective in the Nelson Regional Policy Statement (noise).