



AGENDA

Ordinary meeting of the

Planning and Regulatory Committee

**Thursday 23 October 2014
Commencing at 9.00am
Victory Community Centre
2 Totara Street
Victory, Nelson**

Membership: Councillor Brian McGurk (Chairperson), Her Worship the Mayor Rachel Reese, Councillors Ian Barker, Ruth Copeland, Eric Davy, Kate Fulton (Deputy Chairperson), Matt Lawrey, Mike Ward, and Glenice Paine

Guidelines for councillors attending the meeting, who are not members of the Committee, as set out in Standing Orders:

- All councillors, whether or not they are members of the Committee, may attend Committee meetings (SO 2.12.2)
- At the discretion of the Chair, councillors who are not Committee members may speak, or ask questions about a matter.
- Only Committee members may vote on any matter before the Committee (SO 3.14.1)
- It is good practice for both Committee members and non-Committee members to declare any interests in items on the agenda. They should withdraw from the table for discussion and voting on any of these items.

23 October 2014

A1260726

Page No.

Apologies

1. Confirmation of Order of Business

2. Interests

Updates to the Interests Register

Identify any conflicts of interest in the agenda

3. Public Forum

Victory Primary School students will speak about the York Stream.

4. Petition for dogs to be allowed to run on the Monaco Reserve

7-11

Document number A1252791

Mrs Lois Morgan and Mrs Chris Keay shall present a petition for dogs to be allowed to run on the Monaco Reserve.

5. Confirmation of Minutes – 18 September 2014

12-22

Document number A1251236

Recommendation

THAT the minutes of the meeting of the Nelson City Council – Planning and Regulatory Committee, held on 18 September 2014, be confirmed as a true and correct record.

6. Status Report – Planning and Regulatory Committee 23 October 2014 23-24

Document number A1155974

Recommendation

THAT the Status Report – Planning and Regulatory Committee 23 October 2014 (A1155974) be received.

7. Chairperson’s Report

8. Environment Activity Management Plan 25-54

Document number A1252228

Recommendation

THAT the report Draft Environment Activity Management Plan (A1252228) and its attachment (A1243203) be received.

Recommendation to Council

THAT the Draft Environment Activity Management Plan 2015-2025 (A1243203) be approved as the version that will inform the Long Term Plan 2015-25.

9. Plan Change 16 – Inner City Noise – operative date 55-150

Document number A1238640

Recommendation

THAT the report Plan Change 16 – Inner City Noise – operative date (A1238640) and its attachments (A1206051) and (A1254607) be received.

Recommendation to Council

THAT Council resolves to make the provisions within the commissioners decision on Plan Change 16 – Inner City Noise (A1206051) operative on 1 December 2014, pursuant to Clause 20(1) of the First Schedule of the Resource Management Act 1991.

10. Strategy and Environment Report 1 July to 30 September 2014 **151-174**

Document number A1237437

Recommendation

THAT the Strategy and Environment Report for 1 July to 30 September 2014 (A1237437) and its attachments (A1255054, A1246625, A1249836 and A1259196) be received.

11. Draft Building and Other Regulatory Activity Management Plan **175-189**

Document number A1261318

Recommendation

THAT the report Draft Building and Other Regulatory Activity Management Plan (A1261318) and its attachment (A1150957) be received.

Recommendation to Council

THAT the Draft Building and Other Regulatory Activity Management Plan be approved as the version that will inform the Long Term Plan 2015-2025.

12. Parking and Vehicle Control Bylaw (2011), No. 207 Amendments to Schedule **190-195**

Document number A1255440

Recommendation

THAT the report Parking Vehicle Control Bylaw (2011), No. 207 Amendments to Schedules (A1255440) and its attachments (A1255861, A1256003 and A1255878) be received;

AND THAT the following alterations to the Schedules of Bylaw No 207, Parking and Vehicle Control (2011) be approved:

- ***Schedule 4: Special Parking Areas;***
- ***Schedule 9: No Stopping;***

13. Council Submission on Proposed Registration of Te Taero a Kereopa – Te Tāhuna a Tama-i-ea (Nelson Boulder Bank) – as a Wahi Tapu Area

196-247

Document Number A1258280

Recommendation

THAT the report Council Submission on Proposed Registration of Te Taero a Kereopa – Te Tāhuna a Tama-i-ea (Nelson Boulder Bank) – as a Wāhi Tapu Area (A1258280) and its attachment (A1258080) be received;

AND THAT the submission (A1258080) on the Proposed Registration of Te Taero a Kereopa – Te Tāhuna a Tama-i-ea (Nelson Boulder Bank) – as a Wāhi Tapu Area is confirmed

Note:

- **Lunch will be provided for Councillors who have afternoon appointments at Civic House.**

RECEIVED

23 SEP 2014

NELSON CITY COUNCIL
Customer Services

103 MARION ST,

MONACO,

NELSON,

26.9.2014

NELSON CITY COUNCIL

Dear Sir, Madam,

The enclosed is a petition from the residents of Monaco and the surrounding area regarding the dogs not being allowed off the leads on the Reserve it is such a shame as people bring their dogs down to play with their balls and ball throwers which need a good large area for their exercise, this one is perfect.

People bring their dogs to play as well as their children, also there are three or four disabled young men who love to bring their dogs to play with them also, it is so safe also.

As for my self I have lived down here for twenty six years and at the age of eighty five,

A1252791.pdf

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I now have to use a walker, can only walk shorts distance so the reserve is ideal, as I do not have a dog, my back, my neighbour who has a very busy life, lets me take her dog with me, otherwise the poor dog would spend hours by its self, I cannot possibly have her on a lead as she loves to play with the other dogs, she would pull me over, I am also the trash lady that picks up the rubbish the young ones leave up there in the evenings, before the chain goes across.

I heard on the radio this morning that the Hamilton Council are opening up more family areas for people with dogs as they know how much dogs are part of the family.

We all do so hope you take a look at this, and we will have some thing quite soon.

Yours faithfully
Betty Wetherill

A1252791.pdf

PETITION FOR DOGS TO BE ALLOWED TO BE RUN ON THE MONACO RESERVE

We wish to submit this petition to the Nelson City Council on behalf of locals and visitors to the Monaco Reserve to allow them to freely run their dogs. We acknowledge there is a children's playground on site but this is one of the attractions which brings families, children and their dogs to the area. We appreciate your attention to this matter and hope for a positive reply for all concerned.

Sharon Kent 82 Aldinga Ave Stoke
 CAROLSSY MARTIN 15 Ashbury Street. Stoke
 CARL O'Donoghue 45 Devon St Stoke
 Betty Watkins 10 B Martin St Monaco.
 Margaret Gibbs 6 Sterling Way Stoke 5471404 *MB*
 Rob Ink 6 Sterling Way Stoke 5471404 *Rob*
 Myra Friend 73 Martin Street Monaco 0211044493
 N. Beag 266 Seaman Rd
 Cameron Beal 34a Point Road *Beal*
 Josh Beal 34a Point Road Josh
 Leah Woodford 94 Champion Rd Richmond 8440088
 Lois Gilmore 26 Martin St Monaco *Lois* 5473847
 Paul Walling 28 Martin St Monaco *Paul* 5471072
 Ali Maskell 28 Martin St Monaco *Ali* 0210580226
 A. McLaren - 32 Martin St. Monaco *A. McLaren* 548.7872
 Ricki Carey 36 Martin St *R Carey* 5475325
 Lorraine Pollock 117 The Ridgeway Stoke
 MARK SMITH 31 Woodstock Pl Stoke
 Mrs Betty Watkins

10B Martin Street, Monaco
 Ph 5479020

E Lyster 62 Point Rd Monaco 5476743
 Harvey Morgan 99 Point Rd Monaco 5477734
 Lois Morgan 99 Point Rd Monaco 5477734
 Leanne Robertson 54 Aldinga Ave Stalce 5479378
 John Robertson 54 Aldinga Ave Stalce 5479375
 Kay Charlett No 1 FELL PLACE 5488920
 Barry Murrill 23 Martin Street 5476774
 Sandra Woodgate 24 Martin Street 538-0114
 Rosemary Mustis 65 Martin St. Monaco. 5473932
 Rosanna Fumin 65 Martin St. Monaco. 5473932
 Craig Fraser 51A Martin St Monaco 5476915
 BRIAN BREL 67 Point Rd. Monaco. 5477306
 Rosie Ross 67 Point Rd Monaco 5477306
 Nan Morwick 18 Martin 5477091
 Jo Kera 59A Martin St Monaco 5381133
 CAPOL CURTIS 53 MARTIN ST MONACO 547 6746
 Graeme Sinclair 55 MARTIN ST 5477815
 Byn Kera 67 MARTIN ST MONACO 5477530
 Russell Holden 69 Martin St 5484072
 Anita Franicevic 104 Point Road 5484446
 Steve Parkins 104 Point Road 021484473
 Ben Frost 105 POINT ROAD 0272847611
 Rosie Gage 81 Martin Street, Monaco 5474379
 Chrissie Keay 41 Martin St, Monaco 5479225
 Robyne Coleman 21b Roto St Tahuna 5464611
 Neil M. Aitch 6B Ngapua Road 5450149

Carmyn Hayes	9 Martin St. Monaco	Carmyn Hayes	5474397.
Peta Milombi	9 Hoult Laesum		547 9407
Val Milombi	"	"	"
Lesley Phoenix	72 Point Rd Monaco		548 8386
Nigel Phoenix	72 Point Rd Monaco		548 8386
Toni Barrett	30 martin St monaco		5475325
Alan Barblett	38A martin St		5473073
Annete Bickelstone	19 Exeter street state		5479135
Janae Emry	21 martin St.		546 8845.
Lenica Nepri	30B Martin St		538 0249
Isabel Young	5 JUBILEE WAY		021979573.
Jean Morilleau	23 Martin St		03 5476299
Willy Rae	1/48 Songer St		03 5475538
John Rae	1/48 Songer St		03 5475538
Tony Barwood	16 Kipling Cms		54. 72152
Mary Greenland	38 B Martin St		5470133.
Sue Crowe	40 Maire St Tahuna		548-6606
RAY CRUNE	40 MAIRE ST		5486600
Lisa Dyet	4 Karamiko Ave		0212161275
Pat Coleman	10A MARTIN ST		0272444130
Gordon Coleman	10A MARTIN ST MONACO		0272444130
Mary Campbell	65 Point Rd		02102843423

Minutes of a meeting of the Planning and Regulatory Committee

**Held in the Council Chamber, Civic House, Trafalgar Street,
Nelson**

On Thursday 18 September 2014, commencing at 9.03am

Present: Councillor B McGurk (Chairperson), Her Worship the Mayor R Reese, Councillors I Barker, R Copeland, E Davy, M Lawrey, M Ward, and G Paine

In Attendance: Councillors L Acland, P Matheson, and G Noonan, Group Manager Strategy and Environment (C Barton), Group Manager Corporate Services (N Harrison), Manager Operations (S Davies), Senior Strategic Adviser (N McDonald), Kaihautū (G Mullen), Administration Manager (P Langley), and Administration Adviser (G Brown)

Apologies: Councillor K Fulton

1. Apologies

Resolved

***THAT an apology be received and accepted
from Councillor Fulton.***

McGurk/Davy

Carried

2. Confirmation of Order of Business

There was no change to the order of business.

3. Interests

No updates were made to the Interests Register and no conflicts with items on the agenda were declared.

4. Public Forum

4.1 How Customers make Payments

Mr Graeme O'Brien advised councillors that he had received a parking ticket when dropping his children at Nelson College for Girls.

Attendance: Councillor Skinner joined the meeting at 9.05am

He advised the committee that after enquiring on payment options with the Customer Service Centre he was told that it was Council policy for amounts of under \$150 to be paid in full, which he was upset about. He said that paying by direct debit was not an option.

Mr O'Brien said that after correspondence with the Customer Service Centre, he wrote to the Mayor and it was decided that the fine could be paid off in cash instalments.

He indicated that there was a need for drop off/pick up zones near schools and suggested that there was over enforcement from parking wardens.

In response to further questions, Mr O'Brien advised that he had not spoken with the principals at these schools because he believed this was a Council issue and that on occasions he parked a distance from the school and walked. However, he said he felt that it was too dangerous to cross the roads near schools due to the amount of traffic.

5. Confirmation of Minutes

5.1 31 July 2014

Document number A1228329, agenda pages 7-12 refer.

It was discussed that the third paragraph in Item 7 Chairperson's report should say 'testing is the responsibility of the landowner and that the final notation on the Land Information Memorandum should be completed by November 2014.'

Resolved

THAT the minutes of a meeting of the Nelson City Council – Planning and Regulatory Committee, held on 31 July 2014, along with the amendments, be confirmed as a true and correct record.

Davy/Barker

Carried

6. Status Report – Planning and Regulatory Committee 18 September 2014

Document number A1155974, agenda page 17 refers.

Resolved

THAT the Status Report – Planning and Regulatory Committee 18 September 2014 (9A1155974) be received.

Lawrey/Ward

Carried

7. Chairperson's Report

The Chairperson spoke about the Maitai River project and advised councillors that funding from community grants had been unsuccessful. He said that the project was to be the theme for the 2014 Ecofest, and that progress on the Maitai River project would be available on the Land Air Water Aotearoa (LAWA) website.

POLICY AND PLANNING

8. Nelson Plan Strategic Outcomes

Document number A1231691, agenda pages 18-38 refer.

Manager Planning, Matt Heale gave a power point the presentation (A1252099).

In response to a question, Mr Heale advised that the report was only in relation to the Nelson Plan, which currently did not include the Air Quality Plan, and any reference to air quality within the Nelson Plan would be at an issue level. How air quality issues are reflected in the Nelson Plan would be determined following consideration of the woodburner issue to the current statement was a holding pattern in the meantime.

In response to further questions, Mr Heale said that there had been a number of meetings with iwi at an operational level to discuss resource management issues. The intention was to discuss the strategic outcomes with iwi and key stakeholders, once direction was given from councillors.

There were discussions that resource management practitioners should be consulted with as they were the main users of the Nelson Resource Management Plan (NRMP).

Group Manager Strategy and Environment, Clare Barton, advised that, at this stage, Council officers needed guidance from councillors to clarify the outcomes that councillors wanted to achieve, and then these could be refined.

In response to a question, Mr Heale indicated that there was potential to establish working groups for the broad areas within the Nelson Plan if this was what councillors wanted. He noted two distinctive areas, the built environment and the natural environment.

In response to a question, Ms Barton said that the intention was to set out a work programme at a Planning and Regulatory Committee meeting, which would include a series of actions and how information would be delivered to the community.

There were discussions that the strategic outcomes did not address the need for a healthy community and the encouragement of housing intensification was a concern, as it was felt that Council should be promoting people having their own gardens and growing their own food, therefore making families self-sufficient.

Ms Barton explained that there were a number of mechanisms that could be used within the Nelson Plan, however the key factors would be the availability of a range of housing choices, and encouraging quality urban design.

It was discussed that an outcomes approach was more suitable than an issues approach and that it would be important to consider the incorporation of the Air Quality Plan, and NPS. It was also noted that the Nelson Plan should align with Tasman District Council (TDC) and Marlborough District Council (MDC) plans as they needed to talk to one another.

There was general support that working groups would be beneficial in the compilation of the Nelson Plan, and it was suggested that external parties such as developers and builders would be valuable to include. There were concerns that working groups would need to have a technical understanding of plan provisions, however it was important to obtain feedback from the community in the first instance.

It was discussed that the goals in Nelson 2060 needed to be considered when compiling the Nelson Plan, and that a vision was required to engage people with words and images to engage the Nelson community to see what was possible in Nelson.

A suggestion was made that timeframes and resources could be restrictive and may be difficult to meet. It was suggested that timeframes should be extended if required, so that the Nelson Plan was robust.

Attendance: Councillor Noonan joined the meeting at 9.58am.

There were discussions that comments needed to be added to the strategic outcomes in relation to encouraging spaces around healthy living, recognising the benefits of the natural coastal environment along with marine industry opportunities, and clean air in relation to human health.

Ms Barton advised councillors that it was intentional to have broad strategic outcomes as some of the specified outcomes could be non-regulatory.

Resolved

THAT the report Nelson Plan Strategic Outcomes and its attachments (A1221973 and A1221468) be received;

AND THAT the Strategic Resource Management outcomes be amended to address healthy living choice, the marine sector and clean air for human health, and guide Nelson Plan development and engagement;

AND THAT the approach to engagement outlined in this report is used in the development of the Nelson Plan.

McGurk/Lawrey

Carried

9. National Policy Statement – Freshwater Management

Document number A1222236, agenda pages 39-80 refer.

Senior Planning Adviser, Sharon Flood gave a power point presentation (A1233925).

In response to a question, Ms Flood advised councillors that the National Policy Statement (NPS) was first published in 2011, however in 2013 central government released a paper setting out their approach for reforming the freshwater management system. The NPS- Freshwater Management was subsequently amended in July 2014.

In response to a further question, Ms Flood said that streams did not need to be brought up to a standard for fishing or swimming, however as illustrated in Nelson 2060, the community wanted to be able to swim and fish in Nelson rivers. Ms Barton advised that the land and water forum had made other recommendations with additional attributes which could be considered by councillors.

In response to a question, Ms Barton said that there was nothing stopping Council from requiring fences on all farmland, however non regulatory measures would be considered. Ms Flood advised that other than fencing, riparian margins could also be considered, and that currently there was a non-regulatory partnership with farmers that was working well.

In response to questions, Ms Flood advised that a study was currently being conducted in relation to groundwater and that the freshwater management plan was part of the NRMP. She also said that the new monitoring regime would mean that all parameters would be measured so the community would be able to focus on specific areas and that past monitoring information would still be useful.

Resolved

THAT the report National Policy Statement for Freshwater Management 2014 (A1222236) and its attachments (A1218447) and (A1233589) be received.

McGurk/Copeland

Carried

Recommendation to Council

THAT the Nelson Resource Management Plan is amended under section 55 of the Resource Management Act 1991 (without using the process in Schedule 1) to reflect the National Policy Statement for Freshwater Management Policy A4.

McGurk/Paine

Carried

Attendance: The meeting adjourned for morning tea from 10.39am to 10.48am. During this time Councillor Skinner left the meeting.

10. Confirmation of Minutes (Cont)

10.1 8 May 2014

Document number A1190224, agenda pages 13-16 refer.

The Chair advised that this was a procedural issue and the 8 May 2014 minutes had not been received at the last Planning and Regulatory Committee.

Resolved

THAT the minutes of a meeting of the Nelson City Council - Planning and Regulatory Committee, held on 8 May 2014, be confirmed as a true and correct record.

McGurk/Davy

Carried

11. Nelson Parking Strategy 2014-2024

Document number A1246489, agenda pages 81-118 refer.

Senior Asset Engineer, Rhys Palmer joined the meeting and summarised the report.

In response to a question, Mr Palmer said that the reason for not having one map with one boundary was that the study focussed on the CBD and the outer fringe areas. He advised that the yellow lines

illustrated the high demand area with short term spaces, and the outer fringe was where people walked into the CBD.

There was a discussion that there was not enough consideration given to the recent small and medium developments on St Vincent and Vanguard Street in relation to on street parking. It was mentioned that the future needs of this area needed to be considered.

It was further noted that some urgency was needed with the entrance to Strawbridge Square.

Attendance: Councillor Skinner returned to the meeting at 11.10am.

In response to a question, Mr Palmer said that he was surprised by the level of engagement from retailers and landowners, as Council had only received 150 responses.

In response to questions, Mr Palmer advised that a carpark occupancy above 85% would make it difficult for individuals to locate a carpark and would impact on the traffic flow through the CBD. He indicated that there were parking spaces available away from the usual ring routes of the CBD, and that further parking was not required on the city fringe.

It was discussed that the information contained in the parking strategy referred to a high number of private carparks which Council had no control over and this could skew the results. It was also noted that there was no reference to barrier arms which were proposed at the parking workshop.

Mr Palmer explained that the parking strategy did not specify methods for payment as it was a high level document, and that the parking strategy determined there was not a need for a significant increase in parking capacity.

In response to a question, Mr Palmer explained that it was important to note that free parking was available in Nelson at the Countdown and Warehouse carparks and that the issue was with people utilising short term resources for long periods. He said that the only way to limit this was through time limits and parking charges.

There were discussions that the community would not be aware that The Wood area was considered as part of the CBD parking. It was noted that Vanguard Street and Shelbourne Street were in the CBD and these included residential, industrial and commercial activities. It was discussed that the parking study needed to consider the effects on these businesses.

It was suggested that Council officers be mindful of projections for employment in the CBD along with long term parking, and how these integrated with council documents. There was a suggestion that New Zealand did not follow international trends in relation to methods of travel and this needed to be considered along with employment trends.

In response to a question, Mr Palmer advised that private car parks were not well utilised, and that increasing charges for longer term carparking could be considered to encourage individuals to lease car parks, however it would depend on the willingness to pay and ultimately it would mean Council would need to increase enforcement.

It was noted that the legend for District Plan City Centre Zone on Appendix B: Study Areas Maps should be changed to District Plan map to avoid confusion.

Attendance: Her Worship the Mayor and Councillor Barker left the meeting at 11.35am.

In response to a question, Mr Palmer advised that implementing real-time information on parking availability to drivers would be by having sensors embedded in the ground which informed a board on the street. He added that in relation to barrier arms, the carpark would be calibrated each day and the information would be calculated each time the carpark was accessed.

There was general support that carpooling should be encouraged and that the designated areas be high profile, with high visibility for workers.

There were discussions regarding how better to utilise existing parking and that consultation with commuters was required to see how people got to work. It was suggested that more attractive and well managed parking could enhance the experience of shoppers.

It was suggested that the quality of the physical environment was important as people would want to locate their businesses in Nelson. It was noted that it was disappointing that local business employees utilising the parking squares and that carpooling and public transport needed to be marketed better and strategies needed to be aligned. It was discussed that if the CBD became pedestrianised then businesses would do better.

Resolved

THAT the report Nelson Parking Strategy (A1246489) and its attachments (A1240685 and A1246553) be received.

McGurk/Lawrey

Carried

12. Parking and Vehicle Control Bylaw and Parking Policy Amendments

Document number A1239096, agenda pages 119-133 refer.

Manager Operations, Shane Davies joined the meeting and presented the report.

Mr Davies explained that the locations of the disability car parks were primarily due to the design criteria set by the New Zealand Transport Authority (NZTA) for disability spaces. He said that the current disability spaces dropped into the live cycle lane and were currently non compliant with NZTA standards.

There were concerns that the two disability parks on Main Road Stoke were well used and that some disabled people were passengers. Mr Davies indicated that the disability areas were only being transferred not removed. It was suggested that the Parking and Vehicle Control Bylaw 2011 needed a full review.

In response to questions, Mr Davies clarified that the no stopping markings were already present and that the reason for amending the bylaw was so that it could be enforced.

Attendance: Councillor Noonan left the meeting at 12.07pm.

Resolved

THAT the report Parking Vehicle Control Bylaw (2011), No. 207 Amendments to Schedules and its attachments (A1240637, A1240641, A1240647, A1240649, A1240651 and A1240653) be received;

AND THAT the following alterations to the Schedules of Bylaw No 207, Parking and Vehicle Control (2011) be approved:

- ***Schedule 4: Special Parking Areas;***
- ***Schedule 9: No Stopping;***
- ***Schedule 14: Give Way Signs;***

AND THAT the minor amendments to the Parking Policy, and attachment (A260561) be approved.

McGurk/Ward

Carried

REGULATORY

13. Dog Control and District Licensing Committee Annual Reports 2013/2014

Document number A1230173, agenda pages 134-148 refer.

Manager Consents and Compliance, Mandy Bishop joined the meeting.

In response to a question, Ms Bishop said that the Dog Control Activity statistics were similar to previous years, and that they were from a variety of owners and repeat offenders, however she was not aware of the locations of these activities.

In response to a further question, Ms Bishop advised that prosecutions took place when Council had a reasonable case and evidence, as it was a costly process. She said that prosecutions were approved by the Group Manager Strategy and Environment.

Ms Bishop said that dog ownership was increasing and that the dog registrations were done in June.

Resolved

THAT the report Dog Control and District Licensing Committee Annual Report 2013/2014 (A1230173) and its attachments (A1235542 and A1232001) be received;

AND THAT the Planning and Regulatory Committee adopt the Nelson City Council Dog Control Activity Report 2013/2014 (A1235542);

AND THAT the Planning and Regulatory Committee adopt the Nelson District Licensing Committee Report 2013/2014 (A1232001).

McGurk/Ward

Carried

14. Using Discretion to Reduce Alcohol Licensing Fees

Document number A1235259, agenda pages 149-191 refer.

Licensing Inspector, Sarah Yarrow joined the meeting.

In response to a question, Ms Yarrow advised that alcohol licensing fees could only be reduced by one category as stated in the Sale and Supply of Alcohol Act regulations.

There was general support for using discretion to reduce alcohol licensing fees.

Resolved

THAT the report Using Discretion to Reduce Alcohol Licensing Fees (A1235259) and its attachments (A1235255 and A1235257) be received.

McGurk/Copeland

Carried

Recommendation to Council

THAT the use of discretion in the Sale and Supply of Alcohol (Fees) Regulations 2013, to reduce alcohol licensing fees is delegated to the Licensing Inspector and Chief Licensing Inspector in the "particular circumstances" outlined in clauses a), b), c) and d) of section 5.7 and clauses e), f) and g) of section 5.15 of this report;

AND THAT outside of those "particular circumstances", discretion to reduce alcohol licensing fees in accordance with the Sale and Supply of Alcohol (Fees) Regulations 2013 is delegated to the Chief Executive and Group Manager, Strategy and Environment;

AND THAT fee category reductions as a result of "particular circumstances" be applied retrospectively to on licences, off licences and club licences since the Sale and Supply of Alcohol (Fees) Regulations 2013 were introduced.

McGurk/Ward

Carried

There being no further business the meeting ended at 12.31pm.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

Status Report – Planning and Regulatory 23 October 2014

Date of meeting/Item	Action Resolution	Officer	Status
12/12/13 Council Council Hearing – Plan Change 16 Inner City Noise	THAT the Planning and Regulatory Committee recommends to Council that an independent Commissioner chaired Council assisted Hearing Panel hear and make decisions on submissions on Proposed Plan Change 16 Inner City Noise;	Reuben Peterson	23/10/14: Hearing held 02/05/14. David McMahon appointed as Independent Commissioner. Decision notified 5 July 2014 – no appeals received, presented to P&R 23 Oct 2014 and Council 20 Nov 2014 to make operative. COMPLETED
18/02/14 P&R Committee Alteration to Resolution – Draft Local Approved Products Policy (Psychoactive Substances)	AND THAT hearing of submissions to the draft Local Approved Products Policy by the Planning and Regulatory Committee be delayed until further information is available from the Ministry of Health.	Nicky McDonald	23/10/14: Hearings postponed following Government announcement of withdrawal from sale of all remaining “legal highs”. Date now being arranged for hearings to proceed with a view to having a policy in place by the time Ministry of Health regulations are completed. ONGOING
20/03/14 P&R Committee	AND THAT the Mayor writes to the Primary Industries Minister requesting financial support for these measures; AND THAT the Mayor writes to the Mayors of Tasman District and Marlborough District Councils requesting that this general approach be adopted as a regional approach;	Paul Sheldon	23/10/14 Letter to Minister approved to be sent by Mayors of all three top of the South Councils TDC Environment and Planning Committee resolved to support scoping of a joint Top of the South

	<p>AND THAT Council requests that the Top of the South Marine Biosecurity Partnership develop a proposal for a joint regional pathways plan.</p>		<p>Marine Biosecurity Pathway Plan. Now all three councils have a similar resolution.</p> <p>Environlink application approved for Cawthron Institute to compile background resources for pathway management in Top of South.</p> <p>Top of the South Biosecurity contactor currently preparing structural outline of a pathway plan.</p> <p>UNDERWAY</p>
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Environment Activity Management Plan

1. Purpose of Report

- 1.1 To seek Council's agreement to adopt the Environment Activity Management Plan 2015-2025 (AMP), refer to attachment 1, as the version that will inform the Long Term Plan 2015-2025.

2. Delegations

- 2.1 The Planning and Regulatory Committee has delegated responsibility to review and make recommendations on Activity Management Plans falling within its areas of responsibility.

3. Recommendation

THAT the report Draft Environment Activity Management Plan (A1252228) and its attachment (A1243203) be received.

4. Recommendation to Council

THAT the Draft Environment Activity Management Plan 2015-2025 (A1243203) be approved as the version that will inform the Long Term Plan 2015-25.

5. Background

- 5.1 The Environment Activity Management Plan 2015 – 2025 sets out Council's strategic direction for the environment activity for the next ten years. It is the first AMP covering the Council's planning, regulation and enforcement, environmental programmes, and monitoring and research programmes.
- 5.2 A draft of the AMP was considered at a Council workshop on 18 September 2014. As a result of that workshop some minor amendments were made to the draft, including provision for involvement in the Science Challenge focussing on Tasman Bay.

6. Discussion

6.1 The Environment Activity Management Plan 2015-2025 sets out the background to the Council's environment activity and includes details of the following:

- Areas of focus for the activity during 2015-2025.
- Levels of Service.
- The budgets for this activity.

6.2 The following areas of environment activity are considered to be the focus for this plan, largely influenced by the Nelson Plan strategic outcomes, a review of Council's resource management functions, and community feedback:

- Resource management planning – combined review of Nelson Regional Policy Statement and Nelson Resource Management Plan into a single Nelson Plan over 5 years through an integrated planning approach.
- Maitai Project/Freshwater management –significant collaborative approach to restore the natural values and function of the Maitai River.
- Biodiversity – development of a new Biodiversity Management Programme ('Nelson Nature') will provide more extensive targeted support to protect and enhance key habitats in the region.
- Air quality – it is proposed to reinstate financial assistance for home heating and insulation.
- Heritage – an increase in the level of funding in the Heritage Project Fund is provided for.
- Monitoring and Research – efforts will be targeted at priority issues rather than spread across all environmental outcomes.
- Consents and Compliance – these functions will adapt to any changes in priority and direction in the Nelson Plan, Resource Management Act 1991 itself, Nelson Policy Statements and National Environmental Standards.

7. Assessment of Significance against the Council's Significance Policy

7.1 This is not a significant decision in terms of Council's significance policy.

8. Alignment with relevant Council Policy

8.1 The Environment AMP aligns with the Nelson's Resource Management Plans, Nelson 2060 Strategy, Biodiversity Strategy, and Whakatu Nelson Heritage Strategy (Environment AMP reference 1.4 – 1.13).

9. Consultation

9.1 Consultation on funding and key levels of service will occur throughout the Long Term Plan process.

10. Inclusion of Māori in the decision making process

10.1 An overview of the Environment AMP was presented to a workshop with Iwi on 27 August 2014.

10.2 Te Tau Ihu Iwi partners will be invited to submit on any issues of interest through the LTP. There will also be further opportunities to work with Iwi partners on the various projects that are outlined in the AMP.

11. Conclusion

11.1 The Environment Activity Management Plan 2015-2025 has been prepared as a document that can inform the LTP 2015 -2025.

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Manager Planning

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Attachments

Attachment 1: Environment Activity Management Plan 2015-2025 [A1243203](#)



**Draft Environment Activity Management Plan
2015-2025**

October 2014

By Matt Heale and Richard Frizzell

Adopted: <Date>

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Executive Summary

Environment Activity Management Plan 2015-25

This is Nelson City Council's first Environment Activity Management Plan (AMP). The AMP identifies Council's programme for environmental management, and describes Council's programmes for delivery against set priorities over the next 10 years, commencing 1 July 2015.

The following priorities have been developed in response to monitoring, community feedback and Nelson Plan development.

- Freshwater (including groundwater);
- Air;
- Marine and Coastal;
- Biodiversity;
- Built environment and land use;
- Waste management;
- Natural hazards.

This AMP covers the following programmes that give effect to these priorities:

- Planning – development of the Nelson Plan and the Air Plan;
- Regulation and enforcement – processing of resource consents and monitoring consent conditions;
- Environmental programmes – education, advice and assistance to individuals, landowners and groups;
- Monitoring and Research – including State of the Environment reporting.

Several of the programmes described are still in development. Consequently, an iterative approach will be required to lock down the levels of service and budgets for each programme as they progress through the Long Term Plan process.

1. Introduction

- 1.1. As a unitary authority, Nelson City Council has significant environmental management responsibilities. Council is also a significant land and asset owner so is in a strong position to model good environmental practices in the way it plans, builds, maintains and operates its network infrastructure and community assets.

Purpose

- 1.2. The purpose of the AMP is to describe Council's:

- Environmental management priorities;
- Environmental programmes;
- Levels of service;
- Resource requirements.

Legislative Context

- 1.3. Council's environmental programme is directed by:

National legislation:

- Resource Management Act 1991;
- National Policy Statements and Environmental Standards including:
 - National Policy Statement Freshwater;
 - National Environmental Standard Air Quality;
 - New Zealand Coastal Policy Statement, and;
 - National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health;
 - National Environmental Standards for Electricity Transmission Activities;
 - Resource Management (Measurement and Reporting of Water Takes) Regulations.
- Local Government Act 2002;
- Biosecurity Act 1993;
- Te Tau Ihu Settlement Acts 2014 including:
 - Ngāti Kōata, Ngāti Rārua, Ngāti Tama Ki Te Tau Ihu, and Te Ātiawa O Te Waka-A-Maui Claims Settlement Act 2014;
 - Ngāti Apa Ki Te Rā Tō, Ngāti Kuia, Rangitāne O Wairau Claims Settlement Act 2014; and
 - Ngati Toa Rangatira Claims Settlement Act 2014.

Council’s strategic documents:

- Resource Management Plans;
- Nelson 2060 Strategy;
- Biodiversity Strategy;
- Other Activity and Asset Management Plans;
- Reserve Management Plans

Resource Management Plans

1.4. Nelson City Council, as a unitary authority, has both regional and territorial council functions to fulfil in achieving the purpose of the Resource Management Act (see s30-31 RMA). Council has a responsibility to ensure its resource management plans are kept up to date and reviewed every 10 years (see s79 RMA). Nelson has a number of resource management plans at different stages of development:

Plan	Focus	Review Date
Nelson Regional Policy Statement	Council’s overview of regional resource management issues outlining the region’s strategic direction	2007 (overdue for review)
Nelson Resource Management Plan	District, Regional, and Coastal Plan	2014 (apart from coastal and freshwater provisions which are due for review in 2016 and 2017 respectively)
Nelson Air Quality Plan	Management of Nelson’s air resource	Due for review in 2018

1.5. Collectively these plans seek to achieve the sustainable management purpose of the RMA by providing an overview of the Region’s resource management issues, and by outlining objectives, policies and methods (including rules) for the integrated management of Nelson’s natural and physical resources. These plans set the direction for growth and development while protecting a range of values including our natural landscape, biodiversity, heritage, amenity values, and water and air quality.

1.6. Council has statutory obligations to monitor the state of the environment and the efficiency and effectiveness of resource management plans (s35 RMA).

1.7. Council also engages in a number of non-regulatory programmes that support the objectives established in Nelson’s resource management plans.

Nelson 2060 Strategy

1.8. In 2013 Council adopted the Nelson 2060 Strategy. This is a non-statutory document that provides a vision for a sustainable Nelson to be achieved by 2060. It also lists a number of key goals that need to be achieved in order for the vision to be realised.

Vision and Goals

- 1.9. Nelson 2060 sets out a vision for a sustainable Nelson. The summary states:
"Nelson 2060 is an inclusive city, with a diverse range of residents who can connect easily to each other and to the beautiful place we call home. Our inclusive leadership style supports our unique approach to living, which is boldly creative, ecologically exemplary, socially balanced and economically prosperous."
- 1.10. The relevant goals from Nelson 2060 for this AMP are:
- Goal 3 – Our natural environment – air, land, rivers and sea – is protected and healthy;
 - Goal 5 – We are able to rapidly adapt to change;
 - Goal 6 – We move from using fossil fuels to renewable energy sources;
 - Goal 10 – We reduce our consumption so that resources are shared more fairly.

Biodiversity Strategy

- 1.11. The Nelson Biodiversity Strategy was adopted by Council on 1 May 2007 and reviewed in 2009 and again in 2013. It was initiated and developed by a group of 22 partner organisations who continue to work together as the Nelson Biodiversity Forum to implement the strategy.
- 1.12. The purpose of the strategy is to create a biologically rich and sustainable future for Nelson through aligned action on biodiversity and it has the following goals and objectives:
- Goal 1 - Active protection of native biodiversity**
- Nga taonga tuku iho (the treasured resources), native species, and natural ecosystems of Nelson/Whakatū are protected and restored.
 - Objective 1.1 - Ecological health, mauri and wairua of natural ecosystems are sustained.
 - Objective 1.2 - Native biological diversity is restored, enhanced and, where appropriate, connected.
- Goal 2 Ecologically sustainable use of biodiversity**
- The community has the living resources it needs, and has minimised adverse effects on valued biodiversity.
 - Objective 2.1 - Biodiversity use is ecologically sustainable.
 - Objective 2.2 - Biodiversity resources are available for the community to prosper including tangata whenua customary use of nga taonga tuku iho.
- 1.13. The focus of the strategy is on aligned action on biodiversity by responsible agencies and the community. Biodiversity is the full range of living things that interact with one another and their environment - the web of life.

Other Activity and Asset Management Plans

- 1.14. The following Council Activity and Asset Management Plans are relevant for the Environment activity:

AMP	Relevant priorities/issues covered
Water Supply; Wastewater; and Stormwater/Flood Protection Asset Management Plans	Water quality Resource consent renewals
Parks and Reserves Asset Management Plan	Biodiversity Landscape Amenity Tahuna Beach erosion
Solid Waste Asset Management Plan	Waste minimisation programme
Heritage Activity Management Plan	Heritage incentives
Transport Asset Management Plan	Vehicle network Cycling network Pedestrian network Public transport
Building & Regulatory Activity Management Plan	LIMS Building consents

- 1.15. The way that these Asset and Activity Management Plans are implemented is critical to the achievement of the Environment AMP. As a significant land and asset owner, Council is in a strong position to model good environmental practices in the way it plans, builds, maintains and operates its network infrastructure and community assets. The Environment AMP sets the foundation for environmental matters that should then be reflected in the other AMPs.

Community Outcomes

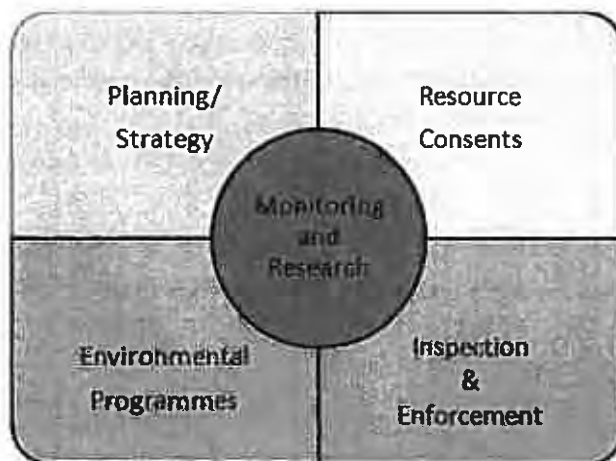
- 1.16. The environment activity contributes to the community outcomes in the following ways:

Community outcomes	How this Council activity contributes to achieving outcome
Healthy land, sea, air and water	Protect the environment through resource management plans, information and incentives to encourage good practices, managing pests, minimising waste, administering resource consents, monitoring the environment, responding to pollution events, understanding hazards and fostering resilience
People-friendly places	Provide healthy, accessible and attractive places through resource management plans, processing resource consents, investigating complaints, and promoting partnership with the community to care for our public places and develop resilient communities
A strong economy	Provide regulatory and planning structures as well as information and incentives that support

	sustainable practices
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Plan Structure

- 1.17. Section 1 of this plan is the introduction and sets the background for the rest of the document. Section 2 looks at how we deliver the work programmes of the business units. Section 3 describes the key focus areas and details the different activities that will take place in each of these areas. Section 4 lists the proposed Levels of Service for the Environment Activity. Section 5 details factors affecting the future work that will be required to meet the Levels of Service, and section 6 onwards contains supporting financial information.



2. How The Environment Activity Is Delivered

- 2.1. The Environment Activity is delivered by the following teams: The Planning, Resource Consents, Inspection and Enforcement, Environmental Programmes, and monitoring and research functions have recently been brought together within the Strategy and Environment Group. A core driver for this change has been to bring the environmental (regulatory and non-regulatory) and policy and implementation functions together. This approach recognises that policy development is usefully informed by implementation and monitoring outcomes. It also recognises that policy outcomes can be delivered through both regulatory and non-regulatory programmes.
- 2.2. The Planning team is responsible for the review and development of the Regional Policy Statement, District and Regional Resource Management Plans. These Plans set objectives, policies and rules for management of the Region's resources. The Planning team also develops Council's strategies and policies such as bylaws, reserve management plans and the Heritage Strategy.

What we do	Why we do it
Nelson Plan and Air Plan	To fulfil statutory requirements of the RMA and to ensure the integrated management of Nelson's natural and physical resources

Provide Planning/Strategic advice	To enable the community to make informed decisions
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- 2.3. The Resource Consents team processes applications for activities covered by the Resource Management Plans. They ensure the objectives, policies and rules are applied when consents are issued.

What we do	Why we do it
Processing of resource consents	To fulfil statutory requirements of the RMA; to ensure that adverse effects of activities, development and land uses are avoided, remedied or mitigated; to ensure that the objectives of the NRMP and other Plans and Standards are addressed.
Monitor and enforce resource consent conditions and 'permitted' activities	To fulfil statutory requirements of the RMA; to ensure that adverse effects of activities, development and land uses are avoided, remedied or mitigated; to ensure that the objectives of the NRMP and other Plans and Standards are addressed.
Provide planning, property, consenting information	To provide information to property owners to enable them to make informed decisions.

- 2.4. The Monitoring and Enforcement of resource consent conditions and 'permitted activities' is contracted to Environmental Inspections Ltd (EIL). Other functions of EIL are covered by the Building and Regulatory AMP.
- 2.5. The Environmental Programmes team delivers non-regulatory programmes such as environmental education and the provision of advice and assistance to landowners and community groups.

What we do	Why we do it
Biodiversity/land management advice	To improve the habitat for native flora and fauna
Water quality management	To work with iwi and the community to improve the in-stream values of our waterways
Air quality promotion	To minimise emissions to air
Eco Building Design Advice	To provide impartial advice to property owners on environmentally friendly ways to keep their home warm and healthy
Waste minimisation programme	To reduce the amount of waste disposed of to landfill
Heritage incentives	To encourage and enable protection and maintenance of heritage buildings

Enviroschools Programme Management	To promote an action-based approach to education through which children and young people plan, design and implement sustainable projects and become catalysts for change in their families and the wider community
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- 2.6. The above activities are supported by environmental monitoring and research to ensure fact-based decision making across Council.

What we do	Why we do it
State of Environment Monitoring, including:	To provide information to inform our policy/plan development and our community
Air Quality Monitoring	To track progress and inform actions contributing to NES Air Quality objectives
Freshwater Quality Monitoring	To track progress and inform actions contributing to NPS Freshwater
Hydrology	To identify and take action when low flows are measured
Recreational Bathing Water monitoring	To ensure the safety of residents using recreational waters
EnviroLink programme	To utilise research for practical outcomes

Other Activities

- 2.7. A range of other activities are also delivered with environmental objectives. These are driven by pieces of legislation other than the RMA, although they will still contribute to resource management plan objectives.

Regional Pest Management Strategy

- 2.8. The Tasman-Nelson Regional Pest Management Strategy 2012-2017 came into effect on 7 November 2012. It contains relatively few changes to the previous Strategy as the newly amended Biosecurity Act requires a major review to be undertaken over the next two years. The purpose of this Regional Pest Management Strategy (RPMS) is to provide a framework for efficient and effective pest management in the Tasman-Nelson Region so as to:

- minimise actual and potential unintended effects associated with the organisms identified as pests;
- maximise the effectiveness of individual pest management action by way of a regionally co-ordinated response.

- 2.9. Tasman District Council is the management agency for implementation of the RPMS across Nelson and Tasman. Council provides funding and officer support for various initiatives.

Marine Biosecurity

- 2.10. Nelson's coastal waters are under threat from invasive marine species. These have the potential to impact on the ecology of Tasman Bay and on the marine

economy that the Bay supports. Council is a founding member of the Top of the South Marine Biosecurity Partnership. It co-funds the Partnership along with Tasman and Marlborough District Councils and the Ministry for Primary Industries. The goals of the Partnership are to enable the integrated management of marine biosecurity through:

- clear leadership;
- consistent and co-ordinated operations;
- efficient, effective sustained action;
- wide public support and community engagement.

Waste minimisation

In 2012 Council adopted a Joint Waste Management and Minimisation Plan with Tasman District Council, as required under the Waste Minimisation Act 2008. The plan provides common goals, objectives and policies across the region, to reduce waste and increase recycling. There is also flexibility for each council to choose different methods to achieve results.

What we do	Why we do it
Regional Pest Management Strategy	To minimise the risks posed by weeds and pests on native biodiversity
Marine Biosecurity	To minimise the risk of invasive marine species impacting on the Tasman Bay environment and industry
Waste minimisation	To reduce the amount of waste being sent to landfill

3. Key Focus Areas

3.1. In September 2014 the Council confirmed the following strategic outcomes for the Nelson Plan:

City Development

3.2. The City will be a vibrant, attractive place in which people can live, work, and play, and in which business can operate successfully now and into the future.

This outcome will be achieved by providing for growth and development in a way that:

- Creates a vibrant and attractive City;
- Co-ordinates Growth and Infrastructure;
- Connects communities;
- Adapts to our hazards;
- Looks after our heritage;
- Achieves natural resource outcomes.

Natural Resources

- 3.3. Natural resources should be managed in an integrated and sustainable way to maintain and enhance natural, ecological, recreational, human health and safety, and cultural values.

This outcome will be achieved by creating:

- Clean and Accessible water;
- Healthy Coastal and Marine Areas;
- Enhanced Natural Areas and Landscapes;
- Clean Air.

- 3.4. These strategic outcomes inform the levels of service for the Environment AMP.

Efficiency and Effectiveness Review

- 3.5. A range of environmental issues have recently been comprehensively considered along with significant national policy changes. These matters were captured in the NRMP Efficiency and Effectiveness review in 2012/2013. The review highlighted the existing plan provisions that are working well and do not need changing. Key areas identified for improvement include:

- Managing growth and development – particularly retail location, land use and infrastructure integration, and residential development in sensitive environments;
- The need to recognise a wider representative range of Nelson’s heritage;
- Better management of natural hazards;
- Improving our water management to address flooding, public access and water quality issues;
- Coastal management – particularly provision for aquaculture, management of coastal hazards, and landscape protection;
- Enhanced protection of Nelson’s special biodiversity and landscape values;
- The need to work with iwi on an ongoing basis.

Community Feedback

- 3.6. The 2014 residents survey sought a range of community feedback.
- 3.7. When asked what they felt is the single most important environmental issue facing Nelson, there were a range of responses, led by water pollution (12%), flooding (11%), and air pollution (9%). Almost a third were unsure.
- 3.8. When asked to rate the importance of specific issues:
- stream/river water quality was highest overall (91% saying it was important)
 - the coastal environment (88%)
 - marine water quality (86%)
 - waste minimisation (82%)

- natural hazards (80%)
- air quality (76%)
- natural habitats/ecosystems (74%)
- natural landscapes (68%)
- housing choice and affordability (65%)
- heritage buildings and sites (57%)

3.9. There has also been a range of community feedback gathered recently through the development of the Biodiversity Strategy, consideration of woodburner use, and community discussion about the Maitai River.

3.10. The focus areas outlined above will be addressed in the following ways:

Resource Management Planning – Nelson Plan

3.11. As noted, an assessment of Council's resource management functions occurred in 2013 and the Council has resolved to undertake a combined review of the Nelson Regional Policy Statement (review was due in 2007) and Nelson Resource Management Plan (review largely due in 2014) rather than an issue based, rolling review as programmed in the 2012-2022 Long Term Plan. The Council also resolved that, where a specific resource management issue arises, a targeted Plan Change may occur separate to the full review, although it is noted this would significantly impede the progress of a single Plan. Consequently, work done to inform the resource management planning programme, including research for the Nelson Development Strategy, has been halted and collated to inform a full plan review – The Nelson Plan. The Nelson Plan will be an integrated planning approach and its development will be completed by year five (2019/2020). Community engagement on the Nelson Plan will occur throughout 2015/2016 with notification in 2016/2017. Hearings and decisions will be in 2016/2017 – 2018/2019.

Air Quality

3.12. There have been great gains made in Nelson's air quality over the last decade through significant investment by Council and the community. Community concerns however, have been raised about the impact of the Air Quality Plan on woodburner use and the number of people living in cold homes. A Woodburner Working Party will be reporting back to Council in 2014/15. Consideration of options for the management of air quality will be made by Council in late 2014.

It is proposed to reinstate financial assistance for home heating and insulation leveraging third party funding.

Heritage

3.13. The Whakatu Nelson Heritage Strategy identifies the need to take a regulatory and non-regulatory approach to heritage management.

3.14. The Heritage assistance programme acknowledges the private costs for protecting heritage for public benefit. These costs are rising, in part due to increasing hazards such as earthquake risk and water damage.

- 3.15. Council's Heritage Activity Management Plan proposes a review of the Heritage assistance programme. There is considerable demand for the Heritage project fund with over \$200,000 regularly being applied for. This Environment AMP proposes increasing the level of funding provided. Non-regulatory support is critical to successful retention of Nelson's significant heritage resource.

Freshwater Management

- 3.15.1. Central Government has amended to the National Policy Statement for Freshwater Management (NPSFW). The purpose of the amendments is to achieve improved and more consistent management of freshwater around New Zealand. The changes to the national framework will support the Council's intention to improve water quality where it is degraded.

Council will consider how it gives effect to the NPSFW as part of the Nelson Plan review. In the short term Council intends to undertake a range of non-regulatory responses including the following: catchment management planning (see below regarding the Maitai Catchment), working with community stream care and monitoring groups, riparian planting and fencing, monitoring and investigating water quality issues, working with iwi and with landowners, and ensuring our infrastructure works achieve our environmental objectives. Changes will also be needed to how Council monitors our freshwater quality to align with the NPSFW. These works are scheduled to take place across years one to ten.

Maitai Catchment

- 3.16. The Maitai River is significant to the Nelson community. Council recognises the importance of improving the River's water quality and is proposing to undertake environmental projects in years one to three. This is an investment in some immediate steps to restore natural values and function in the Maitai River. Flood mitigation works are likely to extend beyond this. The potential to expand this approach to other rivers in the Region is considered prudent.

Biodiversity

- 3.17. Council adopted a programme of actions supporting the Nelson Biodiversity Strategy in 2014. A number of key actions were identified by the Nelson Biodiversity Forum and Council will use these as a basis to develop a new Biodiversity Management Programme ("Nelson Nature") which will provide much more extensive targeted support to ensure key habitats in our Region are protected and enhanced. This includes terrestrial, coastal (cliffs, dunes and estuaries) and freshwater ecosystems.
- 3.18. It is proposed to establish comprehensive baseline data to determine the current condition of these ecosystems with the view that future measurements will determine whether the programme is succeeding and to identify where efforts should be targeted.

Monitoring and Research

- 3.19. Good environmental policy can only be developed when there is a good understanding of the system in question. This means that monitoring and

research efforts should be targeted at the priority issues rather than spread across all environmental domains.

Consents and Compliance

- 3.20. The Policy direction and provisions of the Nelson Resource Management Plan / Nelson Plan will influence what activities require resource consent. The resource consent function will adapt to any changes in priority and direction in the Nelson Plan, the Resource Management Act itself, National Policy Statements and National Environmental Standards. The focus of 'permitted activity' monitoring carried out by Environmental Inspections Limited will be determined annually in response to particular issues identified.

4. Levels of Service

Introduction

- 4.1. A key objective of this AMP is to match what we do in providing the service as required by law and in accordance with expectations of the community and their willingness to pay for the service. Activity management planning requires a clear understanding of why we do what we do, and to specify the levels of service delivered. The levels of service are intended:
- to inform people of the proposed type and level of service to be offered (now and in the future);
 - as a focus for the work required to deliver the agreed level of service;
 - to enable people to assess suitability, affordability and equity of the services offered.
- 4.2. There are many factors that need to be considered when deciding what level of service the Council will aim to provide. These factors include:
- Council needs to aim to understand and meet the needs and expectations of the community;
 - Council must meet its statutory obligations;
 - The services must be operated within Council policy and objectives;
 - The community must be able to fund the level of service provided.
- 4.3. To this end levels of service have been designed to align with community feedback, Council strategies, and the Nelson Plan programme.

What Council will provide	Performance Measures	Targets year 1-3	Targets in years 4-10	How
Clean Air	Compliance with national air quality standards	<ul style="list-style-type: none"> Airshed A – no more than 3 breaches by September 2016 Airsheds B and C – no more than 1 breach by September 2016 	<ul style="list-style-type: none"> No more than one breach in Airshed A by Sept 2020 Ongoing compliance in Airsheds B and C 	<ul style="list-style-type: none"> Nelson Plan Nelson Air Quality Plan Education Eco-design advice Home heating and insulation funding Monitoring and reporting Working with Te Tau Ihu Iwi Consents and compliance
Clean and Accessible Water	Water quality values	<ul style="list-style-type: none"> Deliver Project Maitai Improve water quality via Nelson Nature Incorporate community water values in Nelson Plan 	<ul style="list-style-type: none"> Deliver Nelson Nature Deliver catchment-based projects 	<ul style="list-style-type: none"> Nelson Plan Enhanced freshwater funding Alignment of infrastructure and Parks and Reserves AMPs with Environment AMP Working with Te Tau Ihu Trust Monitoring and reporting 30 year growth and infrastructure strategy Working with Te Tau Ihu Iwi Consents and compliance Education
Protection of Nelson's unique heritage sites and buildings	Number of heritage sites and buildings that are identified for protection	<ul style="list-style-type: none"> Identify regulatory and non-regulatory options for protection of heritage buildings and sites Review Whakatu Nelson Heritage Strategy Incorporate heritage approach into Nelson Plan 	<ul style="list-style-type: none"> Deliver Whakatu Nelson Heritage Strategy 	<ul style="list-style-type: none"> Nelson Plan Enhanced heritage funding and other non-regulatory mechanisms Monitoring and reporting Consents and compliance Heritage AMP Working with Te Tau Ihu Iwi
Protection and enhancement of Nelson's landscape and ecological	<ul style="list-style-type: none"> Area & condition of indigenous vegetation Native bird 	<ul style="list-style-type: none"> To provide a baseline from which future progress can be assessed Develop and deliver Nelson Nature 	<ul style="list-style-type: none"> Deliver Nelson Nature 	<ul style="list-style-type: none"> Nelson Plan Education Enhanced funding Alignment of infrastructure and Parks and Reserves AMPs with Environment

What Council will provide	Performance Measures	Targets year 1-3	Targets in years 4-10	How
values	and fish population diversity & abundance • The health of managed sites	• Incorporate biodiversity values into Nelson Plan		AMP • Working with Te Tau Ihu Iwi • Monitoring and reporting • Consents and compliance
Management of Biosecurity risk	Achievement of Biosecurity objectives	• Deliver Regional Pest Management Strategy • Deliver Top of the South Marine Biosecurity Strategy	• Deliver Regional Pest Management Strategy • Deliver Top of the South Marine Biosecurity Strategy	• Regional Pest Management Strategy • Top of the South Marine Biosecurity Strategy • Nelson Nature • Alignment of Parks and Reserves AMP with Environment AMP
Reduced waste to landfill	Amount (tonnes) of waste per resident sent to landfill	• Deliver Joint Waste Management and Minimisation Plan	• Deliver Joint Waste Management and Minimisation Plan	• Education • Solid Waste AMP
State of the Environment monitoring and reporting	Compliance with national standards and requirements	• Deliver regional state of the environment programme • Develop and deliver regional environmental research programme	• Deliver regional state of the environment programme • Deliver regional environmental research programme	• Nelson Plan • Nelson State of Environment programme • NCC environmental research programme • Consents and compliance
A well planned city that meets the community's current and future needs Creation of a	Development and implementation of Nelson Plan	• Undertake community engagement and notification of Nelson Plan • Develop Centre Plans and non-regulatory methods • Services and growth prioritised to areas close to existing services and shops	• Nelson Plan Decisions and appeals completed • Implement Nelson Plan • Services are established according to priority	• Nelson Plan • Working with Te Tau Ihu Iwi • Engaging with the community • Nelson Plan design and density controls • Urban Design Panel • By-Laws • Community Facilities and Arts AMP • Monitoring pedestrian counts and

What Council will provide	Performance Measures	Targets year 1-3	Targets in years 4-10	How
vibrant and attractive City Co-ordinated Growth and Infrastructure Connected communities Hazard adaptation Healthy Coastal and Marine Areas		<ul style="list-style-type: none"> • Key strategic transport linkages are identified in the Nelson Plan • Communicate known hazards and associated risks • Work with the community to develop acceptable hazard solutions via the Nelson Plan • Continued investigation of hazards and risks • Review coastal provisions of Nelson Plan • Enhance coastal water quality • Deliver Top of the South Marine Biosecurity Strategy • Deliver Nelson Nature 	<ul style="list-style-type: none"> • Communicate known hazards and associated risks • Work with the community to develop acceptable hazard solutions via the Nelson Plan • Continued investigation of hazards and risks • Review coastal provisions of Nelson Plan • Enhance coastal water quality • Deliver Top of the South Marine Biosecurity Strategy • Deliver Nelson Nature 	density in and around City Centre, Victory, Stoke, Tahunanui <ul style="list-style-type: none"> • 30 year growth and infrastructure Strategy • Development contributions policy • Transport and Parks & Reserves AMPs • Consents and compliance • Building consents • Regional Pest Management Strategy • Top of the South Marine Biosecurity Strategy • Nelson Nature • Alignment of infrastructure AMPs with Environment AMP • Tasman Bay Working Group • Port Nelson Environmental Management Plan

What Council will provide	Performance Measures	Targets year 1-3	Targets in years 4-10	How
Regulatory programme (resource consents and compliance)	Compliance with statutory timeframes	<ul style="list-style-type: none"> 100% of non-notified resource consents processed within 20 working days. 100% of notified/limited notified consents processed within 75 working days (or less as required by RMA). 	<ul style="list-style-type: none"> Ongoing compliance 	<ul style="list-style-type: none"> Working with Te Tau Ihu Iwi Major projects team Pre-application advice Urban design panel
	Achievement of Resource Management Plan objectives via annual regulatory reporting	<ul style="list-style-type: none"> Annual reporting 	<ul style="list-style-type: none"> Produce Efficiency and Effectiveness Report 2022 	<ul style="list-style-type: none"> Monitoring, compliance, and policy integration
	Compliance monitoring programme informs policy development	<ul style="list-style-type: none"> Develop and deliver an annual compliance monitoring programme 	<ul style="list-style-type: none"> Deliver annual compliance monitoring programme 	<ul style="list-style-type: none"> Nelson Plan Consents Monitoring programme

DRAFT

5. Future Work

Factors Affecting Delivery and Demand for Activity

- 5.1. Council recognises that future demands for Environmental Management will be influenced by:
- Population and economic growth and demographic change;
 - Changes in community expectations;
 - Environmental changes such as natural hazards;
 - Changes in legislation and planning documents;
 - Changes in the environmental risk profile.
- 5.2. The impact of these influencing factors on the demand for Environmental Management and the effect on the current scale and mode of delivery is discussed below.

Population and Economic Growth and Demographic Change

- 5.3. The rate of population growth anticipated in the region is likely to be reflected in a proportionate increase in activity levels within this function. In addition, demographic change such as an increasing average age of the city's population, and the continuing importance of immigration and changing values and expectations of the community, will require planning responses.
- 5.4. While overall numbers of resource consents have been declining, it is worth noting that consent applications have become more complex in nature. The number and type of consents received is also dependent upon Resource Management Plan rules and what activities the Plan requires consent for. The Council is embarking on a full plan review and the impact of this on the number and type of resource consent applications is yet unknown.
- 5.5. The Government has also signalled changes to the Resource Management Act some of which will have impacts on timeframe requirements for the processing of resource consents and development of Resource Management Plans. The Ministry for the Environment is introducing a new National Monitoring System which will include changes to what information needs to be gathered and how. The full impact of these changes is not yet known.
- 5.6. The resource consent business unit will need to ensure it has flexibility to adapt and respond to any future changes in a way that maintains current performance and customer service levels.

Trends in Community Expectations

- 5.7. The 2014 Residents Survey, indicates that the key focus area for the environment activity is correctly positioned. An increasing level of awareness of environmental issues, pressure on land and other resources as work progresses will mean Council will have to lead and respond to such community views.

Environmental Changes Such As Natural Hazards

- 5.8. Changing patterns of weather, long term changes in the climate or the occurrence of natural hazards will affect the rate and scope of policy responsiveness that is required concerning land and water use and associated risks such as increased pest risk exposure, sudden and severe weather systems, increasing drought risk and the increased incidence of storm driven seawater inundation of low-lying coastal land. The likelihood of new pest incursions arising for reasons other than climate change is also an issue we are starting to see which is not easy to anticipate. There is an expectation that Local Government will respond proactively to the consequence of climate change. Government scientists have given a strong and consistent message that climate change is likely to result in an increase in the frequency, geographical range and intensity of adverse weather events.

Changes in Legislation and Policies

- 5.9. Changes to Environmental Management Activity policies will be driven from a number of political directions. They could be internally driven through Council or externally by other organisations such as the Government or other agencies. Council will continue to monitor these factors when reviewing and developing forecasts and strategies.
- 5.10. The government signalled changes to the RMA in 2013. These changes seek to deliver a single Resource Management Plan based on a national template and amendments to the purpose of the RMA to include hazards, land supply, and provision for infrastructure. The development of the Nelson Plan, as proposed, will align with this proposed reform.

Changes in the Environmental Risk Profile

- 5.11. Through various resource management actions the risk of adverse effects from resource use activities should diminish. Where this applies, monitoring programmes or sites within monitoring programmes should be reduced. External factors such as natural hazards may increase the risk of effects from certain activities. This may mean more monitoring to assess these effects.

Renewals Capital Expenditure and Depreciation

- 5.12. This activity uses Council buildings and office equipment and vehicles which are managed as part of the business overheads. The only other capital cost is involved in providing and maintaining a reliable environmental monitoring system and these capital costs are low.

Future Programme

- 5.13. Unless the Government or Council introduce new legislation or regulations, no new categories of business costs are expected except those likely to arise as a result of increased activity levels.

Funding the Annual Net Cost

- 5.14. The current funding sources available for environmental activities include:
- general rate;

- targeted rate;
- grants;
- sponsorship;
- sales;
- sundry income;
- fees and charges recovery.

6. Financial Information

Funding Issues

Planning/Strategy Advice

- 6.1. The public generally benefits from Council having an ability and willingness to respond to national initiatives which might otherwise impact on Council's business. This sub-activity receives funding from the general rate. Opportunities for recoveries are limited. Currently the ratio is a Public 100%, Private 0% split.

Resource Management Policies and Plans

- 6.2. Council considers that the community as a whole benefits through having in place a planning framework for promoting sustainable management of natural and physical resources and minimising biosecurity risk. It receives a small contribution through plan sales and application fees for private plan changes. The balance coming from general rate. The funding ratio is Public 100%, Private 0% split.

Environmental information

- 6.3. The public generally benefits from Council having a good understanding of environmental pressures and trends and the state of resources in the region, the information about which can go towards making good policy and consent decisions. The public also benefits from having in place a system for monitoring and responding to hazard events. Currently the ratio is a Public 100%, Private 0% split.

Resource Consents

- 6.4. The Consents and Compliance Business Unit is responsible for a variety of functions that have an element of cost recovery. While some charges are set by statute, other statutes give local authorities the power to set charges. Funding is achieved by Council through a mix of general rates, fees and charges, and infringement fees and fines. The level of cost recovery from applicants affects the level of ratepayer funding that is required.
- 6.5. Fees and charges aim to recover about 50% of the total resource consent costs as resource consent staff typically spend 50% of their time processing resource consents. At least 30% of resource consent staff time is spent responding to public enquiries with the other 20% spent on training, professional

development, business unit and organisational meetings and other employee responsibilities. Rates cover 50% of resource consent costs.

6.6. The activities with a non-recoverable cost basis include:

- Monitoring of permitted Nelson Resource Management Plan standards (although some fines are recovered from enforcement action if rule breaches are discovered);
- The provision of a general enquiry service by resource consents staff to assist members of the public to understand general planning requirements. Customers (external and internal) either make appointments to see a duty planner, send emails, phone or walk in to the Customer Service Centre. There is provision to charge people after 30 minutes but in practice this has not occurred due to appointments generally taking less than half an hour;
- Assessing and deciding on objections to consent conditions or costs;
- Staff time and legal costs associated with resource consent appeals;
- Staff time and most legal costs associated with enforcement actions although some recovery is obtained through fines and costs awarded by the Court;
- Investigating and resolving claims of Council errors in processing applications;
- Staff time assisting the Hearings panel for non-RMA matters.

6.7. Resource consent holders pay for the entire cost of monitoring and enforcing their consent conditions.

6.8. The Resource Management Act 2009 Amendments included the introduction of a Discount Policy should the consent:

- be processed outside the statutory timeframes; and
- it was the fault of the Council.

6.9. The discount came into effect on 31 July 2010. The default discount is 1% of the consent processing costs per day the consent was late, up to a maximum of 50% of the costs of the consent. Councils can choose to give a more generous discount than the default.

6.10. There is a level of financial risk to the Council associated with not achieving statutory timeframes.

Development Contributions

6.11. The Local Government Act does not allow the cost of developing and administering the Development Contributions Policy to be offset against monies collected for future capital works. This sub-activity receives funding from the general rate. Opportunities for recoveries are limited. Currently the ratio is a Public 100%, Private 0% split.

Compliance

- 6.12. In relation to compliance activities, the cost of monitoring consents is 100% recovered from consent holders through section 36 RMA charges as the consent holder is seen as the beneficiary. Some income is secured through recoveries, fines, and sales (of uncollected, impounded equipment), however, the Council does not budget for income from penalties as it could be seen to create a perverse incentive.
- 6.13. Permitted activity monitoring is funded from the rates base. Generally the public and future residents are the beneficiaries of this type of monitoring.
- 6.14. General complaint monitoring is also carried out, however, this covers a number of different activity areas, some of which are not covered in this Activity Management Plan.

Biosecurity

- 6.15. The public generally benefits from Council undertaking pest management responsibilities with attendant reduction in risks to primary production, biodiversity, and the environment. Nelson City Council pays Tasman District Council for work done in accordance with the Regional Pest Management Strategy. Public 100%, Private 0% split.

Environmental Education and Advocacy

- 6.16. Council considers that the community generally benefits from having in place a system for promoting an awareness of environmental issues and responsible behaviour towards the environment and appreciation of sustainable management objectives. Some non-rate funding for this activity could come from sponsorship, grants, and land owner contributions. Currently the ratio is a Public 100%, Private 0% split.

Schedule of Fees and Charges

- 6.17. The fees and charges are reviewed annually and increased at least by the CPI. Environmental monitoring activities are funded in part by annual charges set under section 36(1)(c) of the Resource Management Act. Setting of fees is subject to separate process.

7. Significant Negative Effects

- 7.1. There are no significant effects from the activity, other than the costs of providing the services, however, particular actions and decisions may result in adverse media coverage that may be regarded as being representative of a negative effect. In such cases, Council will manage this prospect by properly assessing options and implications and clearly justifying decisions.

8. Significant Forecasting Assumptions and Uncertainties

- 8.1. The most significant assumptions and uncertainties that underlie the approach that has been outlined herein are:
- A reasonable degree of reliability can be placed on the population and other growth projections that have been used as forecast assumptions for

the priorities in the Environmental Management activity. However, these remain projections, and need to be carefully tracked to ensure that they remain a reliable indicator of likely future trends.

- Government regulation and other regulatory changes are capable of changing the scope, nature and processes associated with this activity. However, no allowance has been made for changes in legislation.
- Future budgets are based on a similar level of effort being required to respond per issue to the demands of this activity, but with growth and increasing contests over resource use, the outlook is for a slow level of increase in aggregate effort over the ten year period.
- The importance of public education, its message, delivery and review should never be under estimated.

9. Plan review

- 9.1. This AMP is a living document that is relevant and integral to daily management of the activity. To ensure the plan remains useful and relevant, an on-going process of AMP monitoring and review will be undertaken, including a comprehensive review at intervals of not less than three years, and each review will be completed to coincide with the next review of the Long Term Plan.

10. Conclusion

- 10.1. The Council will undertake its Environmental Management activities in accordance with its legal obligations and in a manner that ensures community outcomes are achieved.

Appendix 1 Financial projections 2015 - 2025

	2015/16	2016/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25
Planning										
Nelson Plan	500,000	500,000	500,000	500,000	300,000	200,000	200,000	200,000	200,000	200,000
Air Plan	100,000	100,000	100,000	100,000	100,000					
Strategy & Policy	50,000	50,000	100,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Resource Consents processing	1,717,000	1,717,000	1,717,000	1,717,000	1,717,000	1,717,000	1,717,000	1,717,000	1,717,000	1,717,000
Resource Consent Monitoring	203,000	203,000	203,000	203,000	203,000	203,000	203,000	203,000	203,000	203,000
Permitted activity monitoring	26,000	26,000	26,000	26,000	26,000	26,000	26,000	26,000	26,000	26,000

Monitoring Programme	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
Air monitoring	100,000	70,000	70,000	70,000	170,000	100,000	70,000	70,000	70,000	100,000
Coastal monitoring	13,000	38,000	13,000	38,000	13,000	38,000	13,000	38,000	13,000	38,000
Tasman Bay Science Challenge	20,000	20,000	20,000							
Water monitoring	153,000	153,000	153,000	153,000	166,283	153,000	153,000	153,000	153,000	166,283
Research	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
Other (LAWA website, SOE reporting, iwi indicator monitoring)	25,500	25,500	25,500	25,500	25,500	25,500	25,500	25,500	25,500	25,500
Monitoring Programme TOTAL	326,500	321,500	296,500	301,500	389,783	331,500	276,500	301,500	276,500	344,783

Non-reg Programme	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
Air quality	116,000	116,000	116,000	116,000	116,000	116,000	116,000	116,000	116,000	116,000
Biodiversity	655,000	655,000	655,000	655,000	655,000	655,000	655,000	655,000	655,000	655,000
Project Maitai/Mahitahi	400,000	400,000	400,000	0	0	0	0	0	0	0
Future Catchment-based projects	0	0	0	100,000	100,000	100,000	100,000	100,000	100,000	100,000
Biosecurity	196,000	206,000	196,000	196,000	196,000	196,000	186,000	186,000	186,000	196,000
Environmental Education	126,929	126,929	126,929	126,929	126,929	126,929	126,929	126,929	126,929	126,929
Heritage incentives	170,000	170,000	170,000	170,000	170,000	170,000	170,000	170,000	170,000	170,000
Non-reg Programme TOTAL	1,663,929	1,673,929	1,663,929	1,363,929	1,363,929	1,363,929	1,353,929	1,353,929	1,353,929	1,363,929

Plan Change 16 – Inner City Noise – operative date

1. Purpose of Report

- 1.1 To recommend that Council approves Plan Change 16 – Inner City Noise as operative pursuant to Clause 20(1) of the First Schedule of the Resource Management Act 1991 (RMA).

2. Delegations

- 2.1 As outlined in section 6.3.3 of the Delegations Register 2014 Council has delegated to the Planning and Regulatory Committee the power to recommend to Council any alterations necessary to the Nelson Resource Management Plan. Council has the power under the RMA to make these alterations operative.

3. Recommendation

THAT the report Plan Change 16 – Inner City Noise – operative date (A1238640) and its attachments (A1206051) and (A1254607) be received.

Recommendation to Council

THAT Council resolves to make the provisions within the commissioners decision on Plan Change 16 – Inner City Noise (A1206051) operative on 1 December 2014, pursuant to Clause 20(1) of the First Schedule of the Resource Management Act 1991.

4. Discussion

- 4.1 Plan Change 16 – Inner City Noise proposed a package of methods in the Nelson Resource Management Plan that assist with the management of noise in the Central City. This package recognises the needs of both those that receive the noise and those that produce it.
- 4.2 The Plan Change was notified on 7 September 2013 with 15 submissions and two further submissions received. Council delegated decision making powers to a Hearing Panel consisting of Independent

Commissioner David McMahon (Chair) and Councillors Davy and Barker. The hearing was held on 2 May 2014.

4.3 The decision was notified on 5 July 2014 and no appeals were received.

4.4 In summary the Plan Change, as per decisions of the Hearing Panel, has the following amendments to the Nelson Resource Management Plan:

- Introduce permitted activity requirements for new bedrooms in residential units, in the Inner City Zone, to be acoustically insulated to reduce noise entering these sleeping areas.
- Require new or extended 'noise generating activities' to apply for a resource consent to allow for consideration of noise issues.
- Plan provision retaining control over night time maximum noise level (LAFmax).
- Retain and amend the rule controlling noise at properties in the Residential Zone.
- Use the unreasonable and excessive noise provisions of the Resource Management Act 1991 (RMA) to manage and enforce noise within the Inner City Zone rather than the current noise rule ICr.42.
- Non-regulatory approaches including ongoing education, negotiation and mediation.

5. Options

5.1 The Plan Change has been developed under the provisions of the First Schedule of the RMA. Options for the content of the Plan Change have been considered through the Section 32 evaluation process under the RMA. The Plan Change provisions within the decision are currently 'treated as operative' under Section 86F of the RMA.

6. Assessment of Significance against the Council's Significance Policy

6.1 This is not a significant decision in terms of Council's Significance Policy.

7. Alignment with relevant Council Policy

7.1 This Plan Change achieves the objectives of Council's RMA planning documents and also supports the vision of Nelson 2060. In particular Theme One: A sustainable city of beauty and connectivity which includes the statement '*The central city is a vibrant, attractive place in which people live, work and play*'.

7.2 There are no identified impacts on Council's Long Term Plan or Annual Plan.

- 7.3 The recommendation and subsequent decision, is consistent with previous Council decisions in developing this Plan Change.
- 7.4 There are no additional, or unbudgeted, costs associated with this recommendation and subsequent decision.

8. Consultation

- 8.1 The Plan Change has been subject to the First Schedule RMA consultation processes. Those people and agencies with an interest in the Plan Change have been consulted and have had the opportunity to make submissions.
- 8.2 To make the Plan Change operative Council will notify the operative date in the Nelson Mail and send copies to the parties identified in Clause 20, First Schedule of the RMA.

9. Inclusion of Māori in the decision making process

- 9.1 Iwi have been consulted on this Plan Change as required under the First Schedule of the Resource Management Act 1991.

Reuben Peterson
Planning Adviser

Attachments

- Attachment 1: Commissioners' Decision Plan Change 16 Inner City Noise
17 June 2014 - [A1206051](#)
- Attachment 2: Plan Change 16 Inner City Noise – Council Seal page -
[A1254607](#)

Commissioners' Decision

PLAN CHANGE 16

Inner City Noise



**Report and Decision of the Hearing Panel appointed by Nelson
City Council pursuant to Section 34 of the Resource Management
Act 1991**

17 June 2014

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SCHEDULE OF APPENDICES

- **APPENDIX 1:** s37 Waiver – Submission 15
- **APPENDIX 2:** Minutes issued by Commissioners
- **APPENDIX 3:** Summary of decisions on submissions received
- **APPENDIX 4:** Plan Change Provisions

Nelson City Council Report of the Hearing Committee

Proposal Description:

Proposed Change 16 to the Nelson Resource Management Plan – Inner City Noise

Committee Members:

David McMahon (Independent Commissioner, Chair), Ian Barker (Councillor), Eric Davy (Councillor)

Date of Hearing:

2 May 2014

Hearing declared closed:

26 May 2014

1.0 INTRODUCTION

Context

- 1.1 We were appointed by the Nelson City Council (“**the Council**” or “**NCC**”) to hear submissions to, and to consider and make a decision on, Proposed Plan Change 16 (“**PC16**” or “**the Plan Change**”). PC16 seeks to revise the inner city noise standards to provide a more effective and enforceable way of managing inner city noise, while also enabling some commercial activities with potential for noise characteristics (such as bars and entertainment activities) and residential activity to occur in the city centre. To achieve this end, the Plan Change proposes several amendments to the existing rules in the Nelson Resource Management Plan (“**NRMP**” or “**the Plan**”), and introduces new rules, appendices and other methods to apply specifically to the inner city.
- 1.2 The Plan Change has an extensive background, which we will canvas in due course, and has been the subject of a Council “section 32” report, extensive community and stakeholder consultation, and of course the public notification and hearing, culminating in this report.
- 1.3 Before discussing the details of the Plan Change and the submissions to it, there are some preliminary matters that we will address, beginning with our role as Commissioners.

Role of Commissioners and Report Outline

- 1.4 We were appointed by the Council by delegation dated 12 December 2013. The terms of that delegation were carried as follows:

“THAT the Planning and Regulatory Committee recommends to Council that an independent Commissioner chaired Council assisted

Hearing Panel hear and make decisions on submissions on Proposed Plan Change 16 Inner City Noise;

AND THAT the Planning and Regulatory Committee recommends to Council the membership of the Hearing Panel for Plan Change 16 Inner City Noise consists of an independent Commissioner as Chair and Councillor Ward¹¹ and Councillor Barker as Council Commissioners.

- 1.5 Under this delegation, our role is to make a decision on the Plan Change pursuant to Clause 10, Schedule 1 of the Act.
- 1.6 In terms of the above, having familiarised ourselves with the proposed Plan Change and the background material, read all submissions and evidence, conducted the hearing and heard from the submitters and the appointed Council advisors, as well as having visited the locality on several separate occasions, we hereby record our decision.
- 1.7 In this respect, and in addition to this introduction, this report is generally divided into the following parts:

(a) Factual Background & Plan Change Outline:

This part (comprising report Sections 2 and 3) is largely factual and includes an outline of the background to the Plan Change, including the sequence of events leading to this report. It also outlines the main components of the Plan Change, including an overview of the locality. This background section provides a relevant context to considering the issues raised in submissions on PC16. Here, we also record the various submissions received, provide a brief outline of the concerns raised by the submitters to the Plan Change, and provide an account of the hearing process itself.

(b) Evaluation of Key Issues:

The final part of our report (comprising report Sections 4-6) contains an assessment of the main issues raised in submissions to PC16, and where relevant, amplification of the evidence/statements presented at the hearing (in Section 4). We conclude with a summary of our recommendations on each relief point sought (in Section 6), having had regard to the necessary statutory considerations that underpin our considerations (in Section 5). This part of the report is evaluative, and records the results of our deliberations and the reasons for our findings.

Preliminary Comments

- 1.8 In advance of setting out more substantive background matters, we wish to record our appreciation at the manner in which the hearing was conducted by all the parties taking part. In this respect, we would like to acknowledge the following endeavours:

¹¹ By way of subsequent resolution under Council's delegation, Councillor Ward was replaced by Councillor Davy.

- the constructive input provided by all submitters appearing before us;
 - the efforts of Council's Administration Officer, Ms Gayle Brown;
 - the assistance afforded to us from Council Officers and Advisors within the s42A report, at the formal proceedings and through subsequent information-gathering exercises; and
 - the assistance of our Hearing Advisor, Mr Jason Jones.
- 1.9 The above actions promoted a much-focused proceeding that has greatly assisted us in assessing and determining the issues, and in delivering our decision.
- 1.10 These initial thoughts established, we now set out the factual background to the Plan Change.

2.0 BACKGROUND

Pre-Plan Change Initiatives and Sequence

Context

- 2.1 The area directly affected by the Plan Change comprises the Inner City Zone ("IC Zone"). The NRMP describes this zone as follows:

The Inner City Zone covers the commercial area of inner Nelson. It extends from Pioneer Park in the west, to include the Polytechnic and the government precinct in Albion Square on the eastern side. The Maitai River and residential areas form a natural boundary to the north, while the Cathedral and residential areas in the vicinity of Nile Street (East and West) define the southern extremity.^[2]

- 2.2 As shown on **Figure 1** below, the IC Zone includes both the City Centre and City Fringe sub-zone areas. The City Centre (shown in light purple) is generally contained within the ring road formed by Collingwood, Halifax, and Rutherford Streets, and Selwyn Place. The NRMP^[3] characterises the area as a "concentration of mainly comparison shopping, services such as banks and offices, as well as a growing number of restaurants, cafes and other entertainment activities."

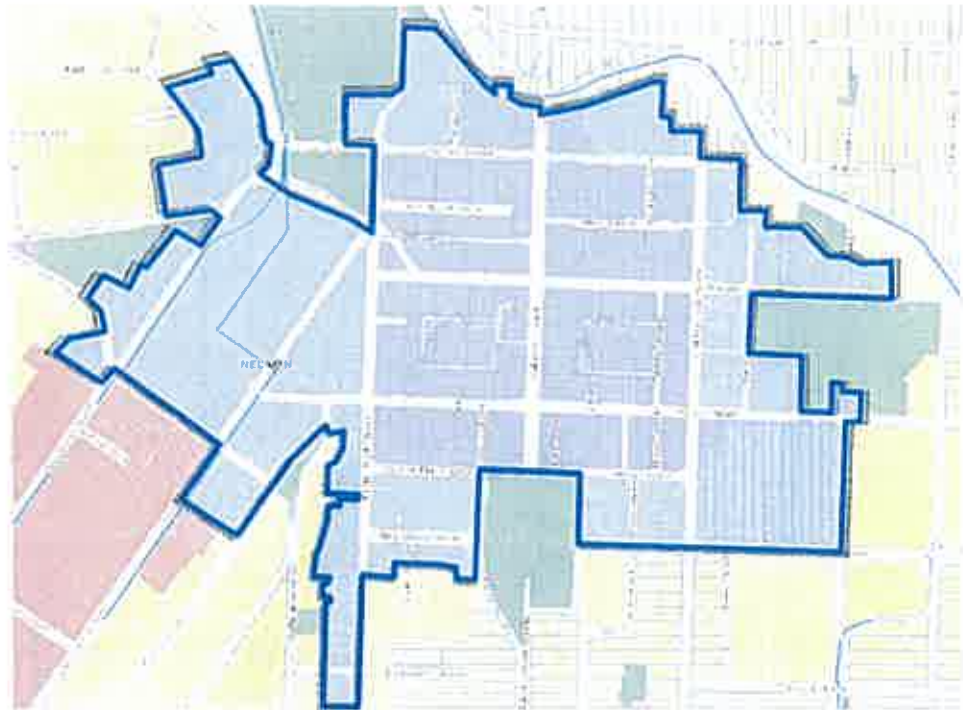


Figure 1: Inner City Zone (heavy blue outline), with City Centre (light purple) and City Fringe (light blue) sub areas.

- 2.3 The City Fringe (shown in light blue on Figure 1) essentially surrounds the City Centre, and has been formed to provide a transition from the City Centre to other

^[2] NRMP, Chapter 8, p. 8-1, para ICd.1

^[3] NRMP, Chapter 8, p. 8-1, para ICd.4

areas and as a containment mechanism of the retail focus in the Centre^[4]. The Plan^[5] anticipates that activities in this area will be more vehicle-orientated than in the City Centre, and include such uses as supermarkets, service industries, large site retailing (such as bulk retail and second hand stores), offices, the Nelson Polytechnic, cultural and recreational facilities, wholesaling, and retailing for commercial users in the City Centre.

Timeline of key dates: Notification & summary of submissions

- 2.4 The Plan Change was publicly notified on 7 September 2013, with the period for receiving submissions closing on 4 October. A summary of decisions requested in those submissions was publicly notified on 26 October 2013 with the period for further submissions closing two weeks later on 11 November.
- 2.5 We discuss subsequent process matters and related dates below.

The Plan Change

- 2.6 This section outlines the key components of the Plan Change in a purely factual sense. We rely on this information in our evaluation in Section 4 of this report without having to repeat the provisions verbatim.
- 2.7 Unlike privately-requested plan changes, the Act does not require that Council-initiated plan changes state a reason and/or purpose. Notwithstanding this, the Council elected to define a 'vision' for PC16 as a guiding statement on what the Plan Change seeks to achieve. The vision was derived from relevant NRMP objectives and policies and from Council's *Heart of Nelson Central City Strategy (2009)*, stating:

A vibrant night life and encouraging more people to live in our CBD both play an important part in keeping our young and young at heart living in and visiting our city. However some inner city attractions and activities can be noisy and some inner city dwellings were designed for quieter environments. People choosing to live in the CBD are much more likely to use the city and its restaurants, bars and clubs as their playground but they need to recognise that living in the CBD is likely to be noisier than living in the suburbs. There is much that the providers of inner city dwellings and the providers of entertainment can do to create a "liveable" inner city environment. If this is to happen we all need to take responsibility for managing noise; Council seeks to strike a balance between those who make the noise and those on the receiving end. We want to improve how noise is managed by supporting entertainment-makers, patrons and residents to make this city a great place to live, work and play. [6]

- 2.8 To give effect to this vision through the NRMP, PC16 (as notified) proposed six amendments to the IC Zone rules and methods. These amendments were roughly summarised^[7] in the Clause 5 public notice as follows:

^[4] NRMP, Chapter 8, p. 8-2, para ICd.13

^[5] NRMP, Chapter 8, p. 8-1, para ICd.12

^[6] proposed plan change, Section 1.5, p.9, first para

^[7] Note – we have modified the text from the notice slightly for grammatical purposes. For full detail of the amendments, reference should be made to the notified plan change.

- new permitted activity requirements for new bedrooms in residential units, or new rooms intended to be used for sleeping in 'Short Term Living Accommodation' units (hotels, motels etc) in the Inner City Zone to be acoustically insulated to reduce noise entering these sleeping areas;
 - requirements for new or extended 'noise generating activities' to apply for a resource consent to allow for consideration of noise issues;
 - plan provision retaining control over night time maximum noise level (LAFmax);
 - retention of, and amendment to, the rule controlling noise at properties in the Residential Zone;
 - use of the unreasonable and excessive noise provisions of the RMA to manage and enforce noise within the Inner City Zone rather than the current noise rule ICr.42; and
 - new guidance on non-regulatory approaches including ongoing education.
- 2.9 The Plan Change also proposes to update relevant New Zealand Standards that are incorporated by reference^[9] within the NRMP.
- 2.10 The Plan Change proposed no change to the settled objectives and policies of the NRMP.

Notification and submissions

- 2.11 As noted above, the Plan Change was publicly notified on 7 September 2013. A total of 14 submissions were received prior to the closing date, and one additional submission was received subsequently. Two further submissions were received, both of which were lodged prior to the closing date.
- 2.12 On 28 February 2014, we considered an application for a waiver for an extension of time^[9] to receive the late submission referred to above. The waiver was granted, and the late submission was formally received, as set out in **Appendix 1** to this report.

Pre-hearing Procedural Matters

Minute 1

- 2.13 Following our formal engagement, we were provided with copies of the Plan Change documentation and submissions received. Having canvassed those documents, we set out a pre-hearing programme by way of a Minute dated 24 February 2014.
- 2.14 This communication set the stage for the manner in which we wished to conduct the hearing, and covered the following matters:

^[9] pursuant to Part 3, Schedule 1 of the Act

^[9] pursuant to s37 RMA

- **Hearing Date** – an indicative start date of 2 May 2014 was signalled;
- **Witnesses** – all parties were instructed to provide a list of witnesses (if any) that would be presenting evidence on their behalf and the disciplines of any experts to be used;
- **Council s42A Report** – we indicated our direction to the Council to circulate the s42A Report well in advance of the statutory minimum timeframe (by 7 April);
- **Site and Locality Visits** – we indicated that we would be undertaking site visits at some stage, and invited the parties to advise of any particular sites or localities they consider we should have regard to; and
- **Timetable** – we set out an indicative timetable for all pre-hearing exchanges and the start date of formal proceedings.

2.15 A copy of each of the Minutes we issued is included in **Appendix 2** to this report.

Pre-circulated material

- 2.16 As directed by our Minute, we received some additional material from submitters prior to the commencement of formal proceedings. Namely, we received statements from McDonalds Restaurant (NZ) Ltd (Submission 10), and Ms Gaile Noonan (Submission 13). The former indicated that they simply wished for the statement to be tabled and that no representative would be appearing at the hearing, while Ms Noonan spoke to her statement (as we discuss below).
- 2.17 We were also advised by NCC's Reporting Officer, Mr Peterson, that the Council had received^[10] further information from two parties:
- Ms Michelle McLean (Submission 9); and
 - Mr Peter Mayes (Submission 3)
- 2.18 For our purposes, we have accepted this information as 'tabled', and are therefore compelled to describe the information for the sake of completeness.
- 2.19 In relation to Ms McLean's correspondence, we were made aware of two emails from Ms McLean to Ms Brown on 30 April. In these emails, Ms McLean referred to the following (in summary):
- high chronic pain rates in Nelson;
 - delta wave sleep, and in turn anabolic processes, neurotransmitters and other cellular processes, disrupted by noise, port, traffic, construction; and
 - a question as to whether or not the Council considered noise cancelling technology to reduce noise (which may reduce violence and mental health issues).

^[10] For completeness, we note that we were advised of Ms McLean's communications to the Council prior to the start of proceedings; however, we were not made aware of Mr Mayes' correspondence until Mr Peterson advised us at the hearing. This is discussed further below under our discussion of the 2nd Minute.

- 2.20 Mr Mayes' additional information was by way of email to Mr Peterson dated 8 April. In that correspondence, Mr Mayes sought clarification from Mr Peterson as to whether or not details raised in his submission had been adequately considered. These related to the effectiveness of the proposed Plan Change methods versus other methods, including economic and operational effectiveness.
- 2.21 We do not intend to address the information provided by Ms McLean and Mr Mayes to any substantive extent here. Again, we have summarised these points for the benefit of all parties in understanding the full extent of information before us. As will be apparent below, our assessment of substantive issues in Section 4 of this report considers the issues raised by these submitters (and all others) in an evaluative sense.
- 2.22 These preliminary matters recorded, we now set out an account of the formal hearing proceedings.

3.0 THE HEARING

3.1 We convened the hearing at 10.30am on Friday 2 May 2014 at the Council Chambers in Central Nelson, adjourning late that afternoon. Immediately prior to this, we conducted the first of our two locality visits. We circumnavigated the central city zone and noted the boundaries between the central and fringe sub zones.

3.2 At the hearing, we heard from the following parties:

Submitters in attendance⁽¹¹⁾

- Mr Thomas Marchant, on behalf of Port Nelson Limited (Submission 7) and Port Nelson Liaison Committee (Submission 5)
- Mr Kent Inglis, resident of Nelson (Submission 1)
- Mr Dan McGuire, resident of Nelson (Submission 2)
- Mr Neville Male, President of Nelson Grey Power (Further Submission 2)
- Mr Graeme Downing, resident of Nelson (Submission 8)
- Ms Gaile Noonan, resident of Nelson (Submission 13)

Council Advisors

- Mr Reuben Peterson, Planning Advisor (NCC)
- Mr Matt Heale, Principal Planner (NCC)
- Mr Keith Ballagh, acoustic consultant of Marshall Day Acoustics
- Mr Bob Askew, Senior Environmental Health Officer (NCC)

3.3 Before hearing from any of the parties, we set out some procedural matters and outlined the manner in which we intended to conduct proceedings.

3.4 We then asked Mr Peterson to set out a factual background for PC16. Over the course of this session, we invited Messrs Heale, Ballagh and Askew to contribute to the presentation, and sought clarification on matters of fact from all of them.

3.5 Prior to a brief lunch adjournment, we heard from Mr Marchant, Mr Inglis, Mr McGuire and Mr Male. Mr Downing and Ms Noonan appeared immediately after the break, which brought the presentations from submitters to a close.

3.6 This was followed by a session with Council's advisor in which we heard from them in an evaluative sense. We explored a number of the matters raised by submitters with Officers, and sought to gauge their collective view on alternative methods for implementing the Plan Change vision as a result of submitters' recommendations.

3.7 By the end of proceedings, we had given several directions to the Council advisors to come back to us with additional information. In light of these circumstances, we resolved that we would adjourn the hearing, set out a process in writing for the gathering and distribution of further information, and advise of a process to draw the formal proceedings to a close.

3.8 At the request of Mr Downing and Ms Noonan, we undertook a second locality visit of the Central City, commencing at 11.45pm, and finishing at 2am. During that time, we orbited the Central City, pausing at times to make observations

⁽¹¹⁾ For completeness, we note that we also read in full the notices of submissions from those submitters who were unable to, or chose not to, attend the hearing.

about the nature and intensity of noise we heard. We specifically visited a handful of sites owned by submitters, as well as some of the local sources of night time noise referred to by Officers and submitters. This included noise from outdoor areas of bars.

Hearing adjournment

- 3.9 On 5 May 2014, we issued our 2nd minute. This correspondence formalised those verbal directions we issued over the course of the hearing, including requests for:
- a copy of an email from Mr Peter Mayes (Submission 3) to Mr Peterson, referred to by Mr Peterson in his opening factual presentation;
 - a copy of the monitoring report undertaken by Malcolm Hunt Associates (July 2009), referred to (indirectly) in the s42A report, and (directly) during questioning of Mr Peterson;
 - data requested of Mr Askew in respect of enforcement action, abatement notices, and complaints relating to inner city noise since 2006 – this is to include (as a minimum) detailed descriptions of the nature of the complaint/action, parties involved and spatial data (mapped if possible) about the complaint/action;
 - the most recent s35(RMA) report produced by NCC (as referred to by Mr Heale during questioning);
 - clarification in respect of the application of clauses (a) & (b) under proposed Rule ICr.42A.1;
 - further evaluative feedback from Officers in respect of:
 - proposed Appendix 13.2 and its relationship to, and effectiveness in implementing, s327 of the RMA;
 - whether there were any advantages to be gained, and/or complications that may arise, from utilising elements of both the operative Rule 42 and proposed Rule 42A approaches (i.e. prescribed limit at generator site boundary +/- Noise Generating Activity approach +/- s16 & s327 provisions); and
 - Mr Ballagh's report(s), particularly in reference to the management of low frequency noise.
- 3.10 The minute also contained a proposed timetable for the delivery of the further information to us and all other parties, including a request that submitters advise the Council if they wish to receive a copy of the information.
- 3.11 All of the information was provided in a timely fashion, and was to our satisfaction. However, upon reviewing the material, we considered that additional clarification should be provided to all parties (not least of which ourselves) in relation to the issue of low frequency noise.

- 3.12 Through our review of background material, our questioning of the parties at the hearing, and our subsequent review of material obtained via the 2nd Minute, we became aware that:
- the Council's assessment from Malcom Hunt Associates indicated that there were "significant" levels of low frequency noise observed at times in the inner city;
 - the Council consulted on a draft version of the Plan Change which originally included a low frequency noise control;
 - the draft was eventually amended and the rule deleted prior to the formal notification of PC16; and
 - it was not clear to (at least some) parties appearing before us why this amendment took place.
- 3.13 To get some further understanding about this course of action, we issued a 3rd **Minute** on 14 May. The stated aim of the minute was to obtain some additional technical input from Mr Ballagh, and a supporting planning evaluation from Mr Peterson. In summary, we asked them to clearly set out:
- the advantages to be gained and/or complications (from a technical point of view, and in terms of meeting the objectives and policies of the NRMP) of not utilising a low frequency noise control; and
 - on the basis that we *may* elect to apply such a control as requested by submissions, what would be an appropriate standard to apply, and from where the standard should be applied/measured.
- 3.14 Mr Ballagh and Mr Peterson provided brief statements addressing the above matters in detail. These responses are discussed further under our evaluation below in Section 4.

Hearing Closure

- 3.15 Having received all of the further information sought through our post-hearing Minutes, we were satisfied that we had sufficient information to complete our deliberations and deliver a decision on the Plan Change.
- 3.16 Accordingly, we closed the hearing at 1:30pm on **Friday 23 May 2014**.

4.0 EVALUATION OF ISSUES

Overview

- 4.1 As in the s42A report, we have grouped our discussion of the submissions (and the reasons for accepting, rejecting, or accepting them in part) by the *matters*¹²¹ to which they relate – rather than assessing each issue on a submitter by submitter basis.
- 4.2 This approach is not to downplay the importance of the input from submitters; to the contrary, such input has been invaluable in shaping our collective view. However, we consider it will be to everyone's benefit for our recommendation to be as tightly focused on the key issues as possible. For those parties who are only interested in a particular matter as it pertains to their submission(s), we have provided a submitter-by-submitter summary of decisions requested in **Appendix 3**, which includes our decision on each relief point sought. Those specific decisions have been derived from our issues assessment below.
- 4.3 In order to be concise, and notwithstanding the numerous amendments proposed in the Plan Change, we have distilled our discussion into the following key issues:

Issue 1: The need for the Plan Change

Issue 2: Management of noise within the IC Zone

Issue 3: Residential Activities vs Short Term Living Accommodation

Issue 4: Management of noise at the IC Zone / Residential Zone interface

Issue 5: Low frequency noise

Issue 6: Other matters

Evaluation Preamble

- 4.4 As a precursor to our detailed evaluation of the key issues, we wish to signal the key matters that have underpinned our discussion below, and which we have kept very much at the 'front of mind' throughout the hearing.

Statutory framework

- 4.5 Firstly, we note that **the requirements of the Act** which underpin our role have been a continual reference point during the hearing, and in our reporting. We provide a summary evaluation of these statutory considerations at the close of this report (at Section 5), and our discussion of issues is essentially a running commentary of our examination of the Plan Change within that statutory context. These considerations include whether or not the proposed Plan Change:

¹²¹ Clause 10(2)(a) of Schedule 1, RMA sets out that a plan change decision may address submissions by grouping them according to either the provisions of the plan change to which they relate, or to the matters to which they relate.

- has been designed to accord with, and assist the Council to carry out its functions so as to achieve the purpose of the Act;
 - gives effect to any relevant national policy statements (“NPS”) and the New Zealand Coastal Policy Statement (“NZCPS”);
 - gives effect to the regional policy statement (“RPS”);
 - is consistent with any regional plans;
 - has had regard to any relevant management plans and strategies under other Acts;
 - rules implement the policies of the NRMP;
 - methods (including each rule), having regard to their efficiency and effectiveness, are the most appropriate method for achieving the objectives of the district plan taking into account: a) the benefits and costs of the proposed policies and methods (including rules); and b) 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
 - rules will result in any actual or potential effect of activities on the environment.
- 4.6 Secondly, at the outset of proceedings, we signalled that these requirements could largely be distilled into two main questions:
- is intervention required in order to improve the NRMP as it relates to the management of noise in the Inner City; and
 - is the proposed rule framework the most appropriate mechanism to deliver on the improvements sought?
- 4.7 In considering these questions, we record that our decision is based on the notified Plan Change documentation, the submissions and further submissions received, the Council s42A report, and the statements/presentations from all submitters appearing before us. It is not for us to introduce our own evidence, and we have not done so – rather, our role has been to test the evidence of others, and to determine the most appropriate outcome based on the views we consider best achieve sustainable management. So, what did we hear?
- 4.8 At a fundamental level, **the general message we received from virtually all parties** was that there are existing problems with noise in the Inner City, and that at least part of those problems relate to the manner in which the NRMP manages noise currently. That said, there was some contention amongst the parties as to whether or not the new methods proposed by the Plan Change are indeed an improvement over the status quo – which we consider in more detail shortly.
- 4.9 **The majority of submitters we heard from** were in partial opposition to the proposed provisions. That is to say, no party conveyed to us that the entire Plan Change should be abandoned.

- 4.10 In highlighting these high-level positions expressed during the hearing, it is not our intention to derogate from the more detailed findings we set out below. We do, however, consider it appropriate to record these generic themes here to provide a broad context within which our evaluation is framed, and to illustrate that, while there was a general consensus that *some* change is required, the nature of that change was by no means universally accepted.

The 'right' s32

- 4.11 We are aware that **Parliament has recently amended^[13] the RMA**, including proposed changes to provisions that are relevant to our recommendation. At the outset of the hearing, we sought clarification from Mr Peterson and Mr Heale as to the 'version' of the Act that we should adhere to for this proposal, and particularly the provisions of s32 that we should apply.
- 4.12 The Officers confirmed to us that the 2013 Amendment Act provisions do not apply in this case. While the new provisions took effect on 4 December 2013, the previous section 32 requirements^[14] continue to apply as PC16 was already notified and past the further submission period by that date.
- 4.13 We simply note this here to avoid any confusion about the statutory tests which are, in fact, relevant for our deliberations.

Issue 1: The Need for the Plan Change

- 4.14 The case for changing the NRMP to improve the management of inner city noise is well canvassed in the s32 report, the s42A report, and in the many submissions received on the Plan Change. Throughout the hearing and the post-hearing information gathering exercise, we endeavoured to broaden our understanding of the needs case. In doing so, we have distilled the key contributors into the following list, which we will discuss in turn:
- monitoring & enforcement difficulties;
 - Court proceedings;
 - the 2009 report from Malcolm Hunt Associates;
 - Council's s35 Efficiency and Effectiveness Review Report (2012/2013); and
 - the Plan Change vision.

Monitoring & enforcement difficulties

- 4.15 The s32 report provides a useful summary of the difficulties NCC has had with monitoring inner city noise for enforcement purposes. In particular, it records the following:

^[13] Resource Management Amendment Act 2013

^[14] as well as other provisions in the RMA pre Amendment Act

“Noise levels have...been measured periodically over a number of years and have regularly been carried out for the purposes of enforcement. These periods of monitoring and recording noise levels have shown that at times noise levels exceed those specified in the operative Nelson Resource Management Plan.

The noise issue also relates to enforcement of the current operative noise rules, with particular reference to rule ICr.42 ‘Noise’. This requires noise to be measured ‘...at, or as close as practicable to, the boundary of any site...’ and for specified levels not to be exceeded. Experience shows that this is difficult to monitor and enforce due to contamination from adjacent noise sources and from the high ambient noise levels on the street.”⁽¹⁵⁾

- 4.16 This latter conclusion was amplified strongly to us by Mr Ballagh and Mr Askew at the hearing. Mr Askew in particular explained to us the **difficulty he has experienced in monitoring inner city noise and in enforcing Rule ICr.42** over recent years. He noted that the rule would (in theory) be reasonably straightforward to apply if noise generators were operating in isolation. However, as many of the noisy sources in the inner city are aggregated together (for example, bars located side-by-side on Bridge Street), he advised that it can be very difficult to reach a conclusion - based on noise measurement techniques - with absolute certainty that one activity and not another (or multiple others) is indeed in breach of the NRMP standards. It was his express preference, based on his experience, that the rule be deleted in favour of a more observational approach to monitoring and enforcement – as enabled by the Plan Change.
- 4.17 Mr Ballagh supported Mr Askew’s comments, noting that a further problem with existing Rule ICr.42 is that **the standards used under the rule are out-of-date and unrealistically restrictive**. In his view a 55dBA L10 threshold is extremely difficult for activities operating at night time to achieve. To practically reinforce that conclusion he illustrated that the level of sound generated by the dialogue between the parties at the hearing would be more in the order of 60dBA.
- 4.18 We asked Mr Ballagh how the 55dBA figure compared to the approach adopted by Councils in other New Zealand urban areas. He advised that the figure was relatively low, and that 65dBA was more common.
- 4.19 We surmised that the 55dBA figure was a relic of the original NRMP created under the RMA, and Mr Peterson confirmed this in questioning. For our own understanding, we asked if the Council had considered simply raising this figure to a more realistic (and up-to-date) threshold. Mr Peterson advised that such an option was mooted during Plan Change formulation; however, it was ultimately discarded given the same noise contamination problems described by Mr Askew. In other words, it makes no difference whether the noise limit at a generator’s boundary is 45, 55, or 65 dBA as the ability to physically determine compliance is the material constraint.
- 4.20 Ultimately, we are compelled to **accept this advice from Officers**, particularly as we had no alternate technical advice to refute it. That is to say that no party gave us cause to consider that:

⁽¹⁵⁾ PC16 Section 32 Report (7 September 2013), p. 3

- contamination issues have not made monitoring and enforcement of the existing NRMP provisions difficult or even impossible in some instances; or
 - the existing standards under Rule ICr.42 are not unreasonably stringent.
- 4.21 On this basis, we accept that (at the very least) *some* modification to ICr.42 is required.
- 4.22 That said, we are mindful that Mr Downing has recommended that the rule is retained with only minor modifications. This is in contrast to the advice from Officers that the rule be abandoned altogether. Resolution to these contrasting views is something that we will turn to subsequently; however, for the purposes of this initial component of our evaluation, we signal initial agreement with Council Officers that some modification to the IC Zone rules is needed.

Environment Court proceedings

- 4.23 As noted in the s42A report^[16], the expressed enforcement difficulties created by Rule ICr.42 were the subject of scrutiny by the Environment Court^[17] in 2006. Both Mr Peterson and Mr Downing provided us further background on this matter in their respective presentations to us at the hearing, and we subsequently obtained a copy of the judgement to assist our deliberations.
- 4.24 In that judgement, the Court^[18] identified two issues of relevance to the Council's difficulty in enforcing Rule ICr.42. Specifically, the Court sought to answer whether:
- Rules ICr.42 and ICr.43 are intended to function in tandem or separately; and
 - if they are intended to operate separately, can the Council "*turn a blind eye to breach of a rule when the only apparent adverse effect of that breach is upon a zone whose guaranteed standards of amenity in terms of noise are still being met?*"
- 4.25 Ultimately, the Court found the mechanical interrelationship between Rules ICr.42 and ICr.43 was not clear cut; but irrespective of this, the clear conclusion was that "*the residents of Nelson should be able to base their decision on the premise that the rules of the plan will apply, or that if there is an argument for not applying them, that argument will be tested through the resource consent process...in short...[residents] are entitled to the benefits of Rule ICr.42*^[19]."
- 4.26 In other words, the Court found that the rules are there and they should be enforced.
- 4.27 We find that judgement to be eminently sensible; however, we are also mindful that the Court *did not* make a ruling on whether or not ICr.42 should be retained or replaced – it merely recorded that the Council should enforce its District Plan as it is required to do under s84 of the Act.

^[16] s42A report, p.6, para 2.4

^[17] Environment Court decision number C9/2006, Env C 70/05, 30 Jan 2006.

^[18] Environment Court decision number C9/2006, Env C 70/05, 30 Jan 2006, p.5, para.16

^[19] Environment Court decision number C9/2006, Env C 70/05, 30 Jan 2006, p.8, para.23

- 4.28 The Schedule 1 process we are currently engaged in allows for the testing of the appropriateness of the Plan's rule framework, having regard to the relevant statutory tests. These tests include an examination of (for example) how effective the proposed rule framework is compared to the existing rule framework in terms of achieving anticipated amenity levels in the City's residential areas.
- 4.29 Again, the Court decision did not assist us in that regard; however, it has provided us with an excellent reminder that the rules we ultimately endorse in this decision – whether we retain operative rules, adopt the notified rules or opt for some alternatives within the scope afforded to us – must be enforced, and therefore must be *enforceable*.
- 4.30 The uncontested evidence before us is that at least one of the operative rules is very difficult to enforce, if not unenforceable, under circumstances which commonly exist in the Central City. Again, we find this lends support to the needs case for amendment to the NRMP noise provisions.

Malcolm Hunt Associates report

- 4.31 This report ("**the Hunt Report**"), dating from 2009, has been referred to in both the s32 and s42A reports, and was raised by multiple submitters at the hearing. Mr Downing^[20], in particular, drew our attention to several excerpts of the report relating to low frequency noise.
- 4.32 The Hunt Report contains a number of observations relating to ambient noise surveys conducted at multiple points within and near the Central City. Of particular relevance for us, the report noted (our *emphasis*):
- ***Compliance with Rule ICr.42.1 cannot be determined directly from the readings as the measurements were not performed directly at the site boundary to the noise-making premises. Importantly, the effects of passing traffic have not been excluded from the measured levels. This is because the survey was designed to indicate typical noise levels as received by existing or future residents of the central area and the adjacent residentially zoned area***^[21];
 - ***The District Plan (outdoor) noise limits are exceeded regularly within the Central City however this is not to say there is widespread non-compliance. This is because much of the measured sound is contributed by road vehicles, a noise source not controlled by the NRMP. There are however times (including average daytime or night time periods) when ambient sound levels are measured lower than the noise limits set out in the NRMP***^[22];
 - ***Vehicle activity appears to be the most identifiable sound source within the central city. The pattern of daily levels of ambient sound indicates more noise occurs during daytime periods when people are most active and vehicle activity is greatest***^[23];

^[20] Submissions on behalf of G Downing & S Trevena, 2 May 2014, p.1, para 2.2

^[21] Nelson Inner City Noise Survey 2009: Measurement Report & Summary Results, Malcolm Hunt Associates, p.34

^[22] Nelson Inner City Noise Survey 2009: Measurement Report & Summary Results, Malcolm Hunt Associates, p.35

^[23] Nelson Inner City Noise Survey 2009: Measurement Report & Summary Results, Malcolm Hunt Associates, p.35

- *Analysis of night time periods on weekends reveals **atypical periods of low frequency sounds from amplified music** arising within parts of the Central area and affecting adjacent residentially zoned sites in the general vicinity. The predominance of low frequency sounds for periods of several hours indicates the **potential for noise nuisance for inner city residents seeking quiet for sleep unless the dwelling is particularly well insulated from external sound.** ^[24]*

4.33 In distilling the key messages from the Hunt Report findings, we consider that the above is further evidence that **Rule ICr.42 is particularly problematic from an enforcement perspective.** The matter of traffic noise is not a matter we are able to manage through this process, and yet it is evident from the Hunt Report that it is at least part of the problem. That is to say, the seemingly common non-compliances with the NRMP provisions are in part a function of an inability to control for a major contributor of that non-compliance. At the very least, the contribution of vehicle noise compounds the difficulty of measuring activity noise generation due to contamination.

4.34 We see a **potential fairness issue** in this respect, as the current construct of the NRMP could effectively require an activity which operates at a noise level considerably lower than the noise generated by adjacent passing traffic to obtain resource consent to generate that noise. This is not to suggest that noise generators should not “do their part,” but it is to acknowledge that we recognise this additional difficulty attributed to the operative plan provisions.

4.35 We also note the Hunt Report’s findings in relation to **low frequency noise**, the observed high night time levels of that noise, and the authors’ conclusion that this could be a source of nuisance for both Inner City residents and nearby Residential Zone neighbours. Again, Mr Downing spoke to us at length about this point, and we were compelled by his presentation to better understand the low frequency noise problem specifically, and what measures (if any) should be adopted to address it. This is something we discuss at length below.

4.36 In summary, we consider that the Hunt Report further signals a need to amend the NRMP approach to Inner City noise management.

s35 report

4.37 Section 35 of the RMA requires the Council to monitor the state of the environment and the effectiveness of its RMA plans (among other things). In respect of this latter monitoring component, the Council is also required to produce a review of the effectiveness monitoring it has done. These reports, in turn, often identify shortcomings of the relevant RMA plan under investigation, thereby affecting the preparation of Plan Changes to improve plan effectiveness.

4.38 The Council last produced a s35 report in 2013, a point which Mr Heale drew our attention to at the hearing. We obtained a copy of the report as part of our post-hearing fact finding exercise, and noted several findings that are relevant to our considerations.

4.39 For example, the ‘key findings summary’ (p.5) notes “*All...objectives are only being partially achieved... [a]menity objectives are largely being met, apart from*

^[24]Nelson Inner City Noise Survey 2009: Measurement Report & Summary Results, Malcolm Hunt Associates, p.35

Inner City noise issues." The s35 report draws on the Hunt Report and notes the Environment Court proceedings referred to above. It also contains an interesting quantitative expression of noise complaints registered with the Council between 2001 and 2011. Of 17,416 complaints, 7% fell under the category 'Plan rules and RMA compliance.' The complaint record summary provided by Mr Askew and his team following the hearing suggests this figure includes (but is not wholly comprised by) those complaints relating to inner city noise generation.

- 4.40 In the main, the s35 report has not afforded us with any additional substantive data over-and-above those sources already cited. However, we consider it appropriate to note our reference to the report, and our agreement with the findings set out within it that there are existing effectiveness issues with the NRMP noise provisions that should be remedied.

The Plan Change vision

- 4.41 While this is more a strategic consideration than an evidentiary component of the needs case, we find the vision for PC16 to be a helpful reference to set the scene for our more detailed evaluations.
- 4.42 To this end, our consideration of the 'issues in play' has been framed against this strategic Council aim to strike a balance between potentially conflicting uses – noisy inner city activities and residential activities. The Plan Change vision is, in our collective view, a logical link between the *Heart of Nelson Central City Strategy (2009)* – which we have had regard to^[25] in our deliberations – and the NRMP.
- 4.43 We recognise there is a strategic direction to us that change may be required to achieve both vibrant urban spaces, and living environments with appropriate levels of amenity. That said, the extent to which this aim is applied ultimately must be appropriate to the statutory context.

Finding on the need for the Plan Change

- 4.44 In summarising the above, we find that the needs case for change is compelling. Our view is that the status quo is suboptimum, and revisions to the inner city noise provisions are required to better implement NRMP policy expectations.
- 4.45 The discussion that follows sets out the amendments we consider will best implement those higher order aims.

^[25] under s74(2)(b)(i), RMA

Issue 2: Management of noise within the Inner City Zone

Issue identification

- 4.46 The second issue we consider here is the manner in which PC16 manages noise *within* the Inner City Zone. Specifically, we evaluate and attempt to resolve the issues in contention relating to, the following methods proposed by the Plan Change:
- insulation requirements for new bedrooms in the Inner City (new Rule ICr.43A and associated methods);
 - new consenting requirements for ‘noise generating activities,’ including the need to prepare a noise management plan (new Rule ICr.42A and associated methods); and
 - reliance on the excessive and unreasonable noise provisions of the RMA^[26] (including proposed Appendix AP13.2).
- 4.47 We recognise that there is an interrelationship between these methods, which represents a collective shift from the operative District Plan approach. However, there are complexities to each of these three proposed new methods that require an initial individual examination before the broader ‘sum of the parts’ conclusion can be reached. To this end, we examine the appropriateness of each of these methods in isolation before considering them as a united package.
- 4.48 That said, we acknowledge Mr Peterson’s view^[27] that the combined use of these methods is a move towards a more balanced approach to noise management in the Inner City – one where both generator and receptor have a role to play. Again, we will make a substantive finding on that broad principle shortly, but note it here for context as a precursor to our more focussed assessment of the components that collectively comprise that principle.

Insulation requirements

- 4.49 Before we address the insulation requirement method in detail, we note that one matter underpinning this issue relates to a distinction between “residential activities” and “short term living accommodation”. We have addressed this under a separate part of the report (Issue 3) given the matter’s own complexities. Our focus here with Issue 2 is more on the appropriateness of the proposed insulation requirements, *in general*.

Summary of evidence

- 4.50 At a policy implementation level, Mr Peterson advised^[28] that the noise insulation requirements included in PC16 are designed to better achieve existing aims in the plan to both:
- **enable a diversity of activities** in the Inner City which enhances vitality and vibrancy of the City; and

^[26] sections 16 & 327, RMA

^[27] s42A report, p.14, para 6.4

^[28] s42A report, p.14, para 6.4

- ensure that a **reasonable level of residential amenity** is provided to sites used for residential activity.

4.51 Mr Peterson^[29] also drew our attention to the Plan's recognition that the fundamental character of **the Inner City area is non-residential**. We have no evidence before us to challenge this overriding characteristic (other than our own general observations), and so have accepted (as a starting point) that the Inner City should not be impacted by PC16 in a way that compromises the primacy of non-residential activities as a consequence.

4.52 Notwithstanding this, Mr Peterson also stressed upon us that **residential activities within the inner city are desirable**, noting that they (as well as noise-generating activities) play a '*central role in creating a vibrant and vital Inner City*'^[30]. This, in his view^[31], is consistent with the aims of the *Heart of Nelson Central City Strategy (2009)*, which seeks that Central Nelson is '*... a vibrant, attractive place in which people can live, work and play and in which businesses operate.*'

4.53 Mr Peterson acknowledged^[32] that the proposed insulation requirements carry **an additional cost** for perspective developers, and existing property owners who may wish to create new bedrooms, over and above current Building Code and District Plan requirements; however, he considered that **additional cost is minimised** due to the insulation requirements being applied to bedrooms only (i.e. not across an entire apartment unit).

4.54 During the PC16 formulation stage, the Council undertook an indicative modelling exercise to ascertain the likely increase in build cost to implement the noise insulation requirements under consideration. This study used two 2-bedroom apartment units that were recently constructed in the inner city as a basis for assessment (one was a "standard" sized mid-level unit, the other a "large" upper level unit). The exercise concluded that applying the insulation requirement across the entire unit would result in a net increase of 12.8 - 17.5%, whereas the 'bedroom only' scenario resulted in a more modest 4 - 5.4% increase. Mr Peterson expressed the view that the 'apartment-wide' results represent a potentially unreasonable outcome; however he considered that the 'bedroom only' scenario is:

"...a fair representation of the 'share' of noise management which falls ultimately to the purchaser/developer of the residential unit... [and that this] approach allows for a reasonable amenity within the Inner City but also recognises that the Inner City environment will involve a higher level of noise and activity than would typically be acceptable in the Residential Zone."^[33]

4.55 **Mr Inglis** disagreed with this conclusion. In his view, the insulation requirements are '*likely to impose great cost for little benefit, which will discourage investment in inner city residential units to the detriment of the vibrancy of the inner city*'^[34].

^[29] s42A report, p.14, para 6.4

^[30] s42A report, p.29

^[31] s42A report, p.29

^[32] s42A report, p.14, para 6.5

^[33] s42A report, p.30

^[34] submission notice of Kent Thomas Inglis, p.2

- 4.56 During our questioning, Mr Inglis expressed his opinion that the 4 - 5.4% increase would be “significant” and likely to be a “deal-breaker” for his own residential development aspirations. His preference was that the noise insulation requirement be removed from the Plan Change in favour of a more flexible approach, whereby developers could engage with Council on a case-by-case basis to determine whether insulation would actually be required.
- 4.57 For completeness, we note that noise insulation requirements were both supported and opposed by many other submitters that did not appear before us.

‘Mechanical’ issues with the proposed rule

- 4.58 At the hearing, we tested the performance aspects of the proposed noise insulation requirements. To this end, we wanted to be satisfied that the ‘mechanics’ of the proposed methods would operate effectively, should we be of the view that the insulation requirements are appropriate to retain.
- 4.59 Principally, this entailed our questioning Mr Peterson in relation to:
- matters of drafting; and
 - the activity status for building activities that failed to meet the permitted activity conditions under Rule ICr.43A.
- 4.60 In relation to **drafting**, we firstly note that Mr Peterson recommended several amendments to the rule – as notified – as a result of the various submissions received. From a general drafting point of view, we have no reason not to accept those alterations given the general agreement between the parties on those matters, and the net result of those changes.
- 4.61 However, we questioned Mr Peterson at length on the **appropriateness of the term ‘construction’** as the basis for the rule. Our concern was that this term might limit the application of the rule to new construction activities only, and therefore would not catch scenarios where (for example) non-bedrooms are converted to bedrooms without the need for a building consent (which would otherwise trigger any need for resource consent).
- 4.62 Mr Peterson advised that the drafting of this rule was a matter that received some scrutiny during the formulation of the Plan Change. In his view, the phrase “construction of new bedrooms” is the most appropriate in this case. He considered that most conversions would trigger a building consent, and in turn, the resource consent process under this rule. He conceded that there may be isolated instances where an office or a living room may be converted to a bedroom, but considered the risk of this occurring to be sufficiently low such that a drafting response was not needed to account for that eventuality.
- 4.63 Our evaluation under the next issue heading (Issue 3) is also relevant to this drafting issue, but we will not go into any detail on that matter here.
- 4.64 In terms of the **default activity status** where the permitted activity conditions are not met, we questioned why a fully Discretionary status was preferred over a Restricted Discretionary status. Mr Peterson’s initial response was that the fully Discretionary status was appropriate given the policy context; however, he later expressed that Restricted Discretionary may be an acceptable alternative.

Our findings on insulation requirements

- 4.65 On balance, we find that proposed rule ICr.43A and its associated methods are **generally appropriate**. We accept that the application of this rule is likely to equate to an added economic cost for parties seeking to construct new residential activities in the Inner City. That said, we amplify Mr Peterson's view that this has been minimised through the application of insulation requirements to bedrooms only.
- 4.66 Moreover, **the rule approach allows flexibility** for future developers to find the most cost-effective means of achieving an outcome that suits their needs, whilst also achieving the Plan Change's aim of balancing vibrancy and vitality with residential amenity. Specifically, developers will be able to choose whether it is best for them to:
- use the 'paint by numbers' approach established by Clause a) under Rule ICr.43A.1, whereby specific construction materials can be utilised to demonstrate compliance with the rule; or
 - use a more bespoke, site-specific acoustic insulation approach to achieve a minimum noise reduction level - this must be certified by a qualified acoustic engineer; or
 - choose neither option and apply for resource consent.
- 4.67 There is no evidence before us to contest the robustness of the Council's estimated average cost increase per residential unit study (the 4 - 5.4% increase), and so we are inclined to rely on that as an indicator of the *likely* economic cost that will result from the application of this rule. While this *may* have a downstream effect on housing affordability, and/or act as a deterrent to residential development, we consider that those *potential* effects are sufficiently low, and acceptable given the benefits anticipated, including:
- improved health and well-being for new inner city residents, through reduction in the adverse effects generated by noisy activities - and therefore, a *reasonable* level of residential amenity given the predominantly non-residential character of the Inner City; and
 - reduced likelihood of reverse sensitivity effects arising such that non-residential activities that contribute to the vibrancy and vitality of the Inner City are not compromised by the desired increased prominence of residential activity - and therefore, a diverse balance of activities that (overall) enhances that vibrancy and vitality.
- 4.68 Though we are not able to direct the Council to monitor the effectiveness of this rule approach, we assume that it will do so under its general obligations in the Act. That said, we consider it would be good practice for the Council to **establish a monitoring framework** for this rule at an early stage. At a minimum, we envisage such a framework would identify indicators (to the extent practicable) such as the following:
- the actual experiential increase in cost for new residential activities in the Inner City resulting from the application of Rule ICr.43A and its associated

methods, and the appropriateness of that cost compared to the anticipated cost underpinning the Plan Change;

- any trends observed as to preferences for the 'paint-by-numbers' approach versus the bespoke acoustic insulation approach;
- any evidence that the methods are actively deterring (in part or in total) the establishment of residential activities in the Inner City (both anecdotal, and observational); and
- any evidence that the insulation levels achieved by new residential activities constructed in accordance with Rule ICr.43A are successfully mitigating noise from non-residential sources (for example any trends in number, nature and severity of complaints compared to uninsulated units).

4.69 In terms of the rule **drafting and mechanics**, we have proposed a **minor consequential change** such that the Rule applies to any "bedroom" rather than "bedrooms." This will clarify that the rule is not applicable only where more than one bedroom is considered.

4.70 We also consider that it is most appropriate to account for the eventuality that a **non-bedroom is converted to a bedroom** under this rule. While there may be a low likelihood of this occurring, it is (in our view) a 'gap' in the current provisions, and one that can be remedied rather simply. Accordingly we have altered the rule as follows (our changes are **highlighted**):

ICr.43A.1

Construction of **any** new Bedroom **is** a permitted activity if...

- a) **the new Bedroom ~~are~~ is** acoustically...
- b) **the new Bedroom ~~are~~ is** acoustically ...
- c) **... with option b) above.**

For the purposes of this rule, the 'construction of any new Bedroom' shall also include the conversion of any existing room to a Bedroom. 'Bedroom' is defined in Chapter 2, Meaning of Words.

4.71 Finally, we have elected to modify the **status of the activity** where the permitted activity conditions are not met. We consider it is inefficient to allow unfettered discretion to be applied by decision-makers where consent is sought for failing to insulate a new bedroom. In our view, this is a relatively focussed matter that can be effectively assessed as a restricted discretionary activity. If a given proposal is acceptable, it may be approved, and conditions may be applied. Alternatively, a poor proposal may ultimately be declined, which would be an appropriate outcome in our view. These three outcomes (approve, approve with conditions or decline) would be the same, whether the activity is fully discretionary or restricted discretionary, and we are not convinced that the former is required in order to ensure that the objectives and policies of the plan are implemented, and adverse effects sufficiently mitigated.

4.72 While this specific relief has not been sought by any submitter, we consider that scope is afforded us to make this change through those submitters – for example Mr Inglis – that sought the deletion of this rule. Our proposed amendment gives effect to those submissions (in part), by providing greater certainty to future

applicants who require resource consent under Rule ICr.43A.3 as to the manner in which their application will be considered.

4.73 For completeness, we also note that our proposed amendment includes matters of restricted discretion as per the normal format of the NRMP. In this respect under Rule ICr.43A.3 activities that contravene a permitted condition are a restricted discretionary activity with discretion restricted to:

- i) Location and orientation of Bedrooms in relation to noise sources, and
- ii) Insulation or other measures required for noise mitigation purposes for Bedrooms.
- iii) Health and well-being effects for residents, and
- iv) Potential reverse sensitivity effects on other activities.

4.74 In arriving at these matters of discretion we have been guided by the following factors:

- The policy guidance in the NRMP as highlighted in Mr Petersons s42A report;
- The technical evidence of Mr Ballagh and Mr Askew and the evaluative evidence of Mr Peterson; and
- The nature of the of the assessment criteria already contained in rule ICr.43A.4.

4.75 Further we were conscious of not making the matters of discretion so broad so as to negate the purpose of restricted discretionary activity status, but also we wanted them to be inclusive enough in order to allow council officers to consider the relevant matters at issue with any application required under Rule ICr.43A.3. We believe that the proposed wording achieves that desired balance.

DECISION [D1]

D1.1 Those submissions in support of the insulation requirements set out under proposed Rule ICr.43A and Appendix 19.3 are **accepted in part** to the extent that they accord with the amended provisions set out in Appendix 4.

D1.2 Those submissions that oppose those insulation requirements are **rejected**.

Approach for new Noise Generating Activities

4.76 The second major method we consider here is the manner in which the Plan Change proposes to alter the management of noisy activities themselves. Broadly this involves:

- the deletion of existing Rule ICr.42, which sets maximum noise generation limits at the boundary of a given (noise generating) site;
- insertion of a new Rule ICr.42A, which requires resource consent for any new 'noise generating activity' ("NGA");

- a requirement for new NGAs to prepare a noise management plan in accordance with guidelines set out in a new Appendix (AP13.1);
 - retention of the 75dB L_{AFmax} maximum noise generation level, but a change to the location from which this is measured (previously at *generator* site boundary, proposed to be at any external wall of any *receiving* residential unit or short term living accommodation; and
 - reliance upon the excessive and unreasonable noise provisions of the RMA (which we address separately).
- 4.77 As alluded to in our discussion under **Issue 1** above, Rule ICr.42 does not solely function as a noise management tool for the Inner City – its implementation also has the ability to affect the noise environment in adjoining zones, including the Residential Zone. We will focus on that **relationship with the Residential Zone in Issue 4 below**, but our focus here is on the appropriateness of the new methods solely *within* the context of the Inner City.

Summary of evidence

- 4.78 In his opening presentation to us, Mr Peterson outlined the Plan Change approach summarised above. He expressed the view that these amendments represent the noise generators' "fair share" of responsibilities to Inner City noise management.
- 4.79 As with his recognition that the noise insulation requirements potentially carry an additional economic cost to parties constructing new bedrooms in the Inner City, he also noted that the new NGA approach could also have economic implications for new commercial premises that come under the definition of NGA. Specifically, he noted that the preparation of a noise management plan for NGAs *may* require specialist input, and/or physical modifications to a building or site to manage noise levels accordingly.
- 4.80 That said, Mr Peterson also advised that the definition for NGAs had been designed to allow "*quieter activities, or those that close earlier to open without the upfront need for a resource consent (but still subject to all other controls over noise produced)*"^[35].
- 4.81 Notwithstanding the likelihood of additional cost, and apart from adopting some refinements to the rule package as suggested by submitters, Mr Peterson considered^[36] that the approach outlined above best represented the sustainable management of noise effects in the Inner City.
- 4.82 Certain components of the various rules were tested more substantially by submitters, however. For example, **Mr Downing and Ms Trevena** supported the NGA definition in part, but queried the effectiveness of the **100W maximum output control** and the stipulated **hours of operation** under the definition. In respect of the latter, these submitters requested the night time trigger under which the definition would apply to be altered to 10pm (from 11pm on weekdays and 1am on weeknights).

^[35] s42A report, p.39

^[36] s42A report, p.39

4.83 Mr Peterson's response^[37] to these two points was as follows:

- irrespective of the wattage used or hours operating, activities will need to operate in a manner that does not generate unreasonable or excessive noise;
- according to Mr Ballagh, '*... a sound system of less than 100W total would be very unlikely to generate complaints;*'
- again, the output wattage and hours were put in place to allow smaller scale operations that might not be open later into the night, or have low level background music, to open without the need for resource consent – utilising a lower wattage output control could potentially dissuade smaller operators with less likelihood of generating nuisance from establishing in the City; and
- there is a subtlety in the distinction between the existing 10pm night time noise trigger in the operative Plan (which is the point at which *permitted activity noise levels change*) and the proposed night time limit applied under the NGA definition (which is the point at which an activity *must get a resource consent*) – this ultimately goes back to the preceding point about minimising the need for activities to obtain resource consent where they are unlikely to create a noise nuisance.

4.84 **McDonald's Restaurants (NZ) Ltd** tabled a statement at the hearing, but did not appear in support of that statement. The Submitter expressed its continued opposition to PC16 as it related to the impact on one of its existing restaurants on the corner of Selwyn Place and Rutherford Street in the Inner City. In particular, the Submitter opposed the requirement for resource consent to be obtained for expansion to its facilities under proposed Rule ICr.42A.1 in the future given that the restaurant could (by definition) be classified as a NGA.

4.85 Mr Peterson clarified his view in the s42A report that "*it is not just noise from bars and nightclubs that can cause a noise problem in the Inner City.*"^[38] To this end, he did not support that an exemption be applied to unlicensed premises (such as McDonalds) that operate during night time hours.

'Mechanical' issues with the proposed methods

4.86 As with the noise insulation provisions, we tested the effectiveness of the rule mechanics relating to the noise generation provisions with Officers in questioning. Again, our examination of these aspects of PC16 included questions relating to drafting and the activity status of activities considered under these rules.

4.87 We also note here that the Nelson Marlborough District Health Board proposed a number of amendments to these proposed rule provisions in order to improve clarity and effectiveness. We record that in most cases, Mr Peterson adopted those recommendations and we are inclined to accept those alterations as appropriate.

4.88 The first of the **drafting** issues we identified related to the definition of NGAs. Specifically, we questioned whether the **third bullet point** under the definition (relating to the exclusion of temporary events) was more appropriate as a stand-

^[37] s42A report, p.38-39

^[38] s42A report, p.15, para 6.10

- alone clause, rather than a continuation of the opening sentence. Mr Peterson agreed that alternative drafting may improve the clarity of the definition.
- 4.89 Mr Peterson also noted that he unintentionally failed to **delete the reference to Rule ICr.42B** under both the definition and the associated explanation Clause ICr.42A.5 (this was an oversight, and it was his signalled intent in the s42A report that reference to this rule be deleted throughout the Plan Change).
- 4.90 A final drafting point that we discussed with Officers was in relation to Clause ICr.42.1, which reads (as amended in the s42A report): *"The sound level assessed 1 metre from any external wall of any Residential Unit or Short Term Living Accommodation Unit shall not exceed the following noise limit during the hours 10:00pm to 7:00am..."*
- 4.91 In our initial review of this clause, we considered that there may be some ambiguity for plan users and decision makers as a result of the "passive" wording of this rule. As drafted, we observed that the clause places the emphasis on the level of sound measured at a specific point, not on the activity (or activities) that generate that level of sound per se. Mr Peterson acknowledged our concern, but was comfortable with the drafting proposed.
- 4.92 We also tested the **mechanics** of Rule ICr.42A.1, and in particular:
- the effectiveness of clauses a) and b) (being the thresholds for increased patron capacity and increased hours of operation/noise generation, respectively) as consent triggers; and
 - the appropriateness of the fully discretionary default activity status for any NGA under Clause ICr.42A.3.
- 4.93 With respect to the former, we appreciated that Mr Peterson would benefit from some additional time to consider the effectiveness of those clauses. We considered it appropriate to direct that he respond to the issue after the adjournment (as recorded in Minute 2). His response was as follows:

"[Clause] a) ...relies on Council holding records showing what the permitted number of patrons is. This knowledge is held for any premises holding a liquor licence. The Certificate of Compliance which forms an integral part of the licence application specifies the number of people permitted to be within the area covered by the liquor licence. Anyone seeking to increase the number of patrons would need to seek a variation to their liquor licence through Council thereby providing knowledge for part a) of the definition. A second method of obtaining knowledge for part a) is through the building consent process and associated fire safety provisions of the Building Code. The fire report will either specify the maximum number of patrons, or a maximum 'patron density'. This building consent / fire safety provisions method is applicable whether a 'noise generating activity' has a liquor licence or not.

Part b) ... relies on the liquor licence, or on a change in operating hours being brought to the attention of Council by either the 'noise generating activity' owner/operator or member of the public. A liquor licence specifies the hours for which that licence is held. However a venue may have operating hours which are less than those specified in the liquor licence. So the trigger works in two ways. The most certain is if an application is made

to extend the period for which a liquor licence is held. The second relies on an increase in hours being reported to Council. This may result in a decision having to be made by Council resource consents staff or enforcement contractors on what the operating hours of a 'noise generating activity' have been to then determine if they are being extended."^[39]

- 4.94 In relation to the **activity status** issue, we again queried why fully Discretionary was the status preferred by Officers. This line of questioning was (in our view) more significant than our similar questions about the noise insulation provisions, given that:
- NGAs are expressly *not* permitted under Clause ICr.42A.1, and so the 'entry' status for any NGA would default to fully Discretionary; and
 - proposed Clause ICr.42A.3 also includes a condition that a noise management plan be provided in accordance with Appendix 13.1.
- 4.95 In this latter respect, we surmised there would be an additional default activity category that non-compliance with ICr.42A.3 would 'cascade' to where a noise management plan is not provided. However, we were (and still are) unclear if the intention was for this scenario to default to a Non-Complying activity (under Clause ICr.6), or if it would remain fully Discretionary as the default status is 'innominate' under the rule. The alteration we have made clarifies the activity status as a result of Rule ICr.42A.3 not being met is non-complying.
- 4.96 Mr Peterson signalled again that while his preference was for the fully Discretionary status to apply, he was not opposed to utilising restricted discretionary status. That said, he was uncertain as to whether or not we have scope to make a change to this outcome.

Our findings on the new noise generation approach

- 4.97 Notwithstanding the further consideration we give to the deletion of operative Rule ICr.42 under Issue 4 below, we accept that the new approach to NGAs is appropriate.
- 4.98 We agree with Mr Peterson and the submitters who support this approach to controlling NGAs that it represents a practical means of managing new noisy activities, and we note that it does so in a manner that alleviates several of the Council's concerns discussed above in relation to the noise contamination problems that have made the existing noise generator control rule (ICr.42) difficult to monitor and enforce. To this end, we are comfortable with the deletion of operative rule ICr.42 as it relates to Inner City sites.
- 4.99 We find that the above are an appropriate suite of methods to apply to noise generators to combine with those methods we have endorsed previously in relation to insulation requirements for receptors. In our collective view, these management techniques for generators will assist with the balanced approach to implementing the NRMP aims for a vibrant centre that also enables a reasonable level of amenity for those who chose to live in the Inner City.

^[39]Reporting Officer Response to Commissioner Minute 2, 9 May 2014, pp.1-2

4.100 That said, we do consider that some alterations are required to both the definition of NGA and the structure of rule ICr.42A as follows:

- As summarised above, there are some drafting issues which we have attended to in **Appendix 4**, including, for example the reformatting of bullet point 3 under the NGA definition.
- Ideally, we would have preferred that the drafting anomaly we identified above in relation to proposed Rule ICr.42 is addressed. We would prefer the activity itself to be the focus of the rule, rather than a passive effect of that activity. However, we recognise the similarity in this rule approach and that of Rule ICr.43, which is unchanged from the operative Plan. On that basis, we are comfortable with the wording as proposed in the s42A report.
- We also have modified the structure of Rule ICr.42A such that the 'entry' activity status for NGAs that provide a noise management plan in accordance with Appendix 13.1 is **Restricted Discretionary**. The rationale for adopting this activity status and the manner in which the matters for discretion (ICr.42A.3) have been derived is as per the rationale provided earlier in respect to Rule ICr.43A.3, albeit that the factors are slightly different for Rule ICr.42A.3.
- Failure to provide a sufficient management plan would then default to the **non-complying** status anticipated under Rule ICr.6; however, we consider it will improve the legibility and the effectiveness of the Plan if this default status is expressly stated under the Rule a la proposed Rule ICr.43.3.

4.101 For similar reasons to those we explained above in relation to the default activity status for insulation requirements, we find that a fully Discretionary status is not warranted. In our view, a Restricted Discretionary status will be equally *effective* and will carry additional *efficiencies* by providing for a more focussed resource consent process. We find that unlimited discretion is not necessary or desirable.

4.102 We consider that we have scope to make this change given the general opposition to the identification of NGAs as a discretionary activity set out in the submission from McDonalds Restaurants (NZ) Ltd. That said, we are not compelled to adopt the formal relief sought by that submitter to exempt its premises (or others like it) from the new NGA provisions. We consider that a new activity that falls within the definition of a NGA should require a resource consent to establish, as should existing activities that extend beyond the extent permitted by the conditions under Clause ICr.42A.1.

4.103 Notwithstanding this, we signal to this particular submitter our understanding that there are scenarios where the existing restaurant could still be extended as a permitted activity⁽⁴⁰⁾ – for example, by limiting the increase in patronage by less than 10%, or by opting not to generate amplified sound from a sound system with greater than a 100W output between the hours specified under the definition (among other options). In either event, the submitter is not *prohibited* from pursuing a future extension to its existing facilities - it simply may require resource consent to do so depending on the proposal it advances.

⁽⁴⁰⁾subject to compliance with any other relevant NRMP rules

- 4.104 As a final matter on the rule approach, we note that we would have been compelled to make a similar change to the **activity status structure of proposed Rule ICr.42** (night time noise limits) that we did for ICr.42A; however, we do not consider that it is within our jurisdiction to do so, given the nature of submissions received.
- 4.105 Overall, with the above alterations (as set out in Appendix 4), we consider that the proposed amendments for the management of noise generating activities in the Inner City are appropriate as described above.

DECISION [D2]

- D2.1 Those submissions in support of Rule ICr.42A and associated methods (including the definition of Noise Generating Activity and proposed Appendix 13.1), and proposed Rule ICr.42 are **accepted in part** to the extent that they accord with the amended provisions set out in Appendix 4. Those submissions that have sought that the provisions be amended, are also **accepted in part** to the extent that they accord with the amended provisions in Appendix 4.
- D2.2 Those submissions that seek that those provisions be deleted are **rejected**.

The RMA's excessive & unreasonable noise provisions

- 4.106 As noted by several parties we heard from-, the RMA sets out general duties for all people to avoid generating *unreasonable* noise^[41], and enforcement powers to Councils for the control of *excessive* noise generation^[42]. These provisions apply irrespective of the approach adopted in PC16; however, a key consideration for us is to ensure that the provisions in PC16 do not directly contravene, or dilute the full force of, s16 and s327.
- 4.107 We note that Mr Peterson recommended changes to the notified Plan Change provisions that directly relate to these RMA provisions as a result of submissions received (such as that of **Mr Downing** and **Ms Trevena**). In particular, he acknowledged^[43] that proposed Rule ICr.42B was not required to implement s16 and s327, and potentially it had an opposite effect of creating confusion in the NRMP. He recommended that the rule be deleted, and we consider that recommendation is prudent.
- 4.108 That said, the Plan Change also proposes to improve certainty for Plan users by outlining (at Appendix 13.2) matters that may be taken account of where the Council is making a determination as to whether or not noise is unreasonable or excessive. This is a matter that we questioned both Mr Peterson and Mr Downing on at the hearing, and one which we also asked Mr Peterson to reflect on after the adjournment. In his response to our Second Minute, Mr Peterson added:

^[41]under s16, RMA

^[42]under s327, RMA

^[43] s42A report, p.56

"The appendix does not constrain the assessment process which is properly and solely carried out in terms of the RMA. Importantly AP13.2.1.i uses the term 'generally' and AP13.2.1.ii uses the term 'may' to ensure assessment is not limited or constrained. However Council's ability to utilise the RMA for enforcement would not be changed if this provision did not exist in the Plan, but the explanation function that it provides to all parties involved would be lost. This could create a level of uncertainty for people who are concerned about the 'subjective' nature of noise assessment."¹⁴⁴

- 4.109 Though **Mr Downing and Ms Trevena's** submission originally opposed the inclusion of this appendix, in questioning, Mr Downing clarified that the appendix could be useful as long as it does not constrain the Council's legislative discretion.
- 4.110 Generally, we agree with Mr Peterson that the appendix is a reference guide only, and is useful to assist plan users in understanding the more subjective considerations that may be applied when Council is making a determination on unreasonable or excessive noise. It is, in effect, a non-statutory method, included to improve the legibility of the Plan, and we support that outcome. Accordingly, there is no need for us to take this matter any further.

DECISION [D3]

- D3.1 Those submissions in support of proposed Appendix 13.2 are **accepted** to the extent that they accord with the amended provisions set out in Appendix 4.
- D3.2 Those submissions that oppose the appendix are **rejected**.
- D3.3 Those submissions that seek the deletion of proposed Rule ICr.42B are **accepted**.

Overall finding on noise management within the Inner City

- 4.111 Broadly, we find that the combined approach to noise management in PC16 to be an improved methodology to achieve sustainable management of the Inner City, and to enable the continued vibrancy/vitality of the Inner City to be enhanced while providing reasonable amenity for Inner City residents, including because:
- it will be an effective enhancement to the NRMP methods to require future residential receptors to insulate bedrooms, thereby minimising potential reverse sensitivity effects on desirable non-residential activities and providing for the health and safety of residents;
 - the proposed definition, rules and other methods proposed for NGAs will be an effective new method to manage future noisy activities in a reasonable and practicable manner; and
 - both the receptor and generator methods will remain supported by the Council's monitoring and enforcement roles, which have been elevated in significance, and further clarified, by the Plan Change.

¹⁴⁴Reporting Officer Response to Commissioner Minute 2, 9 May 2014, p.2

4.112 In our view, and for the reasons set out above, the amended version of the Plan Change included in Appendix 4 is the most appropriate means to implement the higher order objectives and policies for the Inner City.

Issue 3: Residential Activities vs Short Term Living Accommodation

4.113 The notified Plan Change applied the same insulation requirements to Short Term Living Accommodation ("STLA") and Residential Activities. However, Mr Peterson subsequently recommended¹⁴⁵⁾ that STLA be exempt from those requirements as a result of submissions received (for example, from Mr Purves). In Mr Peterson's view¹⁴⁶⁾, this was an appropriate response to recognise that:

- STLA is a commercial activity rather than a residential activity;
- the policy guidance that supports the insulation requirements is in relation to residential activities, not commercial activities;
- as a commercial activity, STLA is a potentially desirable contributor to the policy aims of vitality and vibrancy; and
- the long term impact of not meeting the PC16 insulation requirements would not be as significant as on residential activities.

4.114 We accept that rationale and consider his recommendation to remove STLA from Rule ICr.43A to be appropriate as a result. However, a matter of concern arose for us in relation to this amendment over the course of the hearing. Specifically, Mr Inglis brought this concern into sharp focus when he mooted a potential scenario whereby a developer could erect a building for use as an STLA only for future owners to convert those units to residential activities (potentially without any physical works or building consent required). We considered that such a scenario could potentially create a 'loophole' that developers could exploit to avoid the insulation requirements for residential activities under Rule ICr.43A.

4.115 We asked Mr Peterson for his view on the matter, while he recognised that this scenario could arise, he considered that there was a low likelihood that the loophole would actually be exploited to any significant extent.

4.116 While Mr Peterson's opinion may ultimately be accurate, we prefer to avoid the uncertain effective implementation of Rule ICr.43A the loophole potentially creates. As it happens, we consider that this uncertainty will be removed by the proposed amendment we have made to ICr.43A to clarify that the term 'construction' under that rule also includes conversions of any non-residential room for use as a residential bedroom. For the same reasons we have set out above for adopting that change, we consider it is an appropriate resolution to the potential conflict that might have otherwise arisen here.

DECISION [D4]

¹⁴⁵⁾s42A report, p. 14, para 6.5

¹⁴⁶⁾s42A report, p. 14, para 6.5

- D4.1 Those submissions seeking that Short Term Living Accommodation be exempted from the insulation requirements set out under proposed Rule ICr.43A and Appendix 19.3 are **accepted in part** to the extent that they accord with the amended provisions set out in Appendix 4.
- D4.2 Those submissions that seek to apply those insulation requirements to Short Term Living Accommodation are **rejected**.

Issue 4: Management of noise at the IC Zone / Residential Zone interface

4.117 While we have generally accepted the Plan Change approach as it relates to the management of new noise generators and new sensitive receptors *within* the Inner City, we note that the management of Inner City noise generation also has implications on adjoining residential areas. To this end, we consider here whether or not PC16 sufficiently manages this interface.

Summary of evidence

4.118 This issue was a focal point for several submitters, including Mr Downing, Mr McGuire and Ms Noonan who made individual presentations to us on the matter. For example, **Mr Downing** made the following observations⁽⁴⁷⁾ about the changes proposed to the Inner City / Residential Zone interface (in summary):

- while the proposed retention and updating of Rule ICr.43 (noise control applying from Residential Zoned sites) is supported, the deletion of operative Rule ICr.42 is not;
- there is a need to retain a noise rule measuring noise at the boundary of the noise maker, and the practical difficulties associated with the application of that rule should not be reason for removing it from the NRMP; and
- the rules apply not only in the City Centre, but also the Fringe sub-zone, which (in his view) has the greatest impact on the Residential Zone given its immediate proximity.

4.119 **Ms Noonan** shared Mr Downing's views on the Fringe, noting that it is generally closer to the Residential Zone than the City Centre. **Mr McGuire's** presentation was in general support of Mr Downing.

4.120 In his s42A report⁽⁴⁸⁾, Mr Peterson considered that the interface issue would be sufficiently managed by the retention of the existing Rule ICr.43, in combination with the new noise management requirements for new NGAs. Though his report only noted this in relation to their *general* application, we assume that Mr Peterson would also consider that the excessive and unreasonable provisions of the RMA and proposed Rule ICr.42 – relating to the overall maximum night time noise generation impact on any residential activity – would also be applicable to the Inner City / Residential Zone interface. To this end, we understand that those other provisions work in tandem with ICr.43 to *collectively* manage Inner City noise generation effects on the adjoining Residential Zone under PC16.

⁽⁴⁷⁾ Submissions on behalf of G Downing & S Trevena, 2 May 2014, pp.1-2, paras 2.1-2.5

⁽⁴⁸⁾ s42A report, p.16, para 6.21

Testing the interface issue

- 4.121 As this issue emerged at the hearing, we quickly recognised Mr Downing's concern with the deletion of operative Rule ICr.42. Presently, and notwithstanding the enforcement difficulties associated with it, **the rule provides a *de facto* level of protection to adjoining residential areas.** Roughly speaking, residents such as Mr Downing could (in theory) rely on the maximum noise generation from any Inner City site being within the permitted (or consented) range, which would be attenuated further as distance between his residence and any generator increased^[49].
- 4.122 The Plan Change essentially **removes this potential 'protection'** to Mr Downing, as well as other residents in both the Residential and Inner City Zones, and this highlighted some fundamental questions for us – namely:
- is it necessary to retain ICr.42 in order to achieve amenity levels for residents in the Residential Zone anticipated by the NRMP; and
 - if not, is the plan change approach the most appropriate alternative to the status quo, or is some other permutation of what is proposed preferable?
- 4.123 Towards the close of the hearing, we tested this further evaluation of alternatives with Mr Peterson. During that exercise, we identified that it would benefit our deliberations if Mr Peterson was afforded some time to consider the matter further and come back to us in writing. To this end, we directed Mr Peterson (in Minute 2) to consider whether a 'hybrid' approach may be appropriate in light of Mr Downing's presentation.
- 4.124 Mr Peterson's response was comprehensive. Among other points, he noted^[50] that (in summary):
- despite the recognised enforcement issues with Rule ICr.42, combining aspects of operative Rule ICr.42 and proposed Rule ICr.42A could deliver some advantages, including **increased certainty** for all parties as to what noise levels can be produced as of right;
 - while a 'combined' approach would require a noise management plan, this could be an **unreasonable obligation** on these activities when they would already have an obligation to meet the specified noise limit (under ICr.42) anyway;
 - again, no *one* method proposed by PC16 operates in isolation – rather, they are all part of a package designed to achieve a balance of noise management and control, and a change to the application of one aspect of this package would mean the other aspects would need to be **considered for appropriateness**;

^[49] Both here and further below, we refer to separation distance as a means of noise attenuation. We accept that this will not be the *only* contributing factor to attenuation, and we also accept that the level of attenuation afforded by separation distance will not necessarily be uniform (on account of other environmental factors).

^[50] Reporting Officer Response to Commissioner Minute 2, 9 May 2014, pp. 5-8

- however, the methods noted above can be appropriately **split** in their application between the two main 'sub-parts' of the Inner City Zone - these being the Inner City Centre and the Inner City Fringe;
- the policy direction^[51] of the operative Plan does set an expectation that **different controls could exist in the Inner City Centre and the Inner City Fringe** as the character of these areas are different - this difference could point to noise controls in the Inner City Fringe being more stringent than those in the Inner City Centre.
- the policy direction also seeks a **vitality and vibrancy in the Inner City Centre**, and recognises that activities in the **Inner City Fringe could potentially have adverse effects on the adjacent Residential Zone**.

4.125 Within this broad context, Mr Peterson specifically evaluated two scenarios that he considered *may* be appropriate alternatives to the Plan Change approach, whereby the City Centre and City Fringe are managed differently. These are reproduced in Table 1 below.

Table 1: Comparison of alternatives – Inner City / Residential interface

Methods	Alternative 1		Alternative 2	
	Centre	Fringe	Centre	Fringe
Noise Generating Activity Consent required?	Yes	No	Yes	Yes*
s16/s327 RMA as primary means of noise assessment / enforcement?	Yes	No	Yes	No
Operative noise rule ICr.42 as primary means of noise assessment / enforcement?	No	Yes	No	Yes

* with amended hours applied under the definition for NGA

4.126 In relation to **Alternative 1**, Mr Peterson^[52] made the following evaluative comments (in summary):

- City Centre noise would be managed proactively through the 'upfront' requirement to prepare a noise management plan;
- use of the 'objective' noise measurement may be appropriate in the Fringe, where contamination is *less* prevalent than in the Centre – however, the shortcomings of the implementation of Rule ICr.42 may continue to eventuate and contamination could therefore become *more* prominent in the Fringe (thereby undermining the perceived protection ICr.42 provides); and
- additionally, as the Fringe is *generally* closer than the City Centre is to the Residential Zone, the potential restriction on activities in the Fringe established by Rule ICr.43 is more prominent – accordingly, there is arguably

^[51] In particular, Mr Peterson drew on Inner City Objectives 4 & 5 and associated policies,

^[52] Reporting Officer Response to Commissioner Minute 2, 9 May 2014, p.6

a corresponding lesser need (relative to the City Centre) for ICr.42 to apply *also*.

4.127 Similarly, Mr Peterson^[53] evaluated **Alternative 2** as follows (in summary):

- changing^[54] the operational hours under the NGA definition to between 10:00pm and 7:00am on any day in the Fringe only would have the effect of requiring more NGAs to enter into the resource consent process in the Fringe than is the case in the City Centre - this approach could ultimately be appropriate due to the proximity of the Fringe to the Residential Zone;
- it also has the *potential* to help manage any aggregation of NGAs in one area creating an area of noise contamination and additional noise effects;

Our findings on the interface issue

4.128 In returning to the first fundamental question we highlighted above, *is it necessary that Rule ICr.42 be retained?* – the answer is not a straightforward one.

4.129 There is clearly a level of protection afforded to residents in the Residential Zone by existing Rule ICr.42. However, in the City Centre (at least), the effectiveness of this rule has been undermined by its very nature to the extent that noise contamination has made the rule *neigh* on unenforceable. During the time the rule has been in effect, activities have been established under the supposition that they meet the Plan's permitted activity requirements, though (based on the evidence before us) the Council's ability to ascertain whether that supposition is correct cannot be confirmed easily, if at all.

4.130 Rightly or wrongly, this is the existing situation as described to us, and whilst we cannot retrospectively manage it, we are not inclined to allow any further exacerbation of this outcome. **As far as the City Centre is concerned**, we consider that the NGA approach will be a more effective, practical and (importantly) enforceable means of managing future noisy activities than the rule regime that has allowed this situation to eventuate.

4.131 That said, the evidence before us also suggests that the **contamination issues are not as prolific in the Fringe** currently, and so the enforcement of ICr.42 is perhaps not difficult to the point of impossibility there. In that respect, we see that application of the rule in the Fringe does not have the same practical limitation that it does in the City Centre – but the question remains, *is it needed?*

4.132 This ultimately comes back to the relationship between operative ICr.42 and ICr.43 as highlighted by Mr Peterson, and the continuum of protection these rules collectively afford to the Residential Zone currently. Under the operative Plan, the rule that is the more limiting of the two (and thereby affords greater benefit to the Residential Zone) will vary depending on how far from the Residential Zone a noisy activity is located (among other factors). Essentially, the closer to the Residential Zone a noisy activity is located, the more likely that Rule ICr.42 will be the more 'protective' method.

^[53] Reporting Officer Response to Commissioner Minute 2, 9 May 2014, p.6

^[54] the notified definition proposed the hours of 11:00pm and 7:00am Sunday to Thursday nights, and for the nights of Friday, Saturday, Christmas Eve and New Year's Eve 1:00am and 7:00am

- 4.133 Recalling Mr Ballagh's technical view that the current L10 noise limits set out under operative Rule ICr.42 are unreasonably low by current standards, we record here that, *if we were inclined to retain ICr.42 for the Fringe, it would be amended to allow for a more generous level of noise to be produced than the status quo. However, this is an academic exercise as we do not prefer the retention of operative Rule ICr.42.*
- 4.134 Ultimately, we agree with Mr Peterson that **ICr.43 is the key rule to retain** as it is the most effective 'preserver' of reasonable amenity for residents in the Residential Zone. Retaining ICr.42 in the Fringe *may* further assist this outcome as a 'belts and braces' method - but ultimately, we consider such an approach would (at least) have the undesired effect of penalising activities in the Fringe which are further from the Residential Zone and are otherwise able to comply with ICr.43. In short, we think ICr.43 is 'enough.'
- 4.135 Moreover, we amplify Mr Peterson's point that the NGA approach will bolster the NRMP's ability to effectively manage the Inner City / Residential Zone interface. Future noisy activities will have to proactively manage noise effects on Residential Zones, and those NGAs will continue to be subject to *proposed* Rules ICr.42 and 43, as well as the excessive and unreasonable noise provisions in the Act. On balance, we find this rule 'package' is the most efficient and effective for implementing the relevant Inner City and Residential Zone policies and objectives.
- 4.136 That said - and this relates to our second fundamental question posed above - we agree with Mr Downing that the hours stipulated under the definition for NGAs should be refined as they apply to the Fringe. We consider it is appropriate that activities that have the potential to generate high levels of night time noise in proximity to the Residential Zone should have to obtain consent to do so, and 10pm is a reasonable threshold at which that requirement should apply.
- 4.137 We acknowledge, as Mr Peterson pointed out, the consequence that this may have of increasing the number of activities in the Fringe that require resource consent relative to the notified provisions; and in some instances, those activities, such as late night cafes, may ultimately be less likely to disturb residential amenity values. This is not unreasonable in our view, and we consider it is consistent with the view expressed by Mr Peterson in his response to our second Minute that the Plan's policy framework steers us towards more stringent noise controls for the Fringe than the City Centre. To that end, we find that **Mr Downing's suggested alteration to the hours set out under the definition of NGAs should be accepted** as they pertain to the Fringe.

DECISION [D5]

- D5.1 Those submissions in support of proposed Rule ICr.43 are **accepted** to the extent that they accord with the amended provisions set out in Appendix 4.
- D5.2 Those submissions seeking that operative Rule ICr.42 be retained are **rejected**.

D5.3 Those submissions seeking to amend the definition of Noise Generating activities to extend the hours of operation under which consent will be required are **accepted in part** to the extent that they accord with the amended provisions set out in Appendix 4.

Issue 5: Low frequency noise

Issue Identification

- 4.138 This final *specific* issue we address before moving on to our 'wrap-up' of outstanding general matters relates specifically to low frequency noise. As noted above, the Hunt Report identified atypical periods of low frequency sounds from amplified music in the Inner City, with potential nuisance consequences for residences.
- 4.139 Several submitters picked up on this finding, seeking that specific controls be applied on the generation of low frequency noise over and above broadband frequencies. We learned over the course of the hearing that such a control was originally considered by the Council, but ultimately abandoned prior to the notification of PC16.
- 4.140 This section of the report evaluates whether or not such a control should be included in the Plan Change.

Summary of evidence

- 4.141 In addition to selected excerpts of the Hunt Report, **Mr Downing** presented us with a copy of the draft low frequency rule consulted on by the Council before PC16 was finalised and notified. As drafted, the clause was a subset of proposed Rule ICr.42, which also includes the 75dB maximum noise control. In effect, the draft provision retained the 75dB L_{AFmax} condition for full frequency noise, but also applied a 70dB L_{10} threshold for low frequency noise generated in the 63Hz Octave Band.
- 4.142 Through questioning, we learned that Mr Downing had no knowledge as to why the low frequency provision was removed from the draft Plan Change prior to notification. In his review of relevant PC16 material, he was unable to find an explanation for this shift. His preference was that the low frequency control be included in the Plan Change.
- 4.143 In the s42A report^[55], **Mr Peterson** advised that the basis for disregarding the use of a low frequency-specific noise rule was based on advice from Mr Ballagh that measurement of such a rule would be potentially subject to noise contamination problems as per other frequencies. He further noted that the sound levels stipulated by proposed Rule ICr.43 "*cover all frequencies audible to the human ear, including low frequencies, so this is still specifically controlled in this circumstance.*"

^[55] s42A report, p. 16, para 6.19

Testing the low frequency issue

- 4.144 As with the previous interface issue we discussed above, we obtained further information from Officers around the issue of low frequency noise during the adjournment. In our 3rd Minute, we sought that Mr Ballagh provide us with additional technical assistance on the matter, supported by Mr Peterson in a planning policy sense.
- 4.145 In his response^[56], Mr Ballagh cited several reasons why he believed it was preferable *not* to include a specific low frequency control. In summary, these included:
- the notified approach **would not require specialist equipment or specialist technician involvement** to measure low frequency noise;
 - **contamination factors** are less of an issue than with broadband noise, but can interfere with a technician's ability to obtain a sufficiently reliable reading;
 - a fixed numerical limit may **excessively constrain certain activities**, depending on their distance from the Residential Boundary (similar to the interface issue we canvassed above);
 - **determining direction of sound** from low frequencies can be particularly **difficult**, thereby complicating the determination of the source(s);
 - it is better to use *either* a measurement approach or a subjective one, but not to mix them – Mr Ballagh's experience (supported by Mr Askew) further led him to prefer the subjective approach given its practicality, and its ability to quickly remedy excessive noise generation on a case-by-case basis; and
 - if we were of a mind to include a low frequency control, Mr Ballagh recommended that the limit be as per the draft rule (70dB L₁₀) as measured from residential receivers.
- 4.146 **Mr Peterson** also responded to our request for him to evaluate why the inclusion of a low frequency rule would not improve the ability of the NRMP to implement its objectives and policies relating to residential amenity. In that response^[57], he advised the use of a low frequency control in the Plan would *not* improve the NRMP's ability to implement its objectives and policies as the method is subject to the same key difficulty of contamination that this proposed Plan Change seeks to resolve by removing the current Inner City Noise rule ICr.42. This factor, in his view, *reduces* the effectiveness of this method particularly when the recommended^[58] application position of any low frequency noise standard is considered, and given the associated difficulties this creates in obtaining reliable measurement data.

^[56] Letter from K Ballagh to R Peterson, 19 May 2014, pp.1-2

^[57] Reporting Officer Response to Commissioner Minute 3, 21 May 2014, p.2

^[58] We understand this to be the recommended position of Mr Ballagh, being measured from the outside wall of a residential activity

Our finding on low frequency noise

- 4.147 On balance, we agree with the Council that a specific low frequency control is neither necessary, nor desirable. We have relied upon the finding of the Hunt Report that low frequency noise is an existing issue in the Inner City; however, we are not convinced that a specific control is needed to address that problem, over-and-above what PC16 already proposes.
- 4.148 We highlight Mr Peterson's general point that – for the Residential Zone interface at least – the 53 dB L_{Aeq} daytime and 43 dB L_{Aeq} night time limits set out under proposed Rule ICr.43 will capture *all* frequency ranges, including low frequency. If we were to adopt Mr Ballagh's recommended hypothetical low frequency rule of 70dB L_{10} , we understand^[59] that this would essentially equate to an adjusted level of 44dBA if the control is 'A' weighted for the human ear. As far as the Residential Zone is concerned, we consider that the protection afforded to residents by ICr.43 is, therefore, sufficient to manage low frequency noise (again, in combination with the other methods proposed by the Plan Change). In our view, introduction of a separate low frequency control could be (in part) redundant, and at times (for example, during daytime) overly restrictive compared to Rule ICr.43.
- 4.149 That said, the draft low frequency rule is not specific to reception within the Residential Zone, and would apply to **all residential activities in the Inner City Zone** as well – including those immediately adjacent to existing noisy activities. Application of the draft control at the boundary of those Inner City residences could (in our view) unreasonably constrain some night time activities, thereby undermining the Policy outcome for the Inner City to recognise the primacy of non-residential activities in order to achieve vibrancy and vitality there.
- 4.150 In short, we consider that non-residential activities in the Inner City should be able to generate low frequency noise for entertainment (or other) purposes, so long as that noise is not excessive or unreasonable for residents of the Inner City. Council's enforcement Officers can 'police' this outcome in accordance with the powers afforded them under the Act for *both* existing and future NGAs. Again, this will be bolstered by the requirement for future NGAs to operate in accordance with an approved noise management plan and for new residential activities to meet insulation requirements.
- 4.151 In light of the above, we consider that PC16 will not be improved through the introduction of a specific low frequency noise control.
- 4.152 Given the findings of the Hunt Report, and the verbal feedback we received from Mr Ballagh and Mr Askew about the special characteristics of low frequency noise, we do consider it is appropriate for this matter to be specifically identified as an assessment matter for future consent applications for NGAs and for activities which are not permitted by proposed Rule ICr.43. We have included new assessment criteria to achieve this end in Appendix 4.

DECISION [D6]

^[59] This is spelled out in Appendix 3 to Mr Downing's submissions (p.8-6 of the draft plan change)

D6.1 Those submissions seeking to introduce a specific low frequency noise control are **accepted in part** to the extent that they accord with the amended provisions set out in Appendix 4 (including amendments to assessment criteria).

Issue 6: Other matters

Issue Identification

- 4.153 This final issue section discusses the remainder of the matters raised in submissions. Those sub-issues include:
- general support / opposition;
 - changes to policy explanations;
 - other methods; and
 - notification issues; and
- 4.154 Starting with the first of these matters, there were submitters both in **general support** of, and **opposition** to, the Plan Change. In respect of the latter, parties such as **Mr Inglis** and **Mr Downing** distilled their partial opposition to the proposal into more identifiable issues, which we have addressed above and/or below. For parties that have signalled general support for the proposal – including **Port Nelson Limited** and the **Port Nelson Liaison Committee** – we have essentially considered their support as aligned with the view expressed by the Council.
- 4.155 In this way, we have elected to evaluate matters of general support or opposition via analysis of the component parts of potential effects. We do not consider it is necessary for us to elaborate any further on the general submissions given our evaluation approach.
- 4.156 As we have noted above, the Plan Change proposed several **amendments to the explanation and reasons to existing NRMP Policies**. Most submissions received in relation to these amendments were supportive; however, Mr Peterson did recommend some refinements to the notified provisions in light of submissions from the **Nelson Marlborough District Health Board**.
- 4.157 We have reviewed both the notified amendments to the explanations and the further refinements proposed by Mr Peterson and consider they will assist in the future interpretation and implementation of the relevant policies. In particular, we note the recommended change to explanatory Clause IC4.2.ii (amenity levels in the Fringe), which notes that the Fringe is often located adjacent to more sensitive activities in residential areas. Again, this change gives a policy steer toward the amendment we have made to the definition of NGAs in relation to the hours where consent would be triggered in the Fringe Zone.
- 4.158 In light of this, the general agreement between the parties as to the appropriateness of the amendments, and our own satisfaction that the amendments are efficient and effective, we have adopted the amendments as proposed in the s42A report.

- 4.159 We note that one submitter – **Mr Mayes** – suggested an **alternative internal noise management solution** for noisy activities. In this regard, we further note Mr Peterson’s point⁶⁰¹ that such a method *may* form part of a future noise management plan for a NGA, and therefore we record for Mr Mayes’ benefit that the plan change does not preclude the use of such an option. For the practical reasons cited by Mr Ballagh, however – including the calibration of internal control systems, variation in building condition and construction, and proximity to residential units – we are of the view that these measures should not be *required* by the plan change.
- 4.160 A final point that we address here relates to **notification procedures for future resource consents**. This was a matter of particular concern for both **Ms Noonan** and **Mr Male** (for Grey Power). Essentially, these parties were interested in being consulted with and/or notified where new noisy activities are proposed in the future which may affect them.
- 4.161 We explored this with the submitters and Mr Peterson through questions, and Mr Peterson clarified that notification (neither public nor limited) is not expressly precluded in the proposed Plan Change approach. He reminded us that the Plan Change enables decision-makers to make a determination under s95 of the Act as to whether or not future activities that require resource consent under this rule regime should be publicly notified or limited notified.
- 4.162 Although not overtly stated in her submission, at the hearing Ms Noonan expressed some unease to us about that discretionary judgement, and preferred that the NRMP provides stronger guidance on notification procedures.
- 4.163 In this case, we do not believe there is a particularly strong case to be made for notification to be a *requirement* of future applications for resource consent under the proposed PC16 rules. We are comfortable with the combined guidance to decision makers set out in the Act, and with the ability of decision-makers to make a judgement based on the information before them for a given application.
- 4.164 If the effects of a new NGA on the wider environment are significant, we expect that proposal will be notified – if a new residential building seeks resource consent under Rule ICr.43A to avoid insulation requirements, and a NGA is located adjacent to that activity, that NGA may well be limited notified if the effects of the residential proposal are more than minor. Again, this level of judgement is made on a daily basis by decision-makers throughout New Zealand, and we do not consider any variation to the notification procedures established by s95 is required by PC16.

DECISION [D7]

- D7.1 Those submissions in general support to the plan change are **accepted in part** to the extent that they accord with the amended provisions set out in Appendix 4). Those submissions in general opposition are **rejected**.

⁶⁰¹ s42A report, p.64

- D7.2 Those submissions seeking to amend proposed alterations to policy explanations are **accepted in part** to the extent that they accord with the amended provisions set out in Appendix 4.
- D7.3 Those submissions seeking to introduce additional methods for the management of noise in the Inner City are **accepted in part** to the extent that they accord with the evaluation above.
- D7.4 Those submissions seeking amendment to the notification criteria for activities considered under the proposed rules to PC16 are **rejected**.

5.0 STATUTORY CONSIDERATIONS

Assessment

- 5.1 In its *Long Bay* decision^[64], the Environment Court set out a summary framework for the matters to be evaluated in respect to a proposed Plan Change. For completeness, we recite that framework here and discuss the extent to which PC16 accords with the individual framework elements.

A district plan (change) should be designed to accord with, and assist the territorial authority to carry out its functions so as to achieve the purpose of the Act.

- 5.2 PC16 involves the establishment of new methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of Nelson City (and in particular the area comprising, and in the vicinity of, the Inner City Zone). Further, the Plan Change aims to control:

- the emission of noise and the mitigation of the effects of noise; and
- the actual or potential effects of the use, development, or protection of land.

- 5.3 Accordingly, we find that the PC16 is generally designed to accord with and assist the Council to carry out its s31 functions.

When preparing its district plan (change) the territorial authority must give effect to any national policy statement (NPS) or New Zealand Coastal Policy Statement (NZCPS).

- 5.4 No NPS, nor the NZCPS, are relevant to the Plan Change.

When preparing its district plan (change) the territorial authority shall: a) have regard to any proposed regional policy statement; and b) give effect to any regional policy statement.

- 5.5 The Nelson RPS became operative in March 1997. The Objective of the RPS that is of most relevance to this proposal is Objective DA2.2, which seeks to achieve “an environment in which unreasonable noise is avoided, remedied or mitigated.” There are three policies that implement this Objective, including the following two which are particularly relevant to PC16:

DA2.3.1

To the extent that it is within Council's statutory power to do so, to protect existing and proposed residents and other noise sensitive land uses from the adverse effects of excessive and unreasonable noise from industrial, commercial, transportation (including land, sea and air), community or recreational activities.

^[64] Decision No. A078/2008, pp.29-31. We note that this judgment has since been reviewed and updated to account for the 2009 RMA Amendment Act Changes in *Colonial Vineyard Ltd v Marlborough District Council* (ENV-2012-CHC-108, [2014] NZEnvC 55) – however, the alterations arising from that review are of such moment that we need consider them here.

DA2.3.3

To acknowledge that there are noise sensitive activities which may not be compatible with existing facilities which are sources of noise.

- 5.6 We consider that the Plan Change was prepared in a manner that will continue to enable the NRMP to give effect to the RPS, including this objective and its supporting policies. The balanced approach proposed by PC16 implements the above aims of both providing for reasonable amenity for residents, and recognising that inner city non-residential activities may be adversely affected by future sensitive uses.

In relation to regional plans: a) the district plan (change) must not be inconsistent with a regional plan for any matter specified in section 30(1) [or a water conservation order]; and b) must have regard to any proposed regional plan on any matter of regional significance etc.

- 5.7 In our evaluation, the Plan Change is not inconsistent with any other regional plan. There currently are no proposed regional plans that need to be considered.

When preparing its district plan (change) the territorial authority must also:
a) have regard to any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations, and to consistency with plans and proposed plans of adjacent territorial local authorities; b) take into account any relevant planning document recognised by an iwi authority; and c) not have regard to trade competition

- 5.8 The matters of most relevance include *Heart of Nelson Central City Strategy (2009)* and the Council Long Term Community Plan, and we consider that PC16 has had sufficient regard to those documents.

The district plan (change) must be prepared in accordance with any regulation

- 5.9 No regulations are relevant to PC16.

The formal requirement that a district plan (change) must also state its objectives, policies and rules (if any) and may state other matters.

- 5.10 This requirement is met in respect of PC16. The Plan Change includes new rules and other methods, and relies on the settled objectives and policies of the NRMP.

Each proposed objective in a District Plan (change) is to be evaluated in terms of the extent to which it is the most appropriate way to achieve the purpose of the Act.

- 5.11 The Plan Change does not include any new objectives. The settled objectives of the operative NRMP have already been deemed to be the most appropriate way to achieve the purpose of the Act through prior First Schedule processes.

The policies are to implement the objectives, and the rules are to implement the policies.

- 5.12 We consider that the proposed rules (as amended in Appendix 4) implement the aim of the operative policies to provide for vibrant and vital centre that also enables a reasonable level of amenity for those who chose to live in, or nearby to, the Inner City. No new policies are proposed by PC16.

Each proposed policy or method (including each rule) is to be examined, having regard to its efficiency and effectiveness, as to whether it is the most appropriate method for achieving the objectives of the district plan taking into account: a) the benefits and costs of the proposed policies and methods (including rules); and b) 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.

- 5.13 This requirement has underpinned our evaluation of issues in Section 4 above. We have signalled throughout that evaluation where we have identified and weighed the costs and benefits of options considered. Our evaluation represents a continuation of the original evaluation of these matters contained in the s32 report that accompanied the notified Plan Change, with the broadening of issues and options introduced through the various submissions received.
- 5.14 We have concluded that the most efficient and effective means to achieve the settled objectives and policies of the NRMP is through the adoption of PC16 with modifications as set out in Appendix 4.

In making a rule the territorial authority must have regard to the actual or potential effect of activities on the environment.

- 5.15 This is an additional consideration which underpinned our evaluation under section 4 above. As per our conclusion in relation to the efficiency and effectiveness of the proposed methods, we have concluded that the proposed Plan Change as amended in Appendix 4, in tandem with the other applicable rules in the operative NRMP, will appropriately manage any actual and potential adverse effects generated by activities within the area subject to the Plan Change (including effects on neighbouring areas).

Finally, territorial authorities may be required to comply with other statutes

- 5.16 No other statutes are relevant in this case.

Summary

- 5.17 In summary, and based on our discussion of Issues 1-6 in Section 4 of this report, we conclude that when assessed against the relevant statutory framework and the individual elements produced under that framework, PC16 accords well with all of those matters. In particular:

- the Plan Change has given effect to the RPS;

- PC16 as amended in Appendix 4, in tandem with the other applicable rules in the NRMP, will appropriately manage any actual and potential adverse effects of relevance; and
- the most efficient and effective means to achieve the settled objectives and policies of the NRMP (and in turn, the sustainable management purpose of the Act) is through the adoption of the proposed Plan Change with modifications as set out in Appendix 4.

6.0 OVERALL CONCLUSION & RECOMMENDATION

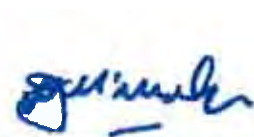
Overall Conclusion

- 6.1 In terms of the fundamental questions we signalled in the introduction to Section 4, and based on the assessment of key issues that followed, we conclude that:
- intervention is required in order to improve the NRMP as it relates to the management of noise in the Inner City; and
 - the proposed rule framework as amended in Appendix 4 is the most appropriate mechanism to deliver on the improvements sought.

Decision

- 6.2 Based on our consideration of all the material before us, including the section 42A report from the Council advisors, submissions, further submissions, evidence presented at the hearing and before the closing, and following consideration of the requirements of Section 32 and other relevant statutory matters, we make the following decision under delegated authority from the Nelson City Council:
- (a) **The Plan Change is accepted as amended in Appendix 4** and all submissions on the Plan Change are accepted or rejected to the extent set out above (and summarised in Appendix 3); and
- (b) Pursuant to Clause 10 of the First Schedule of the Resource Management Act 1991, the **Council is directed to give notice of this decision on submissions to Plan Change 16 as soon as practicable.**

DATED AT WELLINGTON & NELSON THIS 17th DAY OF JUNE 2014



David McMahon
Commissioner (Chair)



Ian Barker
Nelson City Councillor



ERIC Davy
Nelson City Councillor

APPENDIX 1
s37 Waiver – Submission 15

27 February 2014

Memo To: Plan Change 16 – Inner City Noise Hearings Commissioners
Memo From: Reuben Peterson
Planning Adviser
Subject: Waiver of Time for Late Submission – Plan Change 16

Recommendation

- 1.1. The proposed Plan Change was publicly notified on 7 September 2013, with submissions closing on 5pm 4 October 2013. Fifteen submissions were received.
- 1.2. Submission 15, C Sharp Family Trust, was received after the closing time/date for submissions. The date of receipt by Council was 9 October 2013 or 3 working days late.
- 1.3. A summary of decisions requested by submitters was prepared and then notified on 26 October 2013. The closing date for further submissions was 5pm 11 November 2013. Further submissions were received from two parties.
- 1.4. This late submission was received prior to the preparation and notification of the Summary of Decisions Requested and therefore all parties had the ability to lodge a further submission on the late submission content. In my view this caused no delay or disadvantage to any party. The content of the submission itself is similar to other submissions that had been received within time – namely Submitter 6, Charles and Rosemary Shaw.
- 1.5. I recommend to the Commissioners that a waiver of time is granted under Section 37 1 (b) of the RMA 1991 in relation to the late submission received from C Sharp Family Trust. A waiver will formally allow this submission to form part of the upcoming hearing process.

Decision

I accept that the late submission won't raise any new material and that no person will be prejudiced by its acceptance.

I therefore direct that the submission be received in terms of Section 37 1 (b) of the RMA 1991.



DJ McMahon
Independent Commissioner (Chair)

28 February 2014

APPENDIX 2
Minutes issued by Commissioners

NELSON CITY COUNCIL
PROPOSED PLAN CHANGE 16
INNER CITY NOISE

MINUTE 1 OF COMMISSIONER

Introduction

1. I have been appointed by the Nelson City Council (“NCC” or “the Council”) as Chair of the Hearing Panel to hear and determine proposed Plan Change 16, Inner City Noise (“PC16” or “the plan change”), and the submissions lodged to it. The general function of this minute is, on behalf of my fellow Panel members, to set out some preliminary matters in preparation for the hearing, which is tentatively set down for early May 2014. In particular, my objective is to provide for a smooth and easily navigable pre-hearing and hearing process for all parties. This requires some action from the parties in readiness for the formal proceedings, which I will now outline in detail.
2. In this respect, this Minute covers the following matters:
 - (a) Hearing Date
 - (b) Evidence Preparation and Circulation
 - (c) Hearing Process and Presentations
 - (d) Site and Locality Visits
3. It is possible that there will be further instructions issued by way of Minute before and after the hearing.

Hearing Date

4. I am advised by the Council that the hearing is likely to commence on Friday 2 May 2014 run to the end of business on that day. I am also advised that the Council will officially write to all submitters shortly with final confirmation of the exact hearing date and will invite submitters to book a timeslot for the presentation of their submissions where attendance at the hearing has been sought.

Evidence Preparation and Circulation

5. I anticipate that some parties will be calling expert witnesses in support of their submissions, while others will opt to ‘go it alone.’ In either case, I request that all parties provide the NCC Policy and Planning Administrator - Gayle Brown - with a list of all individuals that will be presenting evidence on their behalf by 14 March 2014. This instruction applies even if a submitter is representing his/herself without any additional representation. This will assist in scheduling the proceedings – both in terms of indicating the likely duration of the hearing, and in terms of understanding roughly how long each party will require.

6. While I am on the matter of evidence, I will be requiring pre-circulation of:
 - All evidence of submitters wishing to attend the hearing; and
 - Supplementary written statements from those submitters not wishing to attend the hearing but wanting to table material in support of their submissions.
7. To assist with this I have also directed that the Council s42A planning report on the plan change and the submissions to it is circulated to all parties a minimum of 15 working days prior to the hearing.
8. The proposed timetable for circulation is as follows:

Date (2014)	Action
14 March	All Submitters attending the hearing – to provide a list of evidence authors / witnesses to be called in support of their submission(s) to the NCC (plus any site and localities that they wish me to visit prior to the hearing). In addition, any party wishing to take part in pre-hearing meeting(s) and/or expert conferencing should notify NCC by this date.
7 April	NCC – s42A report to be circulated to the parties
23 April	All Submitters wishing to attend the hearing and present evidence/or provide supplementary written statements in support of their submissions – to lodge with NCC all written evidence/statements in support of their submission(s)
2 May	Likely date for Hearing commencement

9. The above timetable, in my view, allows ample time for reports and evidence to be prepared. Notwithstanding this, where any submitter (or their representative) is unable to make the above timetable, other arrangements can be made. It is my strong preference, however, that every effort be made to follow the prescribed schedule.
10. For completeness, I am happy to hear any legal submissions during the proceedings themselves, and there is no need for these to be pre-circulated.
11. I understand that Council will collate all pre-circulated evidence and make it available on the Council website. Further instructions about accessing this information (including where hard copies of the evidence may be viewed) will be conveyed by the Council following receipt of all materials.

Hearing Process/Presentations

12. As evidence is being distributed to all parties prior to the hearing, and will be read by the Hearing Panel prior to the hearing commencing, it will not be necessary for a verbatim oral presentation of the written evidence at the proceedings. I am happy for submitters (and their witnesses) to speak to a summary of their evidence, which could either be:
 - a separate tabled statement that condenses the key points from evidence (i.e. a couple of pages); or

- via highlighting particular points within their evidence during their presentation.

13. With this approach in place, I envisage presentations will be in the ballpark of 15 minutes per speaker, though this is not a fixed time requirement. My intent in signalling this is less a stipulation that speakers rigidly adhere to an imposed time limit, and more a *guide* for those wondering how long their presentation is likely to last.

14. I want to be clear that submitters and officers will be given reasonable time to adequately present their views. The main reason in favour of pre-circulation is to minimise the time required for all parties to be present at the hearing itself. This expedited process will not, however, be at the expense of any party's ability to fully participate in the process.

Site and Locality Visits

15. I am familiar with the site and general locality affected by the Plan Change.

16. I expect that subsequent and more detailed site and locality visits may be necessary following the presentations at the hearing from the Council and submitters. Also, if any particular party has a desire for the Panel to visit particular sites/localities associated with the plan change then they should advise Gayle Brown of that as soon as practicable. We would suggest that this could be done at the same time that they respond to the Council regarding the list of individuals that will be presenting evidence to be called in support of their submission(s) (i.e. by 14 March).

Next Steps

17. As indicated by the proposed timetable above, I now invite all parties to provide a list of evidence authors / witnesses appearing on their behalf before 14 March.

18. If any party wishes to seek further clarification around the hearing process or the proposed timetable, please contact Ms Brown in the first instance. Her contact details

Gayle Brown – Policy and Planning Administrator
ddi: 03 5460257
Gayle.brown@ncc.govt.nz

DATED this 24th day of February 2014



DJ McMahon
Independent Commissioner
Chair of Hearing Panel

NELSON CITY COUNCIL
PROPOSED PLAN CHANGE 16
INNER CITY NOISE

MINUTE 2 OF COMMISSIONERS

Introduction

1. This panel – comprising Councillor Ian Barker, Councillor Eric Davy and myself - has been appointed by the Nelson City Council (**NCC or the Council**) to make a decision on Proposed Plan Change 16 (**PC16**) and the submissions to it. The hearing of submissions on PC16 commenced at 10.30am on Friday 2 May 2014 and was adjourned later that afternoon.
2. At the time of the adjournment we had heard from Council Officers (initially in a factual capacity and subsequently in an evaluative sense), and from several submitters to the proposal. We signalled before the adjournment that we would leave the proceedings open to receive further information from the Council and to undertake additional site visits (which we completed late pm on 2 May / early am on 3 May).
3. The purpose of this minute is to set out an inventory of the information we have requested of the Council to assist our deliberations. We also wish to give all parties a preliminary indication as to the steps from here.
4. It is possible that there will be further correspondence issued by us – either by way of additional minute(s) or through Council Officers.

Further information sought

5. Though we verbally confirmed our information requirements to Council staff at the close of proceedings, we wanted to formalise an inventory of that information here. We have done so both to assist Officers and to provide clarity for all parties who were not present when the information was sought.
6. Specifically, we have sought the following:
 - a) a copy of an **email from Mr Peter Mayes** (Submission 3) to Mr Peterson, referred to by Mr Peterson in his opening factual presentation;
 - b) a copy of the **monitoring report undertaken by Malcolm Hunt Associates (July 2009)**, referred to (indirectly) in the s42A report, and (directly) during questioning of Mr Peterson;
 - c) **data requested of Mr Askew** in respect of enforcement action, abatement notices, and complaints relating to inner city noise since 2006 – this is to include (as a minimum) detailed descriptions of the nature of the complaint/action, parties involved and spatial data (mapped if possible) about the complaint/action;

- d) the most recent **s35(RMA) report** produced by NCC (as referred to by Mr Heale during questioning);
- e) clarification in respect of the application of clauses (a) & (b) under proposed Rule ICr.42A.1;
- f) further **evaluative feedback from Officers** in respect of:
 - i. proposed Appendix 13.2 and its **relationship to, and effectiveness in implementing**, s327 of the RMA;
 - ii. whether there were any **advantages to be gained, and/or complications that may arise**, from utilising elements of **both** the operative Rule 42 and proposed Rule 42A approaches (i.e. prescribed limit at generator site boundary +/- Noise Generating Activity approach +/- s16 & s327 provisions); and
- g) **Mr Ballagh's report(s)**, particularly in reference to the management of **low frequency noise**.

Process from here

- 7. We have set out an indicative timetable below for the collection and distribution of further information, and for the formal closing of the hearing proceedings. We note that this process is not an open invitation for parties to provide us with additional information over-and-above original submissions and/or information presented at the hearing. Once we have received the further information sought above, we will decide what course of action is required, including whether or not it is necessary to formally reconvene proceedings and/or provide additional channels for parties to further participate. At this stage, we consider such action is unlikely, but will make that call in due course.
- 8. The proposed timetable for implementing the above matters is as follows:

No later than (2014)	Action
9 May	NCC Officers to provide all information sought in para 6 above to Commissioners ^[1] .
12 May	Submitters to indicate to NCC if they seek a copy of any information sought above.
14May	NCC to provide any information sought under para 6 above to submitters as requested.
16 May	Commissioners to indicate whether the hearing is closed, or whether further action is required.

^[1] We are mindful that the monitoring data sought from Mr Askew may not be readily "at hand," and so we understand if it takes an additional day or two to compile this data.

- ii. whether there were any **advantages to be gained, and/or complications that may arise**, from utilising elements of **both** the operative Rule 42 and proposed Rule 42A approaches (i.e. prescribed limit at generator site boundary +/- Noise Generating Activity approach +/- s16 & s327 provisions); and
- g) **Mr Ballagh's report(s)**, particularly in reference to the management of **low frequency (bass) noise**.

Additional clarification from Mr Ballagh and Mr Peterson

5. We have reviewed the above information in detail, and consider it is all in order. However, we seek some more in-depth evaluative feedback from Mr Ballagh in relation to matter 'g' above. Specifically, we would like Mr Ballagh to give his expert view (in writing) on the following matters:
 - a) Some submitters expressed confusion as to why the Council changed approach between the draft plan change released for comment and the notified plan change, particularly in relation to a low frequency noise standard that was contained in the former and abandoned in the latter. It is our understanding that the low frequency control was initially included (at least in part) in response to the Malcolm Hunt Associates report from 2009 which identified "significant" levels of low frequency noise at certain times, which may create a nuisance for both Inner City residents and adjoining Residential Zone residents. We are beginning to form an understanding as to why the Council has not retained the draft low frequency control from the responses we received in questioning, and on the various written exchanges between Mr Ballagh and Mr Peterson (from 2012 & 2013) provided pursuant to our previous Minute – however, we consider it would be to the **benefit of all parties (including ourselves) if Mr Ballagh could clearly explain why (from a technical acoustic engineering perspective) the notified approach is superior to the draft approach.**
 - b) in Mr Ballagh's letter to Mr Peterson dated 25 May 2012, Mr Ballagh outlined his view of appropriate low frequency noise limits for daytime and night time hours should low frequency levels be adopted as a method for the plan change – we **would like further clarification as to where those standards were intended to be measured from (i.e. site boundary of generator, site boundary of receiver, zone boundary etc).** To be clear, we have not decided either way whether a specific low frequency control is required; however, *if* we do decide that is the most appropriate method to adopt, we want to be clear on Mr Ballagh's expert view as to what that figure should be, where it should be applied/measured from and why.
6. We anticipate that Mr Peterson may also wish to comment on Mr Ballagh's findings on the above, and to codify them into 'planning speak.' To that end, we would appreciate Mr Peterson's view on the following:
 - a) We are aware of the planning rationale provided for the abandoning of the low frequency noise control set out in the s42A report (at p.16 & p.51) and the s32 report (at pp.23-24); however, we invite Mr Peterson to add to Mr Ballagh's statement if he considers it will assist our further analysis under s32. In particular it would be helpful to understand **why (in his view) the inclusion of a low-frequency control will not improve the NRMP's ability to implement the Objectives and Policies (in particular Objectives RE2 & IC5, and Policies IC4.3,**

IC5.1 & IC5.2) when compared to the notified approach. Put differently, why wouldn't a low frequency noise control assist in the aims for inner city activities to "not detract from," "not...significantly diminish," or "prevent...any deterioration of" amenity values of the adjacent Residential Zone.

- b) We also expect Mr Peterson to compliment Mr Ballagh's technical view on an appropriate low frequency rule *if* we were of a mind to include one (notwithstanding that Mr Peterson's express preference is that such a rule is not required).

Proposed Timetable

7. The proposed timetable for implementing the above matters is as follows:

No later than (2014)	Action
21 May	NCC Officers to provide all information sought in paras 5 & 6 above to Commissioners.
21 May	Submitters to indicate to NCC if they seek a copy of any information sought above.
22 May	NCC to provide any information sought to submitters as requested.
23 May	Commissioners to indicate whether the hearing is closed, or whether further action is required.

- 8. The above timetable allows for a one week turnaround for the substantive information, which should be ample for the parties. Again, Ms Brown should be contacted in the first instance if any party wishes to contact us in relation to the above matters.
- 9. We will advise if we require any further assistance from any party.

DATED this 14th day of May 2014

Signed on behalf of

DJ McMahon (Independent Commissioner)
 I Barker (Councillor)
 E Davy (Councillor)



DJ McMahon
 Chair of Hearing Panel

APPENDIX 3

Summary of decisions on submissions received

**Proposed Plan Change 16
Inner City Noise**

**APPENDIX 3
Commissioners' decisions by submitter**

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PROPOSED PLAN CHANGE 16 – INNER CITY NOISE

COMMISSIONERS' RECOMMENDATIONS ON DECISIONS SOUGHT AND FURTHER SUBMISSIONS

1 Inglis, Kent Thomas				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
1.1	Amendment 1 Acoustic Insulation	Oppose	Delete acoustic insulation of inner city residential units	Reject
2 McGuire, Dan				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
2.1	General Submission	Support	Retain the proposal as a whole	Accept in part
3 Mayes, Peter				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
3.1	General Submission	Support in part	Consider a device that is connected to the electricity supply to amplifiers, at a set noise level it trips the power and cannot be reset for a set time. This is mandatory for use in clubs, pubs in the UK.	Accept in part
4 Purves, James Mackay				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
4.1	Amendment 1 Acoustic Insulation	Oppose	Delete. Deal with the polluter/pollutant at the source, not the results of the problem. This creates work and fees for Council. Let developers/accommodation providers decide what is appropriate in the inner city and if they get it wrong the market will punish them	Reject
5 Port Nelson Noise Liaison Committee				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
5.1	Amendment 1 Acoustic Insulation	Support	Retain section AP19.2.iii	Accept

6 Shaw, Charles and Rosemary				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
6.1	General Submission	Support	Retain the proposal as a whole. It will go some way to improving the enjoyment of people who have chosen to live permanently close to the centre and those who are staying for a short time.	Accept in part

7 Port Nelson Limited				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
7.1	Amendment 1 Acoustic Insulation	Support	Retain section AP19.2.iii	Accept

8 Downing, Graham and Trevana, Stephanie				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
8.1	Amendment 1 Acoustic Insulation	Support	Retain rule ICr.43.A acoustic insulation of accommodation in Inner City Zone	Accept in part
8.2	Amendment 2 Noise Generating Activity	Oppose	Amend Noise Generating Activity definition as follows: First bullet point, delete the words "from a sound system with greater than 100w output".	Reject
8.3	Amendment 2 Noise Generating Activity	Oppose	Amend Noise Generating Activity definition as follows: First and second bullet points replace "11.00pm" and "1.00am" respectively with 10.00pm	Accept in part
8.4	Amendment 2 Noise Generating Activity	Oppose	Amend ICr.42A.1 as follows: Add new sub clause "or d) Results in any increase in the hours amplified music is played or any increase in the volume the amplified music is played at"	Reject
8.5	Amendment 2 Noise Generating Activity	Oppose	Amend AP13.1.2 as follows: Add new sub clause "and c) The provision of a Monitoring Report to the Council at least once a year."	Reject
8.6	Amendment 2 Noise Generating Activity	Oppose	Delete AP13.2	Reject
8.7	Amendment 5 Enforce noise using provisions of the RMA	Oppose	Oppose deletion of ICr.42. Amend by updating the noise measures to equivalent 2008 NZS Standards as per the parallel proposed amendments to	Accept in part

			rule ICr.43 and add to the noise levels in rule ICr.42 to deal with bass frequencies at night time "63Hz Octave Band: 70dBL10"	
8.8	Amendment 5 Enforce noise using provisions of the RMA	Oppose	Delete ICr.42B	Accept
8.9	Amendment 4 ICr.43 Noise received at sites in the Residential Zone		Amend ICr.43 as follows: Add a night time low frequency noise limit	Reject
8.10	Changes to Policy	Support	Retain IC5.1	Accept
Further Submissions				
Further Submitter		Original Submission Reference		Support/ Oppose
				Decision
X1.1 thru X1.9	McGuire, Dan	8.2 thru 8.10		Support Accept in Part

9 McLean Michelle				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
9.1	General Submission	Oppose	Would like inner city noise to be prevented from intruding into residential areas, after 9pm at the latest during the week.	Accept in part

10 McDonalds Restaurant (NZ) Ltd				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
10.1	Amendment 2 Noise Generating Activity	Oppose	ICr.42A insert the following exclusion "subpoint (a) above does not apply to internal (unlicensed) restaurant or dining space that would otherwise not fall to be considered a noise generating activity."	Reject

11 Nelson Marlborough District Health Board				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
11.1	Amendment 1 Acoustic Insulation	Support	Retain ICr.43A.1 permitted column with consequential addition. Add to Chapter 2 Definitions, a definition for the acoustical descriptor "D2m,nT+ Ctr" which is undefined in the Proposed Plan, or the Operative Plan or NZS6801:2008 or	Accept in part

			NZS6802:2008 and will otherwise be incomprehensible to readers of the Plan. See Amendment 2, submitter 2, Statement 8.	
11.2	Amendment 1 Acoustic Insulation	Support	Amend ICr.43A.4 as follows: Add new items e) The effectiveness of any noise barriers" and d) Any balconies" and in b) delete the words "of exposure".	Accept in part
11.3	Amendment 1 Acoustic Insulation	Support	Retain ICr.43A.4 Explanation	Accept
11.4	Amendment 1 Acoustic Insulation		Amend AP19.2 clauses AP19.2.i and AP19.2.ii as follows: Replace bullet points with numeration. In six places delete the terms "dBA Leq (15min)" and substitute "dB LAeq(15min)". Replace "design noise level" with "design sound level". In 19.2.ii b) last sentence delete the word "levels".	Accept
11.5	Amendment 1 Acoustic Insulation	Support in part	Amend AP19.3 and AP19.3.i as follows: In the second line replace "Insulations" with "Insulation". Replace "design noise level" with "design sound level".	Accept
11.6	Amendment 1 Acoustic Insulation	Support in part	Amend AP19.3 and AP19.3.ii as follows: In sub clauses a) and b) in two places delete the terms "dBA Leq(15min)" and substitute "dB LAeq(15min)". Replace "design noise level" with "design sound level". In 19.3.ii a) and in 19.3.ii b) in the last sentence of each sub clause, replace "noise levels" with "sound levels".	Accept
11.7	Amendment 1 Acoustic Insulation	Support in part	Retain AP19.3.iv and table 3 and notes	Accept
11.8	Amendment 2 Noise Generating Activity	Support in part	Amend Noise Generating Activity definition as follows: Replace Chapter 2 definition for term "Lmax" with "Lmax includes LAFmax and is the maximum A frequency weighted, F-time-weighted sound pressure level during a time period as defined in NZS6801:2008." Add new definition - "D2m,nT+Ctr, (enlarged for clarity) is a standardised single number in decibel as a measure of facade performance. It is the difference between the outdoor sound level measured 2 metres from the facade (including the effects of reflection from the facade) and the spatial average sound level inside the receiving room. It includes a spectrum adaption term to take into account lower frequency	Accept in part

			sound. See ISO 140-5 (1998) Acoustics - Measurement of sound insulation in buildings and of building elements - Part 5: Field measurements of airborne sound insulation of facade elements and facades. The single number is evaluated according to the method given in ISO 717-1:2013 Acoustics - Rating of sound insulation in buildings and building elements - Part 1: Airborne sound insulation".	
11.9	Amendment 2 Noise Generating Activity	Support	Retain rule ICr.42A	Accept
11.10	Amendment 2 Noise Generating Activity	Support	Retain Appendix 13	Accept
11.11	Amendment 2 Noise Generating Activity	Support in part	Amend AP13.1 as follows: a) Replace "design noise level" with "design sound level". b) After "acoustic insulation" add, "or noise barrier" b) Replace "noise levels and meet the design noise level" with "noise and comply with the design sound level" g) Replace "govern the maximum noise output" with "limit sound emissions"	Accept in part
11.12	Amendment 2 Noise Generating Activity	Support	Retain AP13.2	Accept
11.13	Amendment 2 Noise Generating Activity	Support in part	Amend AP13.1.3 as follows: Amend title to "Measurement and assessment of Noise" After the word "and" insert "assessed in accordance with"	Accept
11.14	Amendment 2 Noise Generating Activity	Support in part	Amend AP13.2.1 as follows: Delete "or in forming an opinion under 327(1)" Delete the last two words in sub-clause AP13.2.1.ii e "or excessive"	Accept in part
11.15	Amendment 2 Noise Generating Activity	Support in part	Amend AP13.2.1.ii as follows: In b) Replace "noise level" with "sound level" and Replace b) "noise meter to determine actual noise level" with "sound level meter".	Accept
11.16	Amendment 2 Noise Generating Activity	Support	Retain AP13.2.2	Accept
11.17	Amendment 3 Maximum Noise Level (LAFmax)	Support in part	Amend ICr.42 and ICr.42.1 as follows: Amend heading to "Night time noise limits". Replace "noise measured" with "The sound level assessed". Replace	Accept in part

			"facade" with "side". Replace "maximum noise levels" with "noise limit". Replace Chapter 2 definition for Lmax with "Lmax includes LAFmax and is the maximum A frequency weighted, F-time-weighted sound pressure level during a time period, and is defined in NZS6801:2008".	
11.18	Amendment 3 Maximum Noise Level (LAFmax)	Support	Retain ICr.42.4 and ICr.42.5	Accept in part
11.19	Amendment 3 Maximum Noise Level (LAFmax)	Support in part	Amend heading in contents page to "Night time noise limits"	Accept
11.20	Amendment 4 ICr.43 Noise received at sites in the Residential Zone	Support in part	Amend ICr.43 as follows: Replace two occurrences of LAeq with LAeq(15min)	Accept in part
11.21	Amendment 4 ICr.43 Noise received at sites in the Residential Zone	Support in part	Amend ICr.43 as follows: Replace "ambient noise levels" with "ambient sound level".	Accept
11.22	Amendment 5 Enforce noise using provisions of the RMA	Oppose	Delete ICr.42B and ICr.42B.5	Accept
11.23	Changes to Policy	Support	Retain IC4.2, IC4.2.ii and IC4.2.iv	Accept
11.24	Changes to Policy	Support in part	Amend as follows - IC4.2.v use of sections 316, 320 and 322 of the Resource Management Act 1991 for enforcement of unreasonable noise, and section 327 of the Act to control excessive noise.	Reject
11.25	Changes to Policy	Support in part	Amend IC4.3.v by replacing "or" with "and"	Accept
11.26	Changes to Policy	Support in part	Amend IC5.1.ii by replacing "or" with "and"	Accept
11.27	General Submission	Support	Retain the proposal as a whole as it incorporates amendments to rules to avoid, mitigate and reduce adverse effects of noise on environmental health, and to promote the health of the people and communities in the District in a sustainable manner.	Accept in part

12 Hospitality NZ				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
12.1	Amendment 1 Acoustic Insulation	Support	Retain acoustic insulation of inner city residential units and short term living accommodation	Accept in part
12.2	Amendment 2 Noise Generating Activity	Oppose	Delete. The new Sale and Supply of Alcohol Act together with noise control provisions of the Resource Management Act a robust and sufficient way to address noise generating activities without the need to require noise generating activities to apply for a resource consent to allow for consideration of noise issues.	Reject
12.3	Amendment 4 ICr.43 Noise received at sites in the Residential Zone	Support	Retain ICr.43	Accept
12.4	Amendment 5 Enforce noise using provisions of the RMA	Support in part	Council should develop and implement guidelines to control officers to help with anomalies	Accept in part
12.5	Amendment 6 Ongoing education	Support	Retain, support non regulatory approaches	Accept in part
12.6	General Submission	Support	Retain, broadly supportive of the proposed plan change.	Accept

13 Noonan, Gaile				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
13.1	Amendment 4 ICr.43 Noise received at sites in the Residential Zone	Oppose	Properties within say 150 metres of any proposed new development emitting noise on a regular basis should have their properties noise protected at the cost of the applicant not the home owner	Reject
Further Submissions				
	Further Submitter		Original Submission Reference	Support/ Oppose
	X1.10	McGuire, Dan	13.1	Support
	X2.1	Nelson Grey Power	13.1	Support
				Reject

14 Riddell, Barbara				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
14.1	Amendment 2 Noise Generating Activity	Support in part	Decrease noise levels	Accept in part
14.2	Amendment 3 Maximum Noise Level (LAFmax)	Oppose	Enforce drum limits. Music, singing are fine. Throbbing from drums is over the top	Accept in part

15 C Sharp Family Trust				
Sub. Ref.	Amendment & Provision	Support/ Oppose	Decision/Relief Sought	Decision
1	General Submission	Support	Retain. Excellent proposal to enhance inner city living. Higher density residential is essential if the city is to become a better place to live.	Accept in part

APPENDIX 4
Plan Change Provisions

APPENDIX 4 PLAN CHANGE PROVISIONS

Format of the Plan Change provisions

For the ease of the reader the full text of provisions to be changed have been used in this document.

Within this section:

- 'Normal' text applies to operative provisions and text which is to remain unchanged.
- 'Underline' text applies to proposed PC16 provisions at notification.
- '~~Strikethrough~~' text applies to operative provisions proposed to be deleted or amended by PC16 at notification.
- Double underline is text recommended to be added by Officers Report.
- ~~Double Strikethrough~~ is text recommended to be removed by Officers Report.
- '*Italic*' text applies to instructions (therefore are non statutory).
- Amendments shown as **highlighted** are those included by the Commissioners as a result of the hearing of submissions.

Amendment 1 – Acoustic insulation for any new bedrooms or rooms intended to be used for sleeping in short term living accommodation units in the Inner City

Add a new rule, assessment criteria and explanation to Inner City Zone (City Centre and City Fringe areas) of the Nelson Resource Management Plan

Submission #4.1

Item	Permitted	Controlled	Discretionary/Non-complying
ICr.43A Acoustic Insulation of Buildings	<p>ICr.43A.1 Construction of any new Bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units is permitted if:</p> <p>a) the new Bedroom or rooms intended to be used for sleeping in Short Term Living Accommodation Units are acoustically insulated in accordance with Appendix 19 (AP19.3 Inner City Zone, Table 3), or</p> <p>b) the new Bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units are acoustically insulated to achieve a façade sound level difference of not less than 30dB $D_{2m,nT} + C_{tr}$, and has either ventilating windows open or minimum ventilation requirements as set down in Appendix 19 (AP19.3 Inner City Zone), and</p> <p>c) If option b) is used then prior to commencement of any construction or site works a certificate is obtained from a suitably qualified acoustic engineer to demonstrate that the building design complies with option b) above.</p> <p>For the purposes of this rule, the construction of any new Bedroom shall also include the conversion of any existing room to a Bedroom. Note: Bedroom is defined in Chapter 2, Meanings of Words.</p>	<p>ICr.43A.2 Not applicable</p>	<p>ICr.43A.3 Activities that contravene a permitted condition are a restricted discretionary activity.</p> <p>Discretion restricted to:</p> <p>i) Location and orientation of Bedrooms in relation to noise sources, and</p> <p>ii) Insulation or other measure required for noise mitigation purposes for Bedrooms and</p> <p>iii) Health and well-being effects for residents and</p> <p>iv) Potential reversal effects on other activities.</p>

Assessment Criteria	Explanation
ICr.43A.4 a) The location and orientation of the new Bedrooms or rooms intended to be used for	ICr.43A.5 This rule proactively ensures that the new Bedrooms or rooms intended to be used for

Submission #4.1

sleeping in Short Term Living Accommodation Units in relation to noise sources.

b) The likely exposure to the noise, the type of noise (volume, tone and audio frequency), and the duration of exposure.

c) The time of day or night the noise is likely to be experienced.

d) The measures proposed to be undertaken to ensure an appropriate sleeping noise environment is achieved.

e) The effectiveness of any noise barriers.

f) The presence of any balconies.

Submission #11.2

sleeping in Short Term Living Accommodation Units in the Inner City Zone have acoustic insulation features designed into the building from the start to create reasonable sleeping environments. The rule operates in conjunction with other rules to manage noise in the city centre. It recognises that new Bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units in the Inner City Zone, which is inherently a noisier environment than that generally experienced in the Residential Zone, should undertake some measures to protect against the adverse effects of noise.

Two methods of achieving compliance with the rule are possible; one allows a developer or owner to select from a list of specified materials, and construction methods to use, whilst the second allows any material or construction style to be used (subject to the Building Code) but it must be certified by a suitably qualified acoustic engineer to achieve a specified level of noise reduction.

Amendments to contents page of Inner City Zone rule tables

Add

ICr.43A Acoustic Insulation of Buildings

Add to Chapter Two 'Meanings of Words'

Submission #11.1

$D_{f,n,r}+C_{tr}$ is a measure of facade sound insulation. It is the difference in decibels between the outdoor sound level measured 2 metres from the facade (including the effect of sound reflection from the facade) and the spatial average sound level inside the receiving room. See ISO140-5 (Acoustics - Measurement of sound insulation in buildings and of building elements - Part 5: Field measurements of airborne sound insulation of facade elements and facades; and ISO 717-1:2013 Acoustics - rating of sound insulation in buildings and building elements - Part 1: Airborne sound insulation.

Amendments to Appendix 19, AP19.2 Port Effects Control Overlay

AP19.2 Port Effects Control Overlay

AP19.2.i Acoustic insulation requirements for the Port Effects Control Overlay area included in the rules for the respective zones. However, no minimum construction requirements for habitable spaces ~~(MW71A)~~ are specified for the Port Effects Control Overlay. Instead the rules require certification from an acoustic engineer

Submission #11.4

that the building design will achieve the required design ~~noise~~ sound level for that zone and, certification on completion of the works.

AP19.2.ii In addition, where the indoor design level cannot be achieved with ventilating windows open, the minimum ventilation requirements for habitable spaces require either:

- a) A mechanical system or mechanical ventilation system capable of:
- providing at least 15 air changes of outdoor air per hour in the principal living room of each building and give 5 air changes of outdoor air per hour in the other habitable spaces of each building, in each case with all external doors and windows of the building closed with the exception of such windows in non-habitable spaces that need to be ajar to provide air relief paths;
 - enabling the rate of airflow to be controlled across the range, from the maximum airflow capacity down to 0.5 air changes (plus or minus .01) of outdoor air per hour in all habitable spaces;
 - limiting internal air pressure to not more than 30 Pascals above ambient air pressure;
 - being individually switched on and off by the building occupants, in the case of each system; and
 - creating no more than 40 dBA $L_{Aeq(15 \text{ min})}$ in the principal living room, no more than 30 dBA $L_{Aeq(15 \text{ min})}$ in the other habitable spaces, and no more than 50 dBA $L_{Aeq(15 \text{ min})}$ in any hallway, in each building. ~~Noise~~ Sound levels from the mechanical system(s) shall be measured at least one meter away from any diffuser.

Submission #11.4

Note: This is the ventilation option provided for by the Port Noise Mitigation Plan. In the event that qualifying residents opt for the following (more expensive) air conditioning option (option b), those residents shall be required to pay the difference.

or:

- b) Air conditioning plus mechanical outdoor air ventilation capable of:
- providing internal temperatures in habitable spaces not greater than 25 degrees Celsius at 5% ambient design conditions as published by the National Institute of Water & Atmosphere Research ("NIWA") (NIWA, Design Temperatures for Air Conditioning (degrees Celsius), Data Period 1991-2000), with all external doors and windows of the habitable spaces closed;
 - providing 0.5 air changes (plus or minus 0.1) of outdoor air per hour in all habitable spaces;
 - each of the air conditioning and mechanical ventilation systems shall be capable of being individually switched on and off by the building occupants; and
 - creating no more than 40 dBA $L_{Aeq(15 \text{ min})}$ in the principal living room, no more than 30 dBA $L_{Aeq(15 \text{ min})}$ in the other habitable spaces, and no more than 40 dBA $L_{Aeq(15 \text{ min})}$ in any hallway, in each building. ~~Noise~~ Sound levels from the mechanical system(s) shall be measured at least one metre away from any diffuser.

and:

- c) a mechanical kitchen extractor fan ducted directly to the outside to serve any cooking hob, if such an extractor fan is not already installed and in sound working order.

AP19.2.iii A single Residential Unit may contain a combination of the ventilation options a) and b) set out above to achieve the most practicable and cost effective approach. As an example it may be best for the principal living room to comply with option b) whilst the other habitable spaces may comply with option a).

AP19.3 Inner City Zone

AP19.3.i Acoustic insulation requirements for the Inner City Zone are included in the rule ICr.43A 'Acoustic Insulation of Buildings'. Under this rule a choice can be made between minimum construction requirements or having the acoustic insulation specifically designed for the proposed development. When designing acoustic insulation the rule requires certification from an acoustic engineer that the building design will achieve the required design noise sound level.

Submission #11.5

AP19.3.ii This appendix sets out the minimum ventilation requirements for new ~~Bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units~~ in the Inner City Zone where the indoor design level cannot be achieved with ventilating windows open. These require either:

Submission #4.1

- a) A mechanical system or mechanical ventilation system capable of:
- ~~5 air changes of outdoor air per hour in new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units.~~ In each case with all external doors and windows of the building closed with the exception of such windows in non-habitable spaces that need to be ajar to provide air relief paths;
 - enabling the rate of airflow to be controlled across the range, from the maximum airflow capacity down to 0.5 air changes (plus or minus 0.1) of outdoor air per hour in all new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units;
 - limiting internal air pressure to not more than 30 Pascals above ambient air pressure;
 - being individually switched on and off by the building occupants in the case of each system; and
 - creating no more than 30 dBA $L_{Aeq(15\ min)}$ in new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units. Noise Sound levels from the mechanical system(s) shall be measured at least one metre away from any diffuser.

Submission #4.1

Submission #11.6

or:

- b) Air conditioning plus mechanical outdoor air ventilation capable of:
- ~~providing internal temperatures in new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units,~~ not greater than 25 degrees Celsius at 5% ambient design conditions as published by the National Institute of Water & Atmosphere Research ("NIWA") (NIWA Design Temperatures for Air Conditioning (degrees Celsius), Data Period 1991-2000), with all external doors and windows of the new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units, closed;
 - providing 0.5 air changes (plus or minus 0.1) of outdoor air per hour in all new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units;
 - each of the air conditioning and mechanical ventilation systems shall be capable of being individually switched on and off by the building occupants; and
 - creating no more than 30 dBA $L_{Aeq(15\ min)}$ in new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units. Noise Sound levels from the mechanical system(s) shall be measured at least one metre away from any diffuser.

Submission #4.1

Submission #11.6

AP19.3.iii Individual rooms in a single Residential Unit ~~or Short Term Living Accommodation Unit~~ may contain a combination of the ventilation options a) and b) set out above to achieve the most practicable and cost effective approach.

AP19.3.iv The minimum measures identified in Table 3 below are one of two ways of demonstrating permitted activity status for acoustic insulation of new Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units in the Inner City Zone. See rule ICr.43A 'Acoustic Insulation of Buildings'.

table 3: acoustic insulation of new Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units in the Inner City Zone

Building Element	Required Construction	Submission #4.1
<u>Walls</u>	Exterior: 20mm timber weatherboards or 2 x 6mm fibre cement or 1 x 9mm compressed fibre cement Frame: nominal 100mm with acoustic blanket Interior: 3 x 13mm high density gypsum plasterboard for top floor Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units 2 x 13mm high density gypsum plasterboard for mid-level Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units Or: 190 series concrete blocks (minimum every 4 th core filled) Or: 100mm thick pre cast concrete slabs Or: Solid clay brick veneer (minimum 70mm thick) with standard internal framing and plasterboard lining.	
<u>Windows</u>	Minimum 17mm thick laminated glass for top floor Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units Minimum 13mm thick laminated glass for mid-level Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units Or: Double glazed unit with 10mm and 6mm panes, separated by a minimum 50mm air gap.	
<u>Roof</u>	Top floor only, not needed for mid-level Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units Cladding: 0.5mm profiled steel or tiles or 6mm corrugated fibre cement Frame: Timber truss with acoustic blanket Ceiling: 3 x 13mm high density gypsum plasterboard	
<u>External Door</u>	Hinged solid core door of at least 40kg/m ² with airtight seals (or if glazed, as per window requirements). Sliding doors are not suitable.	
<u>Internal Door</u>	Internal doors to new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units shall be hinged solid core of at least 16kg/m ² .	
<u>Ventilation</u>	The indoor design sound level shall be achieved with windows and doors shut. This requires the use of minimum ventilation requirements as set out in Appendix 19.3 Inner City Zone.	

Submission #4.1

Acoustic Blanket: 75mm of acoustically absorbent material with minimum area density of 580g/m², such as fibreglass, rockwool, polyester or wool. Thermal insulation such as R1.8 is also suitable.

High Density Plasterboard: Gypsum Plasterboard of minimum density 960kg/m³.

Amendment 2 – New Noise Generating Activities required to apply for resource consent including noise management requirements up front

Include a new definition in Chapter Two Meanings of Words to the Nelson Resource Management Plan

Noise Generating Activity

is an activity that takes place at a site or building located in the Inner City Zone, involving:

- the assembly of people within a building for a commercial activity involving the playing of amplified sound (from a sound system with greater than 100W output) between the hours of
 - 11:00pm and 7:00am Sunday to Thursday nights, and for the nights of Friday, Saturday, Christmas Eve and New Year's Eve 1:00am and 7:00am where the activity is located within the Inner City Zone - City Centre; and
 - 10:00pm and 7:00am seven days a week where the activity is located within the Inner City Zone - City Fringe;

or

- the assembly of people in an outdoor area (i.e. an area that is outside of the main part of the building such as garden bars, outdoor dining and smoking areas) associated with a commercial activity between the hours of:
 - 11:00pm and 7:00am Sunday to Thursday nights, and for the nights of Friday, Saturday, Christmas Eve and New Year's Eve 1:00am and 7:00am where the activity is located within the Inner City Zone - City Centre; and
 - 10:00pm and 7:00am seven days a week where the activity is located within the Inner City Zone - City Fringe;

For the avoidance of doubt, temporary events occurring no more than once per year in any one site or building are excluded from this definition.

Note: Noise from these events is still required to take account of Section 16 and 327 of the RMA, and Rule 16 and 20 and Appendix 13 of this Plan.

Add a new rule, assessment criteria and explanation to Inner City Zone (City Centre and City Fringe areas) of the Nelson Resource Management Plan

Item	Permitted	Controlled	Discretionary/Non-complying
<p><u>ICr.42A</u> <u>Noise Generating Activities</u></p>	<p><u>ICr.42A.1</u> The establishment or extension of a 'noise generating activity' is not a permitted activity. For the purposes of this rule 'extension' is defined as any alteration or change which: a) results in a 10% or greater increase in permitted patrons, or b) any increase in operating hours or hours amplified music is played at, or c) results in an outdoor area accessible to patrons which is new, has a different location, or is increased in size by 10% or more.</p>	<p><u>ICr.42A.2</u> Not applicable</p>	<p><u>ICr.42A.3</u> The establishment or extension of a 'noise generating activity' is a restricted discretionary activity, provided that the following condition is met: a) a noise management plan shall be provided in accordance with the provisions of Appendix 13.1 Noise Generating Activities.</p> <p>Discretion restricted to: i) Noise effects and ii) Mitigation measures including any Noise Management Plan, and iii) Hours of operation iv) proposed location of activity v) volume and type of noise expected to be generated vi) cumulative effects</p> <p>Any activity subject to this rule that does not comply with condition (Cr.42A.3a) shall be a Non-Complying activity</p>

Submission #8.4

Submission #8.4

Assessment Criteria	Explanation
<p><u>ICr.42A.4</u></p> <p>a) <u>the suitability of the site, the activity on the site and in any outdoor areas, having regard to its location, and the proximity of residential or other noise-sensitive activities.</u></p> <p>b) <u>expected hours of operation, volume and type of noise expected to be generated.</u></p> <p>c) <u>the adequacy of measures to manage or reduce noise at source, including the provisions of a Noise Management Plan in accordance with Appendix 13.</u></p> <p>d) <u>the effectiveness of measures proposed to avoid or mitigate nuisance effects, including from low frequency noise.</u></p>	<p><u>ICr.42A.5</u></p> <p><u>Before a Noise Generating Activity establishes or extends in the Inner City Zone, a resource consent is required to assess the suitability of the site and specific proposal in terms of management and reduction of noise at source. Conditions can be imposed as appropriate to maintain an acceptable level of noise generation for the Inner City (see policies IC4.2, IC4.3 and IC5.2 in particular). In addition to this rule, rule ICr.42 IC4.4 and the relevant sections of the Resource Management Act 1991 apply to the ongoing operation of the activity and to existing activities already established.</u></p> <p><u>The permitted activity standard includes a definition of extension based on there being a 10% or greater increase in permitted patrons. The number of permitted patrons in a building is determined through the Building Codes fire safety provisions (Clause 'C'). Any changes which will result in a 'change of use' must be advised to the Territorial Authority for consideration under the Building Code.</u></p>

Amendments to contents page of Inner City Zone rule tables

Add

ICr.42A Noise Generating Activities

Add new paragraph to ICr.46.5 Explanation

Rule ICr.42A 'Noise Generating Activities' may also be applicable to activities considered under rule ICr.46. See definition of 'Noise Generating Activity' in Chapter Two 'Meanings of Words' and rule ICr.42A.

Add a new appendix to the Nelson Resource Management Plan

appendix 13
Inner City Zone: Noise Management Plans and assessment of unreasonable and excessive noise

AP13 Overview

Relating to rule ICr.42A this appendix prescribes the matters that shall be included in the Noise Management Plans for new and extended Noise Generating Activities. The overall intent of a Noise Management Plan is that the best practicable option is undertaken to ensure that the emission of noise from a site does not exceed a reasonable level.

Submission #8.8

~~Relating to rule ICr.42B~~ This appendix also sets out aspects which may help form an opinion for assessment of unreasonable and excessive noise in terms of the Resource Management Act 1991. ~~as it relates to noise produced~~ This can be applicable to all zones but in particular this will be the approach undertaken within the Inner City Zone (City Centre and City Fringe, including the Intense Development Area).

AP13.1 Noise Generating Activities

AP13.1.1 Minimum Noise Management Plan Provisions

AP13.1.1.i The Noise Management Plan required under Rule ICr.42A shall be prepared by a professional acoustic engineer and shall, at a minimum, contain the following:

- a) The intended outcomes of the Noise Management Plan, including the design noise sound level to be received outside of the building and site.
- b) A description of the premises including details of walls, roof, cladding, door openings and windows, ventilation, site layout, outdoor areas and any acoustic insulation or noise barriers that has have been, or will be, installed, and a description of how these assist to reduce noise levels and meet the design noise sound level specified above.
- c) A description of the surrounding land uses and in particular residential or short term living accommodation units, including a description of the existing sound environment in the area.
- d) A description of all noise generating activities carried out in the premises or on the site.
- e) A floor plan of the premises, including outdoor areas, with the noise sources marked on it.
- f) The hours of operation of the noise generating activities.
- g) The specifications of the sound systems and any mechanisms to govern the maximum noise output.
- h) Details of any noise data that has been recorded, and any noise modelling, noise monitoring, auditing and reporting procedures, including methods used.
- i) Any methods proposed to manage noise produced by patrons, including either leaving the venue, or queuing for entry.
- j) The name and contact details of the manager responsible for noise generating activities in the premises.
- k) Complaint handling and recording procedures, and
- l) Procedures for achieving noise reduction through operational procedures and staff training.

Submission #11.11

AP13.1.2 Minimum Monitoring and Reporting Requirements

AP13.1.2.i The minimum monitoring and reporting requirements on any approved consent and associated Noise Management Plan are as follows:

- a) A inventory shall be kept of all noise sources at the premises, and
- b) Copies of the Noise Management Plan and the inventory required above are to be held at the premises and made available to Council staff as and when requested.

AP13.1.3 Measurement and Assessment of Noise

Submission #11.13

AP13.1.3.i The measurement of noise is to be in accordance with NZS 6801: 2008 and assessed in accordance with 6802: 2008

AP13.2 Assessment of unreasonable and excessive noise

AP13.2.1 Noise assessment criteria

Submission #11.14
and #8.8

AP13.2.1.i Nelson City Council's Enforcement Officers, for the purposes of assessing compliance with permitted activity conditions, relevant resource consent conditions, and sections 16(1) (which requires consideration whether the best practicable option is being undertaken to ensure noise does not exceed a reasonable level), or in forming an opinion under section 327(1) of the Resource Management Act, Excessive Noise Direction, will generally take into account the following matters when determining whether or not noise is unreasonable or excessive:

- i) the frequency (number of events) of noise emission, and
- ii) the intensity of the noise, as indicated by volume, tone, and audio frequency and the degree of disturbance, and
- iii) the duration of each noise event, and
- iv) the nature of the noise, and
- v) the location and timing of the noise, having regard to the time of day or night and the sensitivity (including reverse sensitivity) of the receiving environment.

AP13.2.1.ii Assessment may also consider the following matters.

- a) Other noise complaints or events relating to emissions from the same location which have been found to be unreasonable or excessive, including what remedial action has previously been undertaken.
- b) Where possible and relevant, noise sound level measurements from a calibrated noise sound level meter, to determine actual noise level
- c) Information regarding the effectiveness of any noise management plan, or on site noise management.
- d) ~~Whether the best practicable option is being undertaken to ensure noise produced does not exceed a reasonable level.~~

Submission #11.15

Submission #8.8

AP13.2.2 Construction Noise

AP13.2.2.i Construction activity by necessity can produce higher levels of noise than would be expected, or be deemed reasonable, from other activities. In recognition of this Standards New Zealand have produced NZS 6803:1999 Acoustics – Construction Noise. In assessing construction noise produced in the Inner City Zone Nelson City Council will use this standard, in addition to the points outlined in AP13.2.1.i and AP13.2.1.ii, as a guide to the reasonableness of the construction noise produced.

AP13.2.2.ii Separately to this appendix rule ICr.43 provides that the provisions of NZS 6803:1999 Acoustics – Construction Noise apply to construction noise received in the Residential Zone.

Amendment 3 – Plan provision retaining control over maximum noise level (L_{AFmax}) at night time.

Add a new rule, assessment criteria and explanation to Inner City Zone (City Centre and City Fringe areas) of the Nelson Resource Management Plan

Item	Permitted	Controlled	Discretionary/Non-complying
<p><u>ICr.42</u> <u>Maximum Night Time Noise</u> <u>Night Time Noise Limits</u></p> <p>Submission #11.17</p>	<p><u>ICr.42.1</u> Noise measured <u>The sound level assessed 1 metre from the facade any external wall of any Residential Unit or Short Term Living Accommodation Unit shall not exceed the following noise limit maximum noise levels during the hours 10:00pm to 7:00am:</u></p> <p>75 dB L_{AFmax}</p> <p>All measurements and assessment shall be in accordance with NZS6801:2008 and NZS6802:2008.</p>	<p><u>ICr.42.2</u> Not Applicable</p>	<p><u>ICr.42.3</u> Activities that contravene a permitted condition are discretionary.</p>

Assessment Criteria	Explanation
<p><u>ICr.42.4</u> a) <u>The length of time, number of times, or the level by which, the noise standards will be exceeded at night, and the likely disturbance that may cause.</u> b) <u>The nature and location of nearby activities and the effects they may experience, particularly the night time effects on occupants of Residential Units and Short Term Living Accommodation within the Inner City and neighbouring zones.</u> c) <u>Whether the noise is likely to detract from the amenity sought for the Inner City and Residential Zones.</u></p> <p>Submission #8.8</p>	<p><u>ICr.42.5</u> <u>L_{AFmax} control at night time provides an upper limit to single noise events which provides a level of certainty around the limits to a single 'spike' of sound. Note this does not act as a limit that a more continuous source of noise can generally operate to and be deemed to be reasonable and not excessive.</u></p> <p>In addition to controls on maximum noise; noise will be controlled by Council officers under the relevant sections of the Resource Management Act for unreasonable and excessive noise. See rule ICr.42B (General Noise Emission) AP13 'Inner City Zone: noise Management Plans and assessment of unreasonable and excessive noise' for information and guidance on this process. As a pro-active measure, Council officers will also offer information and advice to noise producers on ways in which they can reduce and control their emission of noise.</p>

Amendments to contents page of Inner City Zone rule tables

Submission #11.19

Add

ICr.42 Maximum Night time Noise Night Time Noise Limits

Amendment 4 – Retain and Amend Existing Rule ICr.43 Noise at Residential Boundary

Amend rule ICr.43 Noise at residential boundary and associated assessment criteria and explanation in the Inner City Zone (City Centre and City Fringe areas) as follows:

<u>Item</u>	<u>Permitted</u>	<u>Controlled</u>	<u>Discretionary/Non-complying</u>
<p>ICr.43 <u>Noise received at sites in the Residential Zone</u> <u>At residential boundary</u></p>	<p>ICr.43.1</p> <p>a) Noise levels measured at any site within a Residential Zone must not exceed:</p> <p style="padding-left: 20px;">Daytime: ———— L10:55dBA 53 dB L_{Aeq}</p> <p style="padding-left: 20px;">Other times: ———— L10:45dBA ———— Lmax: 75 dBA 43 dB L_{Aeq} 75 dB L_{AFmax}</p> <p style="padding-left: 20px;">(Daytime means 7am to 10pm Monday to Friday, and 9am to 10pm Saturdays, Sundays and Public Holidays).</p> <p>b) All measurements and assessment in accordance with NZS6801:1994 2008 and NZS6802:1994 2008.</p> <p>c) Parts a) and b) of this rule do not apply to <u>construction building and demolition</u> activities, which, when assessed at, or within, any site within the Residential Zone, must comply with <u>the provisions of NZS6803P:1984 ‘The measurement of Noise from Construction, Maintenance and Demolition’ NZS6803:1999 ‘Acoustics - Construction Noise’.</u></p>	<p>ICr.43.2</p> <p>Not Applicable</p>	<p>ICr.43.3</p> <p>Activities that contravene a permitted condition are non-complying.</p>

<u>Assessment Criteria</u>	<u>Explanation</u>
<p>ICr.43.4</p> <p>As for ICr.42.4</p> <p>a) <u>The length of time, number of times, time of day or night, or the level by which, the noise standards will be exceeded, and the likely disturbance that may cause.</u></p> <p>b) <u>The nature and location of nearby activities and the effects they may experience, particularly the night time effects on occupants of residential units and Short Term Living Accommodation within the</u></p>	<p>ICr.43.5</p> <p>As for ICr.42.5</p> <p>The rule is to <u>prevent unreasonable levels of noise affecting properties in the Residential Zone. When compared to the Inner City Zone it is expected there will be a higher standard of residential amenity, and particularly a night time environment conducive to sleeping.</u></p>

<p>Inner City and neighbouring zones. c) Whether the noise is likely to detract from the amenity sought for the Residential Zone or result in a nuisance effect, including as a result of low frequency noise.</p>	<p>This recognises the greater sensitivity of the Residential Zone, the generally lower ambient noise sound levels, and that noise has a major influence on residential amenity. For this reason any proposal for noise in excess of the permitted standard will be assessed as a non-complying activity where it affects the Residential Zone.</p>
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Amendments to contents page of Inner City Zone rule tables

Amend

ICr.43 Noise received at sites in the Residential Zone ~~at residential boundary~~

Amendment 5 - Remove Existing Noise Rule ICr.42 and Enforce Noise using provisions of the RMA

Delete existing rule ICr.42 Noise and associated, assessment criteria and explanation from Inner City Zone (City Centre and City Fringe areas) of the Nelson Resource Management Plan

<p>ICr.42 Noise</p>	<p>ICr.42.1 a) Noise levels measured at, or as close as practicable to, the boundary of any site must not exceed: Day Time (7am to 10pm) L10: 65 dBA Other Times L10: 55 dBA Lmax: 75 dBA b) All measurements and assessment in accordance with NZS6801:1991 and NZS6802:1991.</p>	<p>ICr.42.2 not applicable</p>	<p>ICr.42.3 Activities that contravene a permitted condition are discretionary.</p>
<p>ICr.42.4 a) the length of time, and the level by which, the noise standards will be exceeded, particularly at night, and the likely disturbance that may cause, b) the nature and location of nearby activities and the effects they may experience, particularly the night time effects on residential units within the Inner City, and neighbouring zones. c) whether the noise is likely to detract from the general environmental quality being proposed for the City Fringe or City Centre, or the amenity of the Residential Zone. d) the effectiveness of, and in particular the certainty provided by, any conditions or controls that might be imposed on the activity.</p>	<p>ICr.42.5 The rule is to prevent unreasonable levels of noise affecting neighbouring properties. Different levels are specified for noise received in the Inner City Zone, compared to a residential area. This recognises the greater sensitivity of areas containing dwellings and generally lower ambient levels. Noise has a major influence on the amenity of an area. For this reason any proposal for noise in excess of the permitted standard will be assessed as a non-complying activity where it affects a Residential Zone. NZS 6801:1991 is New Zealand Standard (Measurement of Sound). NZS 6802:1991 is New Zealand Standard (Assessment of Environmental Sound).</p>		

~~Add a new rule, assessment criteria and explanation to Inner City Zone (City Centre and City Fringe areas) of the Nelson Resource Management Plan~~

Submission #8.8

Item	Rule
ICr.42B General Noise Emission	<p>ICr.42B.4</p> <p>Noise produced within the Inner City Zone (City Centre and City Fringe, including the Intense Development Area) must comply with the following general conditions:</p> <p>— a) not exceed a reasonable level under s16 of the RMA 1991</p> <p>— b) not be determined to be 'excessive noise' under s227 (4) of the RMA 1991.</p> <p>In addition compliance with rules ICr.42 Maximum Night Time Noise and ICr.42 Noise received at sites in the Residential Zone is required.</p>

Explanation
<p>ICr.42B.5</p> <p>There are provisions of the Resource Management Act 1991 which, unless otherwise stated, apply in all instances.</p> <p>Any breach of the condition a) or b) will not result in requirements for resource consent but rather will be enforced via the Council's monitoring and enforcement mechanisms.</p> <p>This approach allows Council Enforcement Officers to determine if unreasonable or excessive noise is being produced utilising sections 16, 226 and 227 of the Resource Management Act 1991. In making this assessment the matters in Appendix 13.1 Assessment of Unreasonable and Excessive Noise will generally be taken into account when determining whether or not noise is unreasonable or excessive.</p>

Amendments to contents page of Inner City Zone rule tables

Delete

ICr.42 Noise

Add

~~ICr.42B General Noise Emission~~

Submission #8.8

Add a new appendix 13 to the Nelson Resource Management Plan (for content see Amendment 2 above).

Amendment 6 – Ongoing education, negotiation and mediation

No specific changes to the Nelson Resource Management Plan

Supporting changes to Policy, Explanation and Reasons

Amendments and a new method to Inner City Zone Policy IC4.2 Adverse effects
policy

IC4.2 adverse effects

Activities should not give rise to levels of noise, smell, dust, and smoke, or traffic, landscape, aesthetic or other adverse effects which will detract from the character being sought for the City Centre and City Fringe areas.

Explanation and Reasons

IC4.2.i The City Centre is primarily a people place. Because of this, the Plan aims to exclude activities from the City Centre which are excessively noisy or smelly, or which generate other effects which are inappropriate in a City Centre environment. If such adverse effects can be controlled to a level suitable to the people oriented nature of the City Centre, then the activity should be allowed to occur.

IC4.2.ii A lower level of amenity is expected in the City Fringe than in the City Centre. For example, vehicle movements and sizes will be greater. ~~More noise and other effects will be tolerated~~ It is however acknowledged that fringe areas are often adjacent to more sensitive residential areas and Nevertheless the area will still primarily serve people, in terms of them coming to the area for services or goods. The City Fringe is not an industrial area where there is little interaction with the general public, and where higher levels of effects might be permissible.

Methods

IC4.2.iii Rules setting performance standards, ~~or the use of management practices,~~ for emissions such as noise, smoke, dust, and odour.

Submission #11.25

~~IC4.2.iv Use of management practices for emissions such as noise, smoke, dust and odour.~~

~~IC4.2.v Rules which require newly established producers of noise to take action to minimise noise emission.~~

~~IC4.2.vi Use of sections 16, 326 and 327 of the Resource Management Act 1991, plus Plan guidance, for enforcement of unreasonable and excessive noise (see AP13)~~

IC4.2.vii ~~iv~~ Rules with a limited listing of unacceptable activities.

Submission #8.8

Amendments and new methods to Inner City Zone Policy IC4.3 Residential Amenity

policy

IC4.3 residential amenity

The Inner City, and sites used for residential activity, should provide a reasonable standard of residential amenity, but recognising that the fundamental character of the area is non-residential.

Explanation and Reasons

IC4.3.i The Inner City is not the suburbs and a similar level of residential amenity cannot be expected. Higher levels of noise and glare, for example, must be expected in the Inner City, particularly given the presence of places of assembly, licensed bars and restaurants and other noise generating activities. Also the expectation of outdoor space must be lower than in suburban areas. Similarly, given the height of some buildings in the City Centre, expectation regarding privacy and sunlight must be lower. At the same time, the policy recognises a broad bottom line to provide a reasonable level of protect-residential amenity in the Inner City. This recognises residential activity is a valid activity, deserving of a degree of protection from more traditional Inner City activities.

Methods

IC4.3.ii Provision of information on opportunities for inner city living and the relevant Resource Management Plan provisions.

IC4.3.iii Rules setting performance standards for residential activity.

~~IC4.3.iv Rules requiring acoustic insulation in new Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units in the Inner City Zone.~~

Submission #4.1

~~IC4.3.v Rules setting performance standards or the use of management practices, for emissions such as noise, smoke, dust, and odour.~~

Submission #11.25

~~IC4.3.vi Use of management practices for emissions such as noise, smoke, dust and odour.~~

Amendments and new methods to Inner City Zone Policy IC5.1 Amenity of Neighbouring Areas

policy

IC5.1 amenity of neighbouring areas

Activities within the Inner City should not have adverse effects which significantly diminish the amenity of neighbouring areas, having regard to the character of these areas and the cumulative effects of such activities.

Explanation and Reasons

IC5.1.i Any impacts that activities in the Inner City have on neighbouring areas need to take account of the nature of that area. Residential areas and activities will be more sensitive to certain effects such as noise and glare, than commercial areas. Also a single activity may have effects that are acceptable to a residential neighbourhood activities, but the addition of further similar activities may eventually lead to an unacceptable level of effect. The policy aims to address such cumulative effects.

Method

~~IC5.1.ii Rules setting performance standards for effects such as noise and odour.~~

~~IC5.1.ii Rules setting performance standards, or and the use of management practices, for emissions such as noise, smoke, dust, and odour.~~

Submission #11.26

**Resource Management Act 1991
Nelson Resource Management Plan**

Operative Plan Change

1. By resolution of the Council dated 20 November 2014 the following Plan Change was approved:

Plan Change 16 Inner City Noise

The provisions were made operative on 1 December 2014.

Mayor

.....

Councillor

.....

**Strategy and Environment Report 1 July to 30 September
2014**

1. Purpose of Report

- 1.1 To provide a quarterly update on activity and performance for the Council's planning, regulatory and environmental programmes functions.

2. Delegations

- 2.1 The Planning and Regulatory Committee has the power to decide and perform duties relating to developing and monitoring policies, environmental monitoring and performance monitoring of Council's regulatory activities.

3. Recommendation

THAT the Strategy and Environment Report for 1 July to 30 September 2014 (A1237437) and its attachments (A1255054, A1246625, A1249836 and A1259196) be received.

4. Background

- 4.1 This report replaces the Regulatory Report received quarterly by the Committee.
- 4.2 The scope of the report has been extended to better illustrate the "life cycle" of ways the Strategy and Environment Group works together to protect our environment. From policy and plan making to implementing either by regulatory or non-regulatory means, monitoring and feeding information back into policy and plan reviews.
- 4.3 The report and attachments details the performance monitoring of the Council's activities and how these activities impact on or assist developments in our community.

5. Discussion

5.1 Building

Summary of issues

- 5.1.1 Breaches in statutory time limits - Over the last quarter, the team has breached the 20 day time limit for six building consents. Two root causes have been found. The first relate to errors made with the new 'GoGet' processing tool. This has now been rectified by further training. The second root cause has been capacity issues for commercial consents, where work load in this area has caused a breach. This has resulted in the engagement of external resources to assist when capacity is not available in house.
- 5.1.2 Inspection capacity has been stretched due to training and leave/ sick leave requirements. In the last month this has resulted in the team not being able to meet the Ministry of Building, innovation and Employment (MBIE) guidance of 48 hours and 72 hours target from request for inspection to inspection being undertaken. Additional resources are being sought to cover this capacity gap.

Challenges

- 5.1.3 The GoGet system has exposed some gaps in the practices which have been undertaken in the past. As a result this is requiring some significant change and applying pressure on existing resources to meet MBIE requirements.
- 5.1.4 The Building Unit continues to find issues with the general quality of information from external agents. This prevents efficient and effective processing and creates risk for Council as items can be missed in processing.
- 5.1.5 Meeting MBIE Guidance time frames for undertaking inspections in 48 hours and 72 hours maximum is difficult with current resources.

Successes

- 5.1.6 The Building Unit has managed to recruit an experienced commercial building consent processor which will assist with capacity issues and reduce the likelihood of breaching the statutory time limits for commercial building consents.

5.2 Consents and Compliance

Summary of issues

- 5.2.1 The quality and completeness of resource consent applications has required attention, particularly the need to have information from experts when dealing with activities impacting on natural resources.

Challenges

- 5.2.2 Election signs (both for Local Body and National Elections) require considerable input from Council regulatory staff and contractors. A high level of complaint is received by Council about election signs mainly from candidates. A review of the NRMP rules relating to election signs will occur as part of the Nelson Plan work to simplify the sign rules. It would be important to align the NRMP rules as far as possible to the National Legislation that governs sign rules for National Elections. At the same time consideration of how and when Council/public land can be used for signs would be beneficial.

Successes

- 5.2.3 A dog control prosecution followed by media throughout New Zealand found the owner, Amelia Pritchard guilty of all charges.
- 5.2.4 Parking staff have appreciated calmer interactions with the public during the free parking trial. The end result being a similar number of tickets are being issued as before but just for different offences. The trial has significantly reduced the number of tickets issued for not paying for meters/expired permits (with Wakatu Carpark the only area still requiring payment), but the number of tickets issued for parking longer than the time restriction has increased threefold.
- 5.2.5 The new regime for issuing warnings for expired registrations or warrant of fitness is working well and has resulted in positive feedback from a number of customers. It also has greatly reduced the associated cost and time spent on administration of appeals.
- 5.2.6 A successful oil spill exercise was held in conjunction with Tasman District Council with overview from Maritime New Zealand. The Civil Defence headquarters at Richmond was used as a base for the exercise and was very suitable for the purpose.

5.3 **Environmental Programmes**

Summary of issues

- 5.3.1 Staff have been involved with a wide range of issues including:
- Producing the first Environment Activity Management Plan;
 - Supporting the Woodburner Working Party;
 - Developing plans for major projects such as Project Maitai/Mahitahi and Nelson Nature;
 - Responding to new freshwater monitoring requirements under the National Objectives Framework (NOF);
 - Working with Victory School to enhance York Stream;

- Assessing the liquefaction in Tahunanui research of the Stoke deep Moutere aquifer;
- Addressing the problem of domestic burning of treated timber;
- Managing a new contract for Ecofest¹;
- Surveys (annual residents' survey and People's Panel);
- Summarising Census results and reviewing forestry activities.²

5.3.2 Deciding how to deal with new hazards information the Council receives on an ongoing basis, but which is not incorporated into the Nelson Plan, has required attention.

Challenges

5.3.3 The requirement of the National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health has resulted in changes to the way things need to be done across several parts of the Council, including resource consents, building and infrastructure as well as Council contractors. This has been challenging but is now generally being well implemented.

The HAIL site database has been updated following feedback from property owners and LIM/PIM statements prepared to replace the interim statements in place until now. The HAIL site database section of hazards project due to finish 31 October. The Hazards project will be closed at the end of October and further hazards work will become business as usual for Planning and Environmental Programmes officers.

Successes

- 5.3.4 Project Maitai/Mahitahi is well underway with positive media and community feedback to date. An update newsletter was recently sent out to stakeholders and interested parties (Attachment 3).
- 5.3.5 The winter planting programme for biodiversity and riparian enhancement was completed with over 14,000 plants on 50 properties. Council provides the plants and landowners plant and cares for the plants which equates to a 50:50 partnership.
- 5.3.6 In July there were two community planting sessions at Delaware Spit and three at Pepin Island with Department of Conservation (DoC) students and Hira School.
- 5.3.7 A report on weeding for Biodiversity Conservation was commissioned and has been completed.

¹ Over 50 exhibitors have registered to date.

² Reviews of forestry activities and the regulatory framework. The report is due in October.

- 5.3.8 The work of Council's Eco Design Adviser featured nationally on TV One Seven Sharp programmes on 10 July and 30 July.
- 5.3.9 In July translated presentations were provided on how to heat homes and operate woodburners effectively to former refugees at the English Language Partners Nelson School, the ESOL class at Victory Community Centre and NMIT English Language School.
- 5.3.10 160 households registered to take part in Second Hand Sunday on 28 September. A follow-up survey has been sent to those who participated. The survey will close on 10 October but to date 91% of those who have responded have indicated that they would take part in future events. Although the poor weather did affect the number of people who put items out on the day (around 25%), it was a successful event with a good number of people visiting the various addresses. The next Second Hand Sunday will take place in April 2015.
- 5.3.11 Auckland Point Kindergarten was presented with their Enviroschools Bronze award by the Mayor at a ceremony in July. It was a great chance to celebrate the achievements of the Kindergarten and look at the work they have been doing with the children.
- 5.3.12 Council's Heritage Project Fund (\$63,962) has been allocated to 17 heritage property owners.
- 5.3.13 The results of the 2014 Resident Survey were presented to the Governance Committee on 25 September. The phone survey of 400 randomly selected residents gives feedback on Council's performance across various activities and services. The 2014 survey also included questions to help us better understand the community's preferences and priorities on environmental and development issues. The information is used for annual reporting on our past performance as well as for informing future policies and programmes, the Long Term Plan and the Nelson Plan.
- 5.3.14 The People's Panel has been surveyed twice during the September quarter. The results of the first survey will inform the Urban Environments Bylaw on a range of topics, including rules about chickens, cats and beehives kept in urban areas, busking, fundraising, begging in public places, street advertising and alcohol-free areas. The second survey sought feedback on central city parking issues and feedback on the free parking initiative. Both surveys were completed by around 500 of the 1200 residents who are registered with the People's Panel.
- 5.3.15 Reports summarising Census 2013 results and current population projections for Nelson were made available on the Council website and promoted via Live Nelson. In February 2015, Statistics New Zealand will publish a new set of projections for Nelson which will be based on the Census 2013. Census results indicate that Nelson's population has been growing faster than expected. Statistics New Zealand has recently advised that the high growth version of the current projections, which are based on 2006 Census results, would be more suitable for estimating

Nelson's future population growth, until the new projections are available in February. Based on this advice, Council officers have calculated new projections for Nelson out to 2045. These projections are currently being peer reviewed.

5.4 **Planning**

Summary of issues

- 5.4.1 The Nelson Plan is entering the key stakeholder engagement phase after Council confirmed the Nelson Plan strategic outcomes. The Urban Bylaw is in the development phase. Recent plan changes are on track to being finalised. The Environment Activity Management Plan is progressing.

Challenges

- 5.4.2 The planning team is still developing a full staff complement which is anticipated to be finalised in early November.

Successes

- 5.4.3 The inaugural Environment AMP, that brings the Environment activities together, was developed and work-shopped with the Committee.
- 5.4.4 The Woodburner Working Party has been meeting to consider a range of information including the emission inventory work, health impacts, and modelling scenarios.
- 5.4.5 The Stoke needs assessment work will provide outcomes of the guidance for the development of the Nelson Plan, with further community conversations to follow in the New Year.
- 5.4.6 Te Tau Ihu statutory acknowledgements have been added to the NRMP.
- 5.4.7 Plan Change 16 (Inner City Noise) decisions were released with no appeals received and an item will come before Council soon to make the Plan change operative.
- 5.4.8 Work has been progressing on resolving Plan Change 18 (Nelson South) appeals.
- 5.4.9 The City Planning day was run to seek feedback from stakeholders on key projects for the central city.
- 5.4.10 A council workshop was run to discuss the Wakapuaka sandflats area ahead of discussions with landowners.

5.5 **CBD development**

Commercial development/demolition

- 5.5.1 Work has commenced on the Quest apartment development in Collingwood Street.

Earthquake prone buildings policy

- 5.5.2 The Building Unit Territorial Authority role in implementing the NCC Earthquake prone buildings policy has over the last quarter seen the entry of all readily identifiable Importance level 3 (IL3 Crowd or high value use) properties into the earthquake prone building register. The number of missing buildings was not as high as previously reported. There are 58 buildings that have yet to be assigned an importance level. There will be changes in the numbers of Importance level 3 and 4 buildings as assessments proceed, and as the use of buildings change with time and in response to assessments.
- 5.5.3 The first three priorities of the Policy, identification of IL3, 4 and heritage buildings are nearing completion prior to the target date of December 2014.
- 5.5.4 Identification of Importance level 2 (IL2) properties is proceeding, with the focus on higher hazard buildings not captured in the above priorities. Work to identify all Importance level 2 (IL2) properties by December 2015 will be held off until more information becomes available as to the likely impact of the awaited Building (earthquake-prone buildings) Amendment Bill.
- 5.5.5 The following properties have been issued section 124 Notices in Respect of Earthquake Prone Buildings over the last quarter:
- Tile and Slate Centre at 192 Rutherford Street.
- NCC owned:
- Stoke Memorial Hall;
 - The bakery at Founders Park (due to the brick oven and chimney);
 - Plant and Food Research at 300 Wakefield Quay;
 - Founders Energy Centre;
 - Hunter's Furniture Building.

5.6 **Other development**

Major projects/special interest

- 5.6.1 Chorus was issued district-wide resource consent for any works within root zones of heritage trees for their Broadband work. Nelson City Council also obtained district-wide resource consent for works to heritage or landscape trees that are dead or damaged.

District

- 5.6.2 The annual Port Nelson Street Motorbike Races held on 2nd January has obtained resource consent for the next 10 years.

- 5.6.3 A new refined fish oil processing facility in Venice Place has been approved for Seadragon Marine Oils Ltd, an associated air discharge consent was also granted for the steam discharge (no odour discharge is anticipated).
- 5.6.4 An eight lot subdivision with associated comprehensive housing development in Golf Road obtained resource consent.

Regional

- 5.6.5 Nelson City Council has applied for consents for wastewater pipeline works in the Corder Park area and some variations to the Maitai Walkway consents.
- 5.6.6 Talleys has been granted consents to dredge the Coastal Marine Area to create deeper berthing docks at a wharf area and to extend the wharf area.

5.7 **Development trends**

- 5.7.1 Comparisons for building consent applications received within the last 3 years are provided in attachment 1.
- 5.7.2 Building consent applications received over the last quarter has totalled 206. These numbers are tracking lower on average than last year's first quarter. They are, however, tracking in line with this year's projection. This reinforces the view of a slight downward trend for numbers of projects being undertaken. While the overall number of projects is lower there have been some high value projects processed in the last quarter. The estimated value of work processed is \$40million which is higher than the last year's first quarter.
- 5.7.3 The 'new development' element of the consent applications received indicates out of the 206 consents received for the quarter 45 were for new dwellings, two consents were for accommodation buildings and two consents were for new warehouse/showrooms. All other consents were for existing building alterations.
- 5.7.4 Building Consent applications received in comparison with other Councils of similar size for the last quarter:
 - Contact with Napier City Council, Tasman District Council and Marlborough District Council has been established and they have kindly shared their information on consents received for the last quarter for comparison.
 - Over the first quarter Nelson consent applications numbers are around 100 consents less (35%) in total when compared to each council. However the estimated value of consents is 60% higher than Napier CC and 14% higher than Marlborough DC, this has been elevated for Nelson as a result of two major commercial projects being undertaken in Nelson currently.

Tasman District Council has the highest number of consents (638) and estimated values (\$41million) across all three of the Councils reviewed.

5.8 Legal update

Proceedings

- 5.8.1 Two claims are currently being worked through by the Building Unit for buildings which have leaked and the claimants are seeking compensation from Council as they claim the leaks have been as a result of negligence.
- 5.8.2 The first claim is heading to the High Court in November. Final reports are currently being compiled by Councils lawyers and expert witness.
- 5.8.3 In relation to the second claim the proceedings have been lodged with Nelson District Court and expert information is currently being compiled.

Legislation changes

- 5.8.4 The Building (Earthquake-prone Buildings) Amendment Bill. The first reading was in March, submissions closed in April, and the NZ Parliament website indicates that reporting was due on 5 September 2014.
- 5.8.5 The current Nelson City Council policy for Earthquake prone, dangerous and insanitary buildings 2006 is due for review however this has been held off pending the new Building (Earthquake- prone Buildings) Amendment Bill being assented and becoming legislation.
- 5.8.6 Proposed changes to the Resource Management Act are expected to be one of the first items on the Parliamentary agenda. A summary of these changes is provided in Attachment 4.

5.9 Iwi liaison

- 5.9.1 A number of hui have been held with Iwi to discuss significant resource management issues for the Nelson Plan and the key projects identified in the Environment AMP. Officer training has been undertaken to better understand the implications of Te Tiriti o Waitangi and the implications of Treaty Settlement legislation. Te Tau Ihu Councils have been working with Ngati Kuia to finalise a Pakohe Management Plan.

6. Options

- 6.1 The Planning and Regulatory Committee has the option of receiving and adopting the report or seek further information.

7. Assessment of Significance against the Council's Significance Policy

7.1 The decision is not a significant decision in terms of the Council's Significance Policy as there are no impacts on the social, economic, environmental or cultural well-being of the community in providing this information on work already undertaken.

8. Alignment with relevant Council Policy

8.1 The Council's annual plan includes performance measures for various activities and this report enables the Council to monitor progress towards achieving these measures.

8.2 Progress towards setting the context to achieve identified goals in Nelson 2060 can also be tracked.

9. Consultation

9.1 Not applicable as the report summarises activities already undertaken.

10. Inclusion of Māori in the decision making process

10.1 Not applicable as the report summarises activities already undertaken.

Clare Barton
Group Manager Strategy and Environment

Attachments

Attachment 1: Building Unit statistics for last quarter and year to date [A1255054](#)

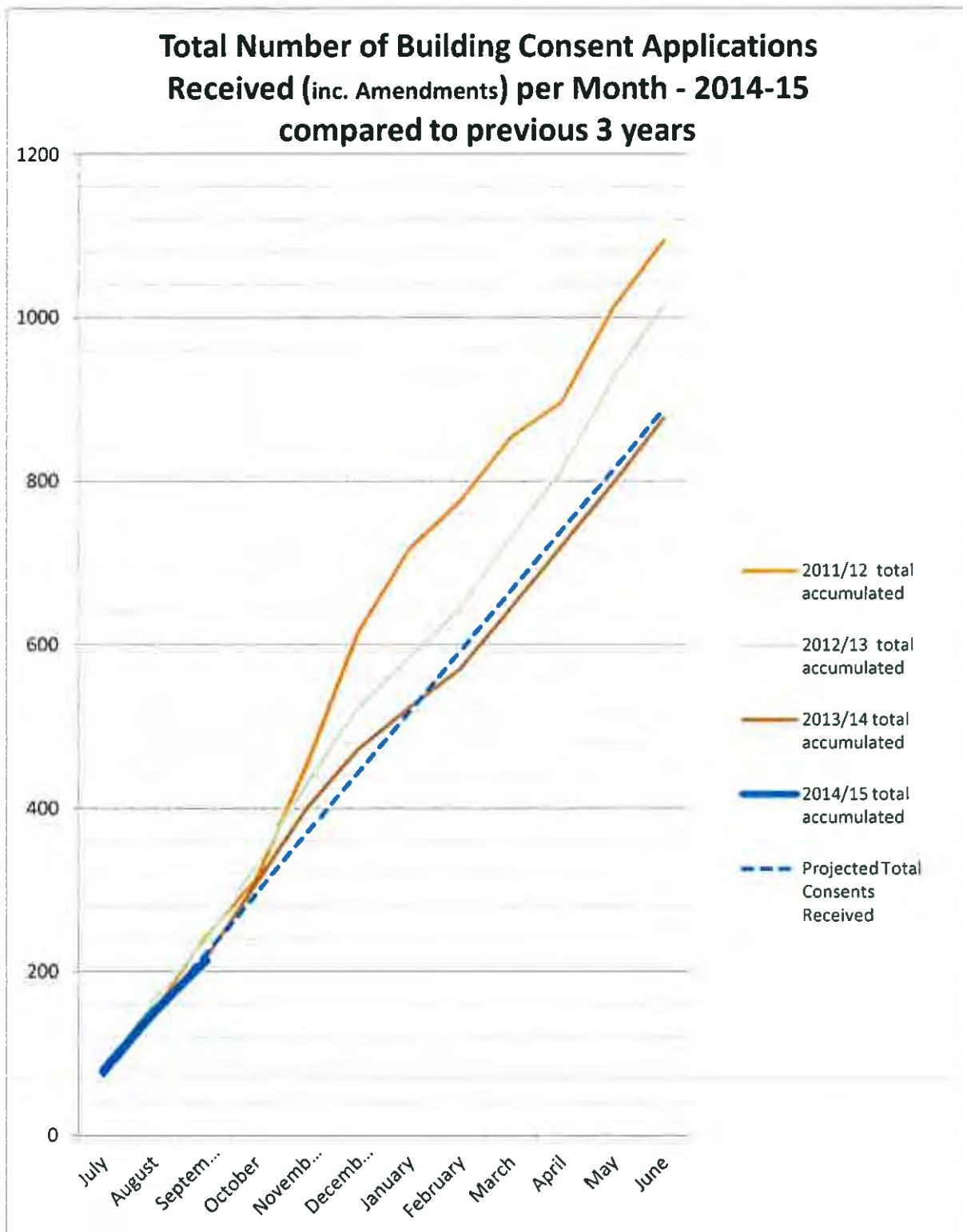
Attachment 2: Consents and Compliance statistics [A1246625](#)

Attachment 3: Project Maitai/Mahitahi progress to date [A1249836](#)

Attachment 4: Proposed Resource Management Act reforms [A1259196](#)

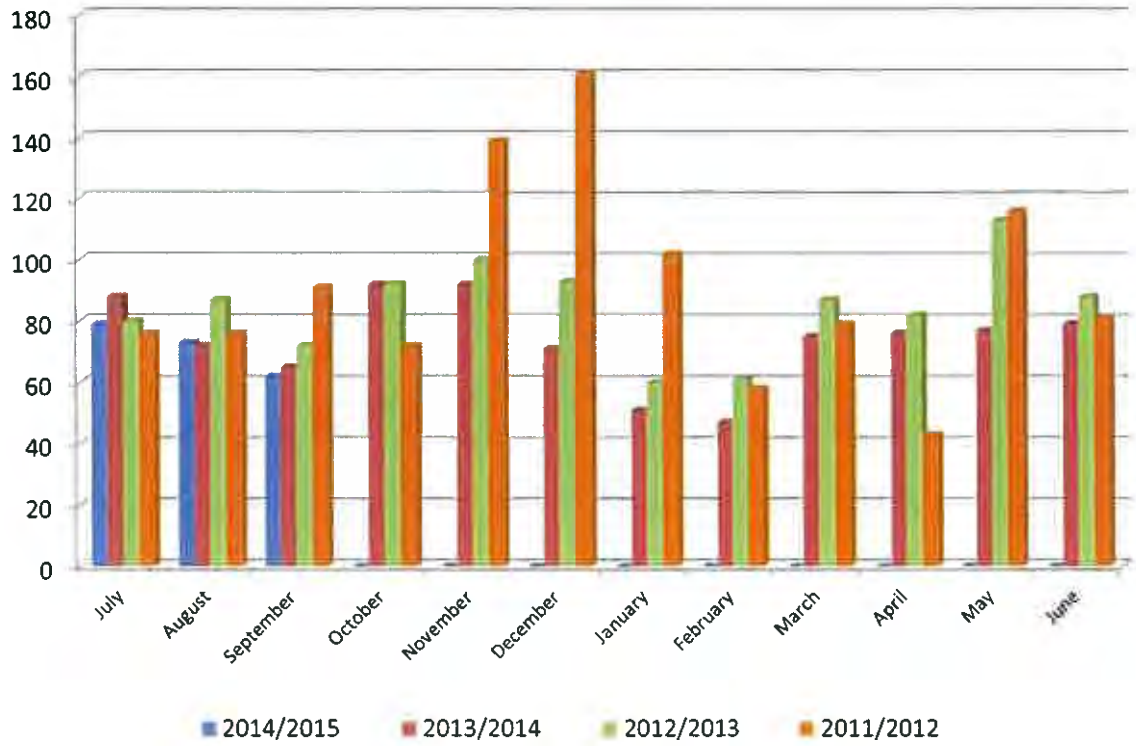
Building Unit Statistics 1 July – 30 September 2014

1. Building Consent Applications Received first quarter comparison.

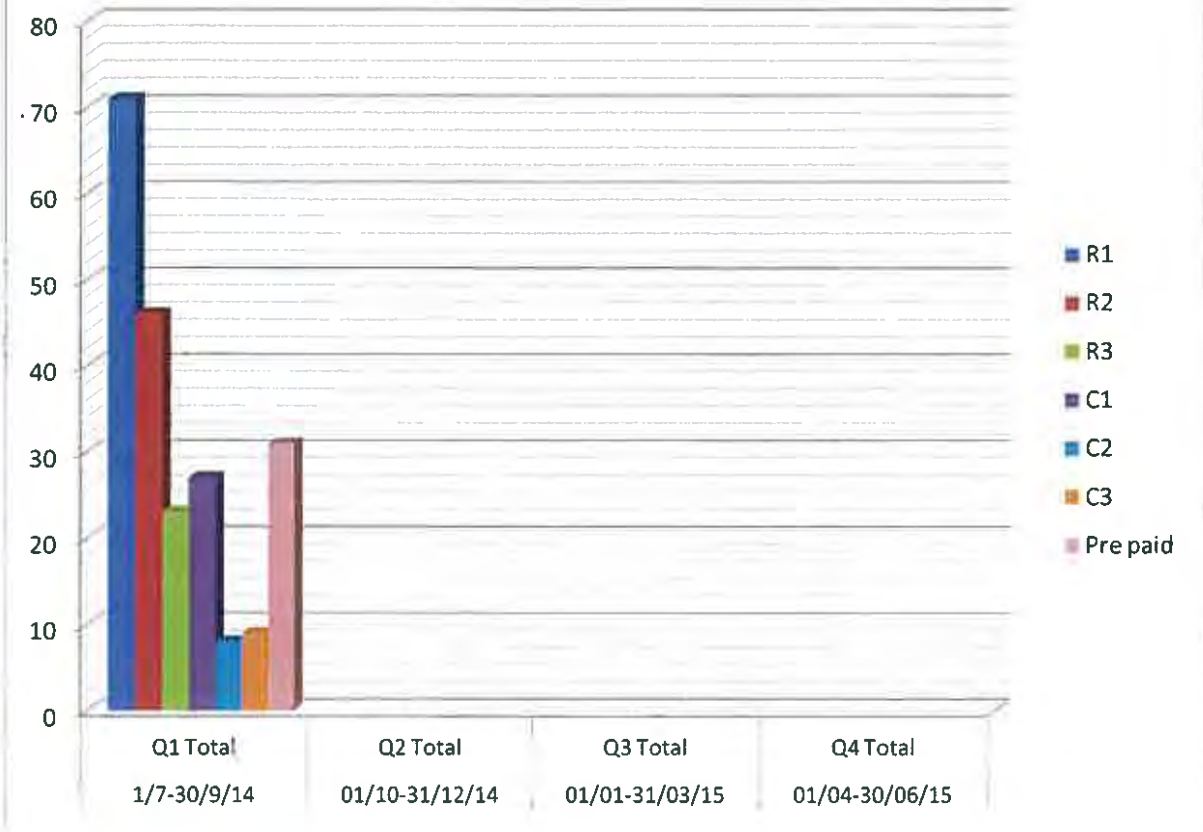


A1265054
A1246625

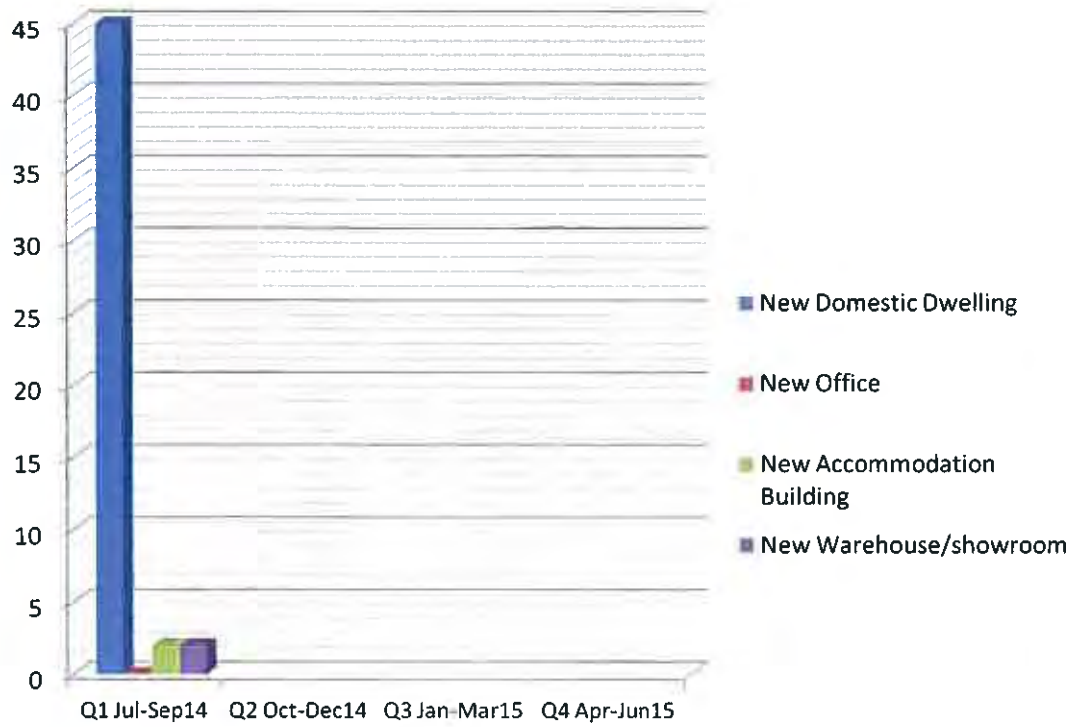
**Total Monthly Building Consent Applications Received (inc Amendments)
- 2014-15 compared to previous 3 years**



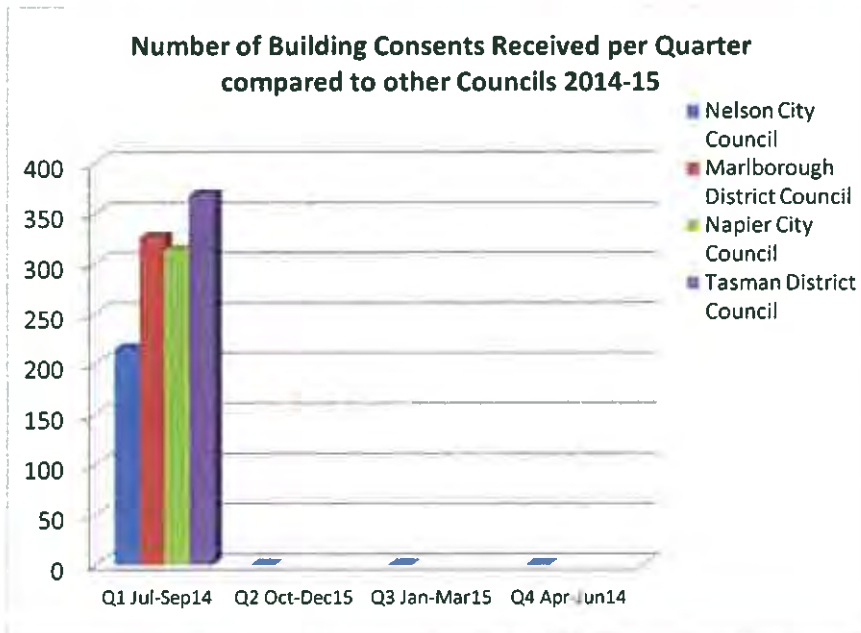
Total Number of Building Consent Applications Received (inc. Amendments) per Quarter by Category for Financial Year 2014-15



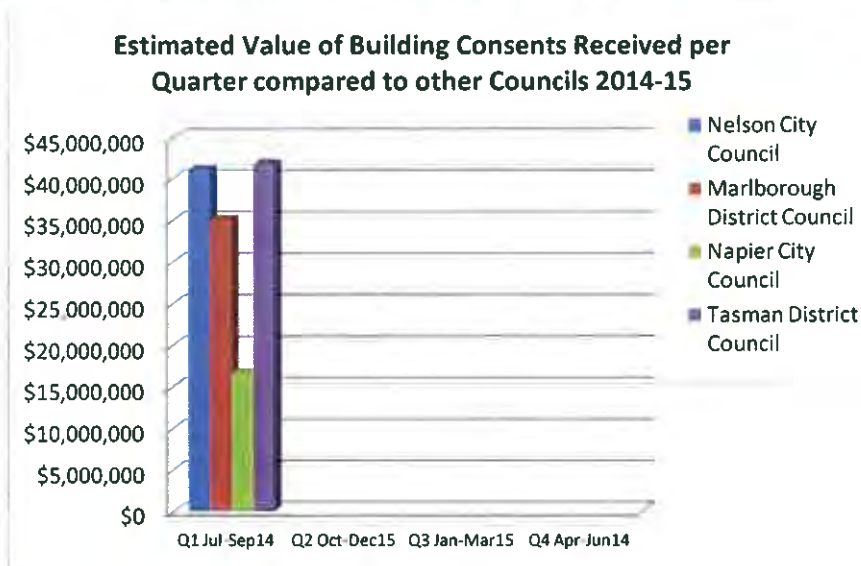
Building Consent Applications per quarter for New Dwelling and Commercial Buildings - 2014-2015



Comparison with other Councils No. Applications Received	Q1 Jul-Sep14	Q2 Oct-Dec15	Q3 Jan-Mar15	Q4 Apr-Jun14
Nelson City Council	215	0	0	0
Marlborough District Council	326			
Napier City Council	313			
Tasman District Council	368			



Comparison with other Councils Estimated Value of Work	Q1 Jul-Sep14	Q2 Oct-Dec15	Q3 Jan-Mar15	Q4 Apr-Jun14
Nelson City Council	\$41,171,827			
Marlborough District Council	\$35,098,201			
Napier City Council	\$16,691,879			
Tasman District Council	\$41,851,635			



Attachment 2

Consents and Compliance Statistics 1 July – 30 September 2014

1. Resource Consent Processing Times

Month	NON NOTIFIED				NOTIFIED AND LIMITED NOTIFIED		
	% processed on time	Average process days	Median process days	Consent numbers	% processed on time	Average process days	Consent numbers
July	100	11	12	25	0	59	1
August	100	15	17	28	100	29	1
September	96	14	14	28			0
Average from 1 July 2014	99	13	14	27	50	44	1
Total from 1 July 2014				81			2
2013/14 average	98	13	13	26	100	54	1
2013/14 totals				316			11

Tasman District Council processed 261 non notified and 46 notified applications in the same period. Note that over 70 applications were associated with rural residential subdivision (discharge consents).

Marlborough District Council processed 215 non-notified and 50 notified applications. This represents about a 30% increase in applications processed compared to the same period last year for both TDC and MDC. NCC had a 13% decrease in applications for the same period compared with last year.

2. Parking Performance

Activity	July	August	September
Enforcement			
Safety	152	141	140
Licence labels /WOF	396	458	447
Licence labels/WOF (Warnings)	493	368	375
Central Business District meters	137	110	100
Time Restrictions	981	1274	1155
Total Infringement notices issued	2159	1941	2217

Activity	July	August	September
Service Requests			
Abandoned Vehicles	14	16	22
Requests for Enforcement	36	26	32
Information /advice	54	48	49
Total service requests	104	90	103
Courts			
Notices lodged for collection of fine	695	464	377
Explanations Received	223	165	181
Explanations declined	85	94	83
Explanations accepted (within guidelines)	100	63	49
Explanations accepted (outside guidelines)	37	32	47
Explanations accepted (warden error)	1	3	2
NOTE: Tickets are cancelled when explanation accepted			

3. Environmental Health and Dog Control Activities

Activity	Responses			Year to Date
	July	August	September	
Dog Control	201	206	202	609
Resource consent monitoring	175	108	134	417
Noise nuisance	44	79	77	200
Bylaw / Building / Planning	62	66	65	193
Liquor applications	49	37	22	108
Liquor Inspections	34	25	5	64
Pollution	33	30	23	86
Stock	1	0	3	4

4. Summary of Hearing Panel Activities

Date	Matter	Location	Outcome
2/07/2014	Applications for exemption under section 6(1) of	26 Waimea Road	Exemption granted under section 6(1) of the Fencing of Swimming Pools Act 1987,

Date	Matter	Location	Outcome
	the Fencing of Swimming Pools Act 1987		with no conditions attached
		822 Atawhai Drive	Exemption granted under section 6(1) of the Fencing of Swimming Pools Act 1987, with no conditions attached
		28 Allan Street	Exemption granted under section 6(1) of the Fencing of Swimming Pools Act 1987, with conditions
		838 Atawhai Drive	Exemption granted under section 6(1) of the Fencing of Swimming Pools Act 1987, with conditions
27/8/2014	Applications for exemption under section 6(1) of the Fencing of Swimming Pools Act 1987	11 Richardson Street	Exemption granted under section 6(1) of the Fencing of Swimming Pools Act 1987, with the condition: that upon the sale of the property, the exemption will cease to exist, and that this is to be recorded on the GPI so that it would appear in a LIM.
		68 Fifeshire Crescent	Exemption granted under section 6(1) of the Fencing of Swimming Pools Act 1987, with no conditions attached.
		4 Kate Edgar Place	Exemption granted under section 6(1) of the Fencing of Swimming Pools Act 1987, with 1 condition attached under section 6(2) of the Act.
		164 Quebec Road	Exemption granted under section 6(1) of the Fencing of Swimming Pools Act 1987, with 3 conditions attached under section 6(2) of the Act.
		54 Britannia	Exemption is granted in accordance with section 6(1)

Date	Matter	Location	Outcome
		Heights	of the Fencing of Swimming Pools Act 1986, no conditions.
		13 Lassen Place	Exemption granted under section 6(1) of the Fencing of Swimming Pools Act 1987, with 2 conditions attached under section 6(2) of the Act.
27/8/2014	Applications for Street Naming, under s.391 of the Local Government Act 1974	Naming of new public road	" <i>Andy Whiting Place</i> " approved for the name of the public road off Suffolk Heights.
		Naming of new public roads	" <i>Coster Street</i> " approved for the public road in the Three Ridges subdivision; this is an extension of the existing road, which will go through to the Ridgeway. " <i>Olivias Place</i> " approved for Road 1 in the Three Ridges Subdivision
		Naming of private access way	" <i>Holly Way</i> " accepted for the private Right of Way in the Comprehensive Housing project off 43 Golf Rd.

5. Harbourmaster Patrol Hours

Month	Patrol Hours
July	92
August	80
September	88

6. Official Information Act Requests

Period	Number received	Number completed	Number outstanding
1 July – 30 September	25	21	4

7. Summary of Legal Proceedings

Party	Legislation	Matter & date of initial action	Status
McFadden Family Trust	RMA 1991 (ENV-2012-WLG-83)	Plan Change 18 Appeal - 9 August 2012	Discussions continuing with appellants regarding Saxton Creek upgrade design. Backup mediation date sought from the Environment Court.
Hamilton and Hardyman	RMA 1991 (ENV-2012-WLG-84)	Plan Change 18 Appeal - 9 August 2012	Discussions continuing with appellants regarding Saxton Creek upgrade design. Backup mediation date sought from the Environment Court.
Raine	RMA 1991 (ENV-2012-WLG-85)	Plan Change 18 Appeal - 10 August 2012	Discussions continuing with appellants regarding Saxton Creek upgrade design. Backup mediation date sought from the Environment Court.
RG Griffin Children's Trust	RMA 1991 (ENV-2012-WLG-87)	Plan Change 18 Appeal - 10 August 2012	Discussions continuing with appellants regarding Saxton Creek upgrade design. Backup mediation date sought from the Environment Court.
Jatco Holdings	WHRS Regulations 2007	Building defects, claim for negligence in NCC issuing building consent and Code Compliance Certificate in 2004/2005	Preparing for High Court hearing due for end of November 2014. Further work has been undertaken by Helfen in preparation for the hearing.
A Pritchard	Dog Control Act 1996	Two dogs involved in an attack - 22 April 2014	Case heard in September. Found guilty on all charges. Hearing at a later date to decide sentence and whether or not the dogs will be destroyed.
Partington	Building Regulations 1991	Leaking deck membrane causing damage to property. Property is less than 10 years old. Occupants have fixed the leaks but are claiming negligence by NCC has caused financial costs. As such damages are sought from NCC.	Insurers have been notified The proceedings (District Court) have been issued to NCC. Review of Plaintiffs report has been undertaken and comments provided By NCC experts. NCC response has been provided to Plaintiffs Lawyer.



Project Maitai/Mahitahi Goal:

Working together with Iwi and the community to improve the health of the Maitai/Mahitahi river, so we can swim safely, collect kai, and value this taonga (treasure) as an integral part of Nelson's physical and cultural landscape.

19 September 2014

Dear Project Maitai/Mahitahi partners, stakeholders and interested parties,

Nelson City Council has allocated \$400,000 in the 2014/15 financial year for officers to work with Iwi and the community to take action to improve the health of the Maitai/Mahitahi River. This funding will be used to deliver the broad range of projects shown on the info-graphic attached, and the deliverables for each project are detailed in the spreadsheet attached. Below is a summary of progress made to date.

Progress made 1 July 2014 to 1 September 2014:

- Changes have been made to dam operations to ensure that anoxic water is no longer included in the dam backfeed into the Maitai River, and monitoring is planned to see if this makes the anticipated difference to water quality in the river.
- Dye testing has identified three likely sources for *E.coli* contamination of the river, one significant broken pipe under Halifax Street leaking into a stormwater culvert which discharges to the lower Maitai via Saltwater Creek, and one minor leaking joint near Riverside Pool. Both have been fixed and re-testing is planned. Investigations are continuing.
- Stakeholder meetings were held to review the planned programme of work and establish project teams. These were attended by approximately 50 people (external stakeholders and Council officers).
- A comprehensive review of forestry practices is underway.
- Groom Creek (and small creek beside golf course) have been fenced off from stock.
- The Nelson Mail ran a positive editorial on 18th July, highlighting the high level support this programme has at both government and management levels.
- A very successful community planting was held on 10th August, and another is planned for 14th September, being organised primarily by the Friends of the Maitai,
- The Friends of the Maitai also supported resident Peter Hay's planting day at Sharlands Creek on August 30 where around 30 people turned out. After the Groom Creek planting a total of 5500 trees & grasses will have been planted.
- Friends of the Maitai is planning to promote an 'Adopt a Reach' project to encourage people/groups to maintain plantings by freeing them from weeds and rescuing them post flood events.
- Brook stream channel modelling is underway.
- Nelson Intermediate School students are developing pamphlets for delivery in Victory area to educate residents about caring for York Stream.
- Applications are now open for the Maitai/Mahitahi Community Projects Fund.

- Options to allow fish passage past the ford and natural gravel movement down the river at Almond Tree flats ford are being scoped.
- Options for improving fish passage over the dam spillway and intake weir are being scoped.
- The Programme has been named Project Maitai/Mahitahi and a logo developed to tie together the contributing projects, and to represent Nelson City Council's commitment to the programme.
- Specific deliverables for each project have been identified for the 2014/15 year.
- Project Maitai/Mahitahi was featured in a Fresh FM interview for My City, My Council.
- Three international and two local tertiary students hosted by Cawthron Institute are likely to be contributing to the project over summer.
- The January 2014 application to the Community Environment Fund for extra funding was sadly unsuccessful, although a full programme of work is still going ahead for the Maitai/Mahitahi using the \$400,000 Council funding allocated for this financial year.
- Friends of the Maitai have their website up (www.friendsofmaitai.org.nz) and are communicating regularly with their database of interested groups and individuals.
- Friends of the Maitai has an active monitoring team that has been busy over the last 6 months taking part in the NIWA national water quality programme. They have been collecting data from a site in the Maitai River opposite Riverside pool and sending data to NIWA. Nelson City Council has also been collecting the data at the site and so far the two data sets match, which validates the information that Friends of the Maitai are gathering. Data collected includes: Water temp, clarity, pH, conductivity, Nitrogen, *E.coli*, *periphyton*, substrate, and macro invertebrates. The team is also involved in fish surveys to determine impact of fish barriers (e.g. concrete fords) in the Maitai.
- Friends of the Maitai are holding a planning day on Sept 6 where they will look at their group structure, communications, links with Council Project Maitai/Mahitahi, plans for the coming year and areas where they will be applying for the Council community fund.

If you have feedback, or for more information on how to get involved and upcoming events please go to the Friends of the Maitai website at www.friendsofmaitai.org.nz, the Friends of the Maitai facebook page, or the Nelson City Council website at www.nelson.govt.nz and search on Project Maitai. Alternatively you could email the friends of the Maitai at friendsofmaitai@gmail.com or jo.martin@ncc.govt.nz .

Kind regards



Jo Martin
 Environmental Programmes Officer
 Manager Maitai Programme
 Nelson City Council / Te Kaunihera o Whakatū
 03 545 8728

Proposed Resource Management Act reforms

A summary of the reforms first proposed by National in 2013 follows:

Changes to the RMA

1. Merging the current sections 6 and 7 into a new section 6 (matters of national importance to be recognised and provided for in decision making), and introducing a new section 7 (best practice approaches to making resource management decisions). Some of the new matters proposed for the revised section 6 were:
 - a) the effective functioning of the built environment, and availability of land to support changes in population and urban development demand;
 - b) the management of the significant risk of natural hazards; and
 - c) the efficient provision of infrastructure.

Changes to the Plan making process

2. Introducing a standardised "national planning template" to be developed by the Minister, and requiring a single resource management plan per district based on this template;
3. providing two alternative tracks (a "collaborative planning process" and a "joint council planning process") for developing resource management plans, in addition to the current Schedule 1 process; and
4. requiring Councils to invite iwi/hapū to enter into an "arrangement" detailing how iwi/hapū and Councils will work together through the planning process.

Changes to the resource consent process

5. Introducing a new fast track (10 day) process for "simple and straight forward" projects with the least environmental effects;
6. allowing Councils to exempt projects from the need to obtain consent (for example where there is a very minor technical rule breach, and the effects from the breach will be virtually indistinguishable from those arising from permitted activities);
7. requiring non-notification if the Council assesses the activity as being consistent with the plan's policies and objectives;
8. requiring Councils to set and publish fixed fees for many application types;
9. reducing cost and complexity of the consenting process for proposals of national significance (including by increasing the amount of information that can/should be provided electronically);
10. restricting the scope of people who can be considered "affected parties" for certain applications (such as subdivisions anticipated by the underlying plan rules or zoning, where only infrastructure operators and government agencies will be considered affected parties);
11. limiting submissions to the reasons consent is required and effects resulting in it being notified (both of which must be specified in Council's notification decision), and requiring pre-hearing meetings for

most notified applications. The substantive hearing is then limited to issues not resolved in the pre-hearing meeting;

12. introducing a right of objection (by the applicant) to an independent commissioner (rather than back to the Council) as an alternative to a full Environment Court appeal; and
13. clarifying the circumstances in which central government can intervene in planning matters.

Draft Building and Other Regulatory Activity Management Plan

1. Purpose of Report

- 1.1 To seek Council's agreement to adopt the draft Building and Other Regulatory Activity Management Plan (AMP), as the version that will inform the Long Term Plan 2015-2025.

2. Delegations

- 2.1 The Planning and Regulatory Committee has the delegation to review and make recommendations on this draft Activity Management Plan.

3. Recommendation

THAT the report Draft Building and Other Regulatory Activity Management Plan (A1261318) and its attachment (A1150957) be received.

Recommendation to Council

THAT the Draft Building and Other Regulatory Activity Management Plan be approved as the version that will inform the Long Term Plan 2015-2025.

4. Background

- 4.1 The Activity Management Plan provided for Building and Other Regulatory has developed from the feedback provided at the workshop and has concentrated on the levels of service the Building Unit and Consents and Compliance Teams provide to Customers.
- 4.2 The Regulatory function, by its nature, is governed by legislation and central Government and as such its parameters are closely controlled so the plan has outlined the levels of service, trends and future considerations.

5. Discussion

5.1 The plan requires a review to ensure that the plan's subject matter meets the expectations of the Committee and as such has provided information on the key elements of the activities undertaken by the Building Unit and Consents and Compliance.

6. Assessment of Significance against the Council's Significance Policy

6.1 The decision required is not a significant decision in terms of Council's Significance Policy.

7. Alignment with relevant Council Policy

7.1 The Long Term Plan sets goals including a more sustainable and affordable Council and community outcomes for Nelson City Council. The levels of service outlined in the AMP will develop Council's position and drive the Building and Consents and Compliance Business units towards achieving these outcomes.

7.2 Adopting the AMP for Building and Other Regulatory fits with Nelson 2060 because it will benchmark 'Levels of Service' which will ensure the Regulatory side of Nelson City Council contributes to how the Council works towards efficient and sustainable practices.

8. Consultation

8.1 Initial consultation has been undertaken with elected members and with Iwi in a workshop environment. Consultation on funding and key leads of service will occur throughout the Long Term Plan process.

9. Inclusion of Māori in the decision making process

9.1 The Building and Other Regulatory AMP has been presented to Iwi during an office workshop on the 27 August 2014.

10. Conclusion

10.1 The Draft Building and Other Regulatory AMP, Has been prepared as a document that can inform the LTP 2015-2025.

Martin Brown
Manager Building

Attachments

Attachment 1: Draft Building and Other Regulatory Activity Management Plan 2014 - [A1150957](#)



Nelson City Council

te kaunihera o whakatū

Draft Building and Regulatory Activity Management Plan

16 June 2014

Martin Brown – Manager Building

Adopted: <Date>

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EXECUTIVE SUMMARY

This is the first Building & Regulatory Activity Management Plan (AMP). This plan identifies Council's key areas of focus for building and regulatory activities and Council's strategic approach to delivering these activities over the next ten years, commencing 1 July 2015.

These activities are:

- Building Consent processing and inspections;
- Building Warrant of Fitness compliance;
- The management of earthquake prone buildings;
- Fencing of swimming pools compliance;
- The issuing of Land Information Memorandums;
- Dog control;
- Animal control;
- Noise control;
- Parking enforcement;
- Food safety and public health licensing and compliance;
- Sale and Supply of Alcohol licensing and compliance;
- Harbour and coastal safety;
- Pollution response;
- Dangerous goods and hazardous substances response; and
- Response to complaints.

Under the adopted Nelson Long Term Plan 2012-2022 the Building and Regulatory Activity Management Plan needs to align with the community outcomes below:

1. Healthy Land, sea, air and water;
2. People- Friendly places;
3. A strong economy;
4. Kind Healthy people;
5. A fun, creative culture; and
6. Good Leadership.

This report outlines the high level outcomes and details the challenges, constraints and potential trends faced within this area.

RATIONALE FOR COUNCIL'S INVOLVEMENT

Statutory requirements to comply with the following key legislation:

- The Building Act 2004 and the Building Regulations 1992;
- Dog Control Act 1996;
- Resource Management Act 1991;
- Local Government Official Meetings and Information Act 1987;
- Health Act 1956 and the Health Regulations 1966;
- Food Act 1981 and the Food Hygiene Regulations 1974;
- Land Transport Act 1998;
- Sale and Supply of Alcohol 2012;
- Local Government Act 2002; and
- Maritime Transport Act 1994.

Nelson City Council as a unitary authority and has both regional and territorial authority functions. High level oversight of the required duties performed under these functions is important to ensure stated community outcomes are achieved.

1 Introduction

Council's first Building and Regulatory Activity Management Plan identifies the approach for responding to the required regulatory functions of the Building Consent Authority and Territorial Authority. It advises how the Council will meet responsibilities as well as providing an efficient and effective service for Nelson City Council customers.

Regulatory activities need to meet statutory obligations effectively and efficiently and in accordance with best practice standards. All staff performing these duties must do so in a professional and courteous manner at all times.

Council has a significant role in ensuring all buildings within the Council jurisdiction are completed in accordance with Government imposed regulatory requirements. As a result building consents are a key function undertaken by Council.

Successful performance in these activities not only meets legislative requirements but ensures the environment is protected and people have a safe place to enjoy.

1.1 Legislative Context

There are several pieces of legislation that cover the building and regulatory activities. These are:

- The Building Act 2004 and the Building Regulations 1992;
- Plumbers Gasfitters and Drainlayers Act 2006;
- Fencing of Swimming Pool Act 1987;
- Local Government Official Meetings and Information Act 1987;
- Dog Control Act 1996;
- Impounding Act 1955;
- Animal Welfare Act 1999;
- Resource Management Act 1991;
- Health Act 1956 and the Health Regulations 1966;
- Food Act 1981 and the Food Hygiene Regulations 1974;
- Land Transport Act 1998 and Regulations 1998, 1999 and 2011;
- Health Hairdressers Regulations 1980;
- Camping Ground Regulations 1985;
- Health Burial Regulations 1946;
- Sale and Supply of Alcohol 2012;
- Local Government Act 2002;
- Hazardous Substances and New Organisms Act 1996;
- Maritime Transport Act 1994;
- Litter Act 1979;
- Machinery Act 1950; and
- Amusement Devise Regulations 1978.

There are also a number of Council bylaws and planning or policy documents that require compliance.

1.2 Strategic Context

The building and regulatory activities must respond to legislative changes and be aligned with the Nelson City Council Long Term Plan. In addition the activities should continue to meet the needs of the community and provide a high quality customer service.

2 Level of Service

Section 10 of the Local Government Act 2002 requires local government to perform regulatory functions in a way that is most cost-effective for households and businesses. This part of the Plan outlines the current and proposed levels of service to ensure section 10 is met.

Activity	Level of Service	Measures	Current Tracking	Targets
Building Consents and all associated work.	<p>To ensure buildings are constructed to required legislation and are safe to occupy and will meet required durability standards.</p> <p>Meeting statutory time limits and customer promises for response to information.</p> <p>Customer service will be delivered to a high quality.</p>	<p>Time taken to grant and issue building consents</p> <p>Property inspection time Targets (48 and 72 hrs)</p> <p>Time taken to grant Code Compliance Certificates</p> <p>Rate of follow up on old consents to refuse or grant Code compliance certificates</p>	<p>Aug 2013 to 01 July 2014 - Meeting statutory time limits for building consent granting and Code Compliance Certificates issue</p> <p>All building consents received since July 1st 2014 are now stored electronically.</p> <p>Inspections 80% undertaken within 72 hours of request but backlog is quick to escalate where officers are sick or take leave.</p> <p>Electronic processing of building consents commenced</p> <p>Only reactive action taken on old building consents (those without Code compliance certificates) at present.</p>	<p>Continue to meet statutory time limits on consents and Code Compliance Certificates issued (Ongoing any breaches to be investigated)</p> <p>Implement Electronic submissions and storage of all Building consent documentation. (Year 3)</p> <p>Ensure sufficient capacity exists to perform required Building Consent Authority functions for Processing and Inspections (ongoing)</p> <p>Undertake proactive follow up on old building consents to grant or refuse Code Compliance Certificates.</p>

			Currently Accredited through IANZ (to June 2015)	(Year 5) Maintain IANZ accreditation
Certificate of Public use (CPU)	Ensure the safety of the public in situations where building work is being undertaken and the building is still occupied	Response times for enquiries for CPU. Monitoring of all active CPUs.	CPUs issued within 20 working days of application. Only a low percentage of CPUs are now being monitored and followed up on expiry.	To ensure CPUs are issued to customers in 20 days. 100% CPUS are monitored and renewed when required.
Certificate of Acceptance (COA) (unauthorised/illegal work)	To ensure all unauthorised works, where applications for COAs are made, are assessed against compliance with building code and ensure the buildings are suitable and safe.	Time taken for assessments.	Certificate of Acceptance generally issued within 20 working days of application.	Ensure all COAs are granted or refused within 20 days of application
Fencing of Swimming Pools Monitoring	To ensure public and customer safety around private swimming pools	Number of inspections.	Undertaking less than 250 inspections per year currently.	To undertake approximately 250 pool fence inspections per year (Year 1)
Earthquake Prone Buildings	To identify all earthquake prone buildings so measures and work can be undertaken to ensure safety of the public and users of these properties	Number of buildings assessed.	Indicated 60% of buildings (currently in scope of MBIE requirements) have been identified	To identify all Properties requiring initial assessments. (Year 3) Issue requirements for work to be undertaken and time limits for all earthquake prone buildings by (Year 6)
Building Warrants of Fitness (BWOFF)	To ensure all specified services in commercial buildings are maintained and checked frequently by independent qualified persons (IQPs) to ensure the safety of the	Identification of properties.	'Ad hoc' auditing only currently being undertaken	Undertake audits of all commercial properties by 2020. Record all results and monitor (Year 1)

	public			
Dog Control	Efficient, cost effective service providing registration maintenance, updating, response to complaints, routine patrols, operation of a pound, education and advice, provision of doggy do bags at public places	Time to respond to complaints. Frequency of patrols.	Registration applications are processed by the end of the next working day. Respond to high priority complaints within 30 minutes, at least 90% of medium priority complaints are responded to within 4 working hours and at least 90% of other complaints are responded to by the end of the next working day. Routine patrols at least 10 hours per week and check bag dispensers at least once a week. All work carried out in accordance with Animal welfare	Increase patrols in busier daylight saving period and review for effectiveness. (Year 1)
Animal control	Respond to complaints of wandering stock (not wild animals)	Response times for complaints.	Respond to high priority complaints within 30 minutes, at least 90% of medium priority complaints are responded to within 4 working hours and at least 90% of other complaints are responded to by the end of the next working day. All work is carried out in accordance with nationally recognised standards	Review interface with pest management of wild animals and stock control, recommend a mechanism to provide clarity of control (Year 1)
Noise control	Respond to complaints	Response times for complaints.	For 2012/13 91% of complaints were responded to within 30 minutes and 98% responded to within 1 hour.	Continue providing a dedicated noise control officer in peak times to ensure consistency of

			There were 1156 service requests.	enforcement and quick resolution.
Parking enforcement	Ensure a safe road environment, fair access to parking in the CBD and compliance with parking restrictions, vehicle WOF and registration and trading in public places provisions.	Patrol hours, response times for complaints.	Carry out at least two school patrols per week, CBD patrols 80 hours per week and suburban patrols at least 20 hours per week. Patrol a maximum of 10 special events per year. Respond to high priority complaints within one hour during business hours and Saturday mornings. 90% of medium priority complaints are responded to within eight working hours, 90% of non-urgent complaints are responded to within three working days.	Review level of enforcement by 1 December 2014 and annually thereafter.
Food safety and public health	Efficient and cost effective processing of applications, inspections, provision of information, education and awareness.	Number of inspections.	Carry out at least one full inspection and all necessary first follow up inspections of each premises each year, all respond to complaints by the end of the next working day.	Transition premises to Food Control Plans under the Food Act 2014 and audit annually. Address the wider duties for labelling and food recalls. Likely increase of resourcing required to cover increased duties.
Alcohol licensing	Application administration, investigation and inspection	Number of inspections and licenses monitored	Carry out 2 inspections of each licensed premises each year, monitor 10% of special licences issued each year	Refine procedures based on outcomes of cases under the new legislation.
Harbour and coastal safety	Navigational safety in the Nelson region through education	Maritime NZ acceptance of reporting.	Provide appropriate aids to navigation and audit and inspect	Harbour Risk Assessment and Maritime Operating

	and enforcement of the Navigation Safety Bylaw. Provision of harbourmaster services		these to ensure they are operating effectively. Timely response to incidents to avoid loss of life, injury and damage to vessels. All operations are in accordance with Maritime NZ standards.	Safety Systems reports presented to Council for their information.
Pollution response	Provision of on-Scene Commander duties and liaison with Maritime NZ for all oil spills in the marine environment, carry out exercises to practice response systems, identify and audit all Tier 1 sites. Ensure industries comply with Nelson Resource Management Plan storm water discharge permitted standards.	Oil spill exercises undertaken. Number of discharge checks.	Respond to emergencies within 30 minutes, respond to other incidents by the end of the next working day, all actions are in accordance with national standards. Systematically check industry compliance at around 300 hours of staff time per year until 2015	Continue liaison with TDC and harbourmasters for oil spill response, consider a shared service to make this more efficient and effective.
Dangerous goods/ hazardous substances	Response to emergency incidents, response to complaints or non-compliance, comment on building or resource consent applications with this component.	Response times.	Respond to emergencies within 30 minutes, respond to complaints or non-compliance matters by the end of the next working day, provide comments on consents within 3 working days.	Maintain level of response.
Response to complaints	Response to, investigation of and reporting on all complaints relating to Council Plans and Bylaws	Response times.	Respond to high priority complaints within 4 hours, at least 95% of other complaints are responded to by the end of the next working day.	Maintain level of response.

3

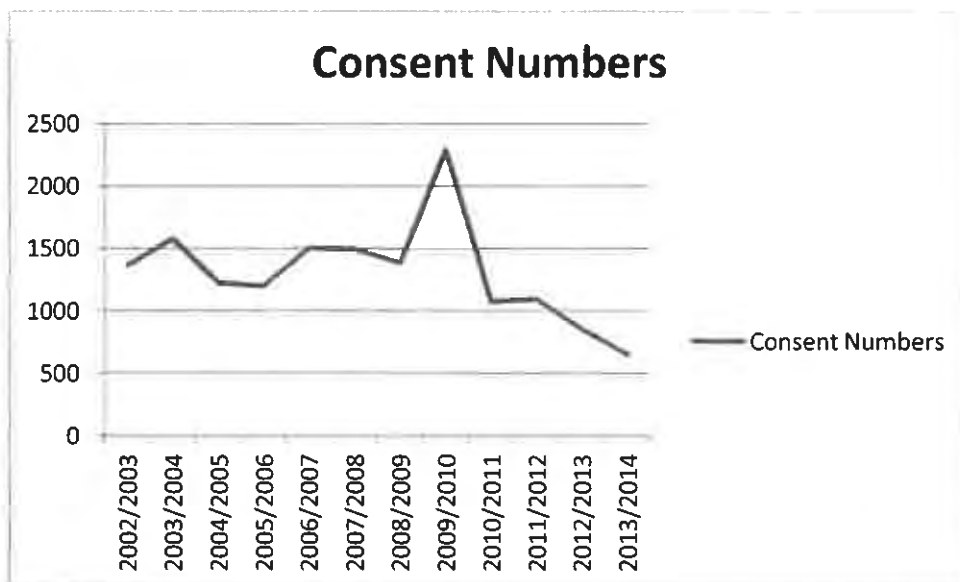
Trending and Future Projections – Building Unit

The level of services required is unlikely to change over the early life of this plan. However the numbers of consents has dropped and is currently lower than previous years. The impact is for processing staff the workload has reduced but so have numbers of full time employees. It is noted on the inspections function that there are still high numbers of inspections and to complete these correctly more time is required and the numbers of inspections required to numbers of inspectors has a shortfall of approximately 1 FTE.

The Building Unit compiles information around results monthly to inform trends and allow the unit to understand the likely draws on the team’s capacity month by month over the financial year. This information provides a reasonable basis for reviewing and understanding trends.

Future projections are always difficult due to the unpredictability of the consent processing market. The best information is that which can be derived from is that of the past results.

Having reviewed the last twelve years results, granted consent numbers have decreased generally. The main peaks have been as a result of legislation/policy changes and weather events.



In future the Building Unit will see an increase in workload as the market picks up in the construction industry. The other notable issue is the growing control measures required for accreditation of the Building Consent Authority. IANZ is moving on from just meeting the Accreditation Regulations to more 'best practice'. As a result the Building Unit is noting that the requirements from Central Government increased controls are taking more time and much of this time takes direct chargeable capacity away from Building Officers and management. The costs for this better practice must be recovered and as such fees will have to increase to cover the closer monitoring required to maintain accreditation.

Notwithstanding this the current workload trend observed is slightly out of alignment with the capacity of staff within the building unit. There are likely to be pressure points where external resources may be required to assist the team, however there are also likely to be periods of surplus capacity. This means a focus going forward to support and share services with other councils as required.

Being prepared for changes in future workload is the key to being efficient and maintaining a suitably skilled work force.

The following areas will need focus to ensure a consistent level of service is maintained through the life of the plan.

- Maximising effective and efficient processing and inspection functions;
- Maintain suitably skilled staff;
- Potential shared services local and nationwide;
- Managing customer service targets;
- Earthquake Prone Buildings management amidst changing Central Government views and legislation; and
- Ensuring excellence in knowledge and understanding of the Building Act 2004 and Building Regulations 1992.

4 Trending and Future Projections – Other Regulatory

The level of service required has been relatively constant over the last three years. Work will commence on comparing the level of service and delivery methods with other Councils of a similar size and nature. With the enactment of the Food Act 2014 there will be more staff time required to assist food premises transition to Food Control Plans and then audit these. There are no other major changes foreseeable aside from refining processes and responding to legislative changes.

5 Key Focus Areas

The key focus areas for the Building and other Regulatory activities are:

- Continue to meet the required performance measures for the activities;
- Compare the level of service and performance measures with other Councils of similar size and nature;
- Meet customer service expectations;
- Ensure the methods used follow best practice; and
- Ensure the services are delivered effectively and efficiently.

5.1 Customer Feedback

General feedback received is always logged by the Building Unit and in addition the Residents Survey provides information on the level of satisfaction customers have with the building and regulatory services. Taking feedback and grouping trends allows the Building and other regulatory units to react to key issues and expectations and adjust where required and feasible.

5.2 Funding

Building Unit income is recorded against projection on a monthly basis to allow the Building Unit to track and advise projections to Council. The current model is that the Building Unit is part funded by rates, due to the Territorial Authority delegations for some of the work streams, and part self funding. The approximate split should be 40% to 60% respectively.

The dog control, food safety and public health activities are self funded. No rates are required to cover the expenses for providing these services. Animal control, harbour safety, noise control, dangerous goods and response to complaints are essentially fully funded from rates. A small amount is recovered from fines or fees.

The alcohol licensing activity has required up to 40% support from rates in the past as licence fees are set nationally. Under the new regulations the proportion of cost-recovery is likely to increase. Pollution response is around 65% funded from rates with assistance provided from the Maritime Safety Authority.

5.3 Key Issues

5.3.1 Staff recruitment and retention.

There is a challenging recruitment market currently. Christchurch and Auckland is attracting many of the experienced officers with more remuneration and the ability to work remotely.

5.3.2 Attracting a suitably skilled work force.

There is a skills shortage nationwide for suitably experienced Building control staff.

5.3.3 Maintaining Accreditation IANZ.

Meeting the growing requirements of MBIE, to provide better services, impacts on productivity of building officers as they learn and implement changing practise and procedures required to maintain accreditation.

5.3.4 Alignment with industry best practices and expectations.

Ensuring time is given to keeping up to date with training and best industry practice and the expectation that Building Officers are fully up to date with products and building practices.

5.3.5 Providing a fair and consistent service to all customers.

Inconsistency within the Building Unit has been highlighted, so the Building Unit has allocated time for staff to share experiences and improve consistency with their decisions to ensure fairness to customers.

Parking and Vehicle Control Bylaw (2011), No.207

Amendments to Schedules

1. Purpose of Report

- 1.1 To adopt the alterations to the Parking and Vehicle Control Bylaw (2011), No. 207, resulting from minor safety improvements, roading improvements carried out as part of the 2013/14 capital works programme and from the completion of new subdivisions.

2. Delegations

- 2.1 Any decision to accept amendments to the Parking and Vehicle Control Bylaw and the Parking Policy falls within the delegated authority of the Planning and Regulatory Committee.

3. Recommendation

THAT the report Parking Vehicle Control Bylaw (2011), No. 207 Amendments to Schedules (A1255440) and its attachments (A1255861, A1256003 and A1255878) be received;

AND THAT the following alterations to the Schedules of Bylaw No 207, Parking and Vehicle Control (2011) be approved:

- ***Schedule 4: Special Parking Areas;***
- ***Schedule 9: No Stopping;***

4. Background

The Parking and Traffic Control Bylaw 2011 allows for the Council, by resolution, to add or delete items to the Schedules. To ensure that the Bylaw is enforceable it is important to ensure that the Schedules are updated on a regular basis. Schedule 4: Special Parking Areas and Schedule 9: No Stopping of the Bylaw require amending due to changes in circumstances, since the last update in September 2014.

5. Discussion

Millers Acre

- 5.1 The existing parking restrictions within the Millers Acre carpark restrict the duration of parking to a maximum of 3 hours between 9am and 5pm. It is proposed to extend the duration of the time restriction to cover a 24 hour period to resolve issues relating to Freedom Camping and to continue to provide access to convenient evening parking.

Tamaki Street

- 5.2 Yellow 'No Stopping' lines are to be added to the southern section of Tamaki Street, at its intersections with Orakei Street and Rangiora Terrace, to improve visibility for westbound vehicle travelling on Tamaki Street. These changes have been made following requests to address health and safety. (Attachment 1).

Songer Street

- 5.3 The existing unrestricted parking on the north side of Songer Street, west of the access to Strawbridge Square car park, is to be removed. This is proposed on safety grounds to improve the visibility for motorists exiting the car park. A total of 3 car parks will be removed. (Attachment 2).

Tahunanui Drive

- 5.4 The following amendments are proposed to provide more appropriate parking time limits for the businesses along Tahunanui Drive, SH6. (Attachment 3):
- to increase the time limits for parking on SH6 Tahunanui Drive between the intersections with Bisley Ave and Muritai St to P90
 - to introduce P90 parking on the north west kerb of Muritai St outside property numbers 2 and 8 Muritai Street.
 - to introduce P90 parking in front of property number 37 Tahunanui Drive (the Bel-Aire Tavern).
 - to change the current P30 parking outside property numbers 8 and 10 Tahunanui Drive (the Hot Rock Gourmet Pizza Pasta Bar and the Ploughman's Bakery) to P10 between 8am and 4pm and P90 at all other times.

6. Options

- 6.1 There are limited alternative options for the items presented in this report as the majority are simply procedural updates to the bylaw. However, some of the items do require a decision to be made at the discretion of Council.

7. Assessment of Significance against the Council's Significance Policy

7.1 The recommendations outlined in the report are not considered significant in terms of the Council's Significance Policy.

8. Alignment with relevant Council Policy

8.1 This report is directly aligned to the requirements of the Parking Policy, the Parking and Vehicle Control Bylaw and with Council's strategic direction through the Regional Land Transport Strategy.

9. Inclusion of Māori in the decision making process

9.1 This report does not specifically affect Māori. Māori will benefit from the recommendations outlined in this report as part of the wider community.

10. Conclusion

10.1 Minor alterations and additions have been made to Schedule 4: Special Parking Areas and Schedule 9: No Stopping of the Parking and Vehicle Control Bylaw (2011) to allow for parking and safety improvements.

Shane Davies
Manager Operations

Attachments

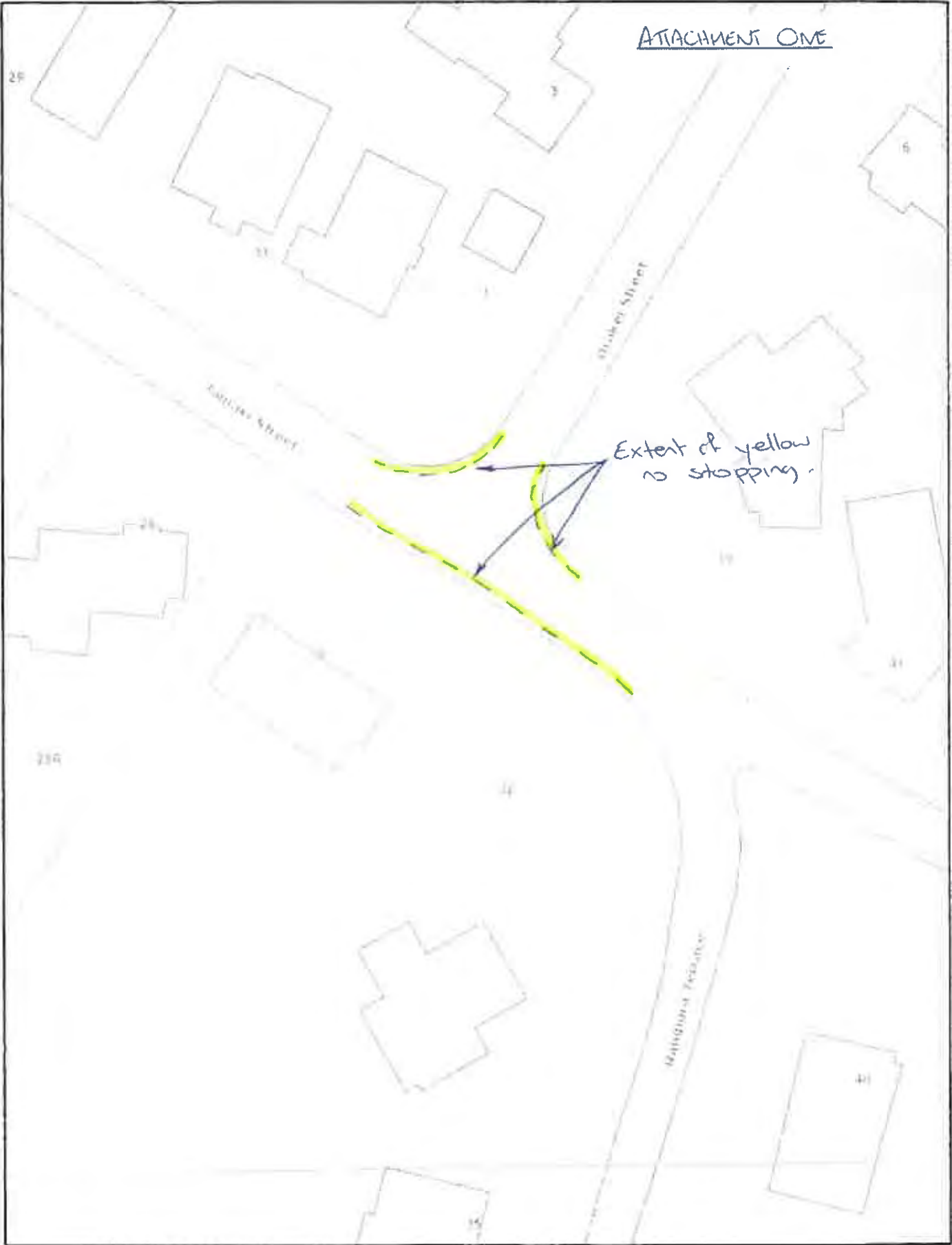
Attachment 1: Tamaki Street [A1255861](#)

Attachment 2: Songer Street [A1256003](#)

Attachment 3: Tahunanui Drive [A1255878](#)

No supporting information follows.

ATTACHMENT ONE



TAMAKI STREET NO STOPPING LINES



PO Box 645 Nelson 7040 New Zealand
PH 03 5460200
www.nelson.govt.nz

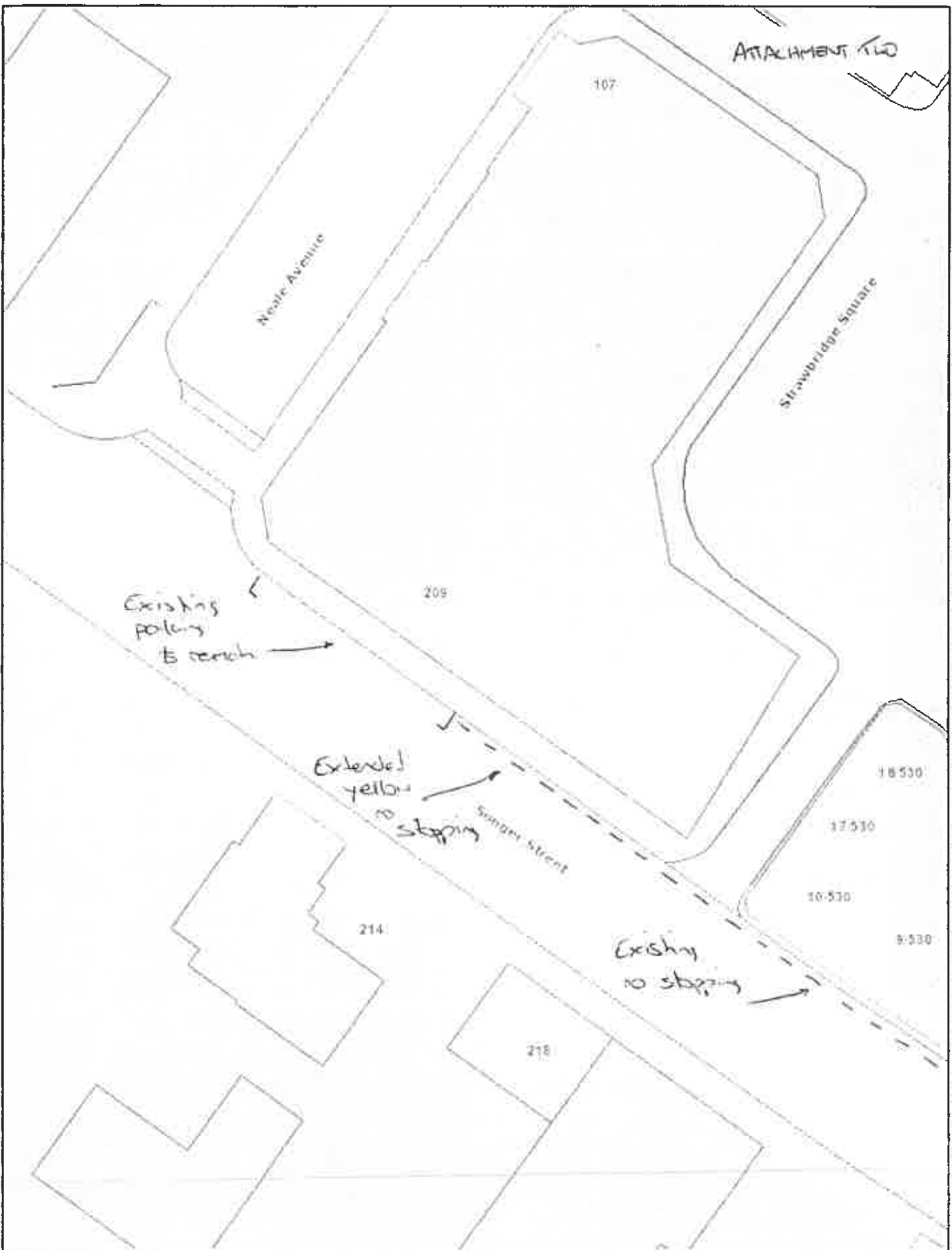


Scale 1 500

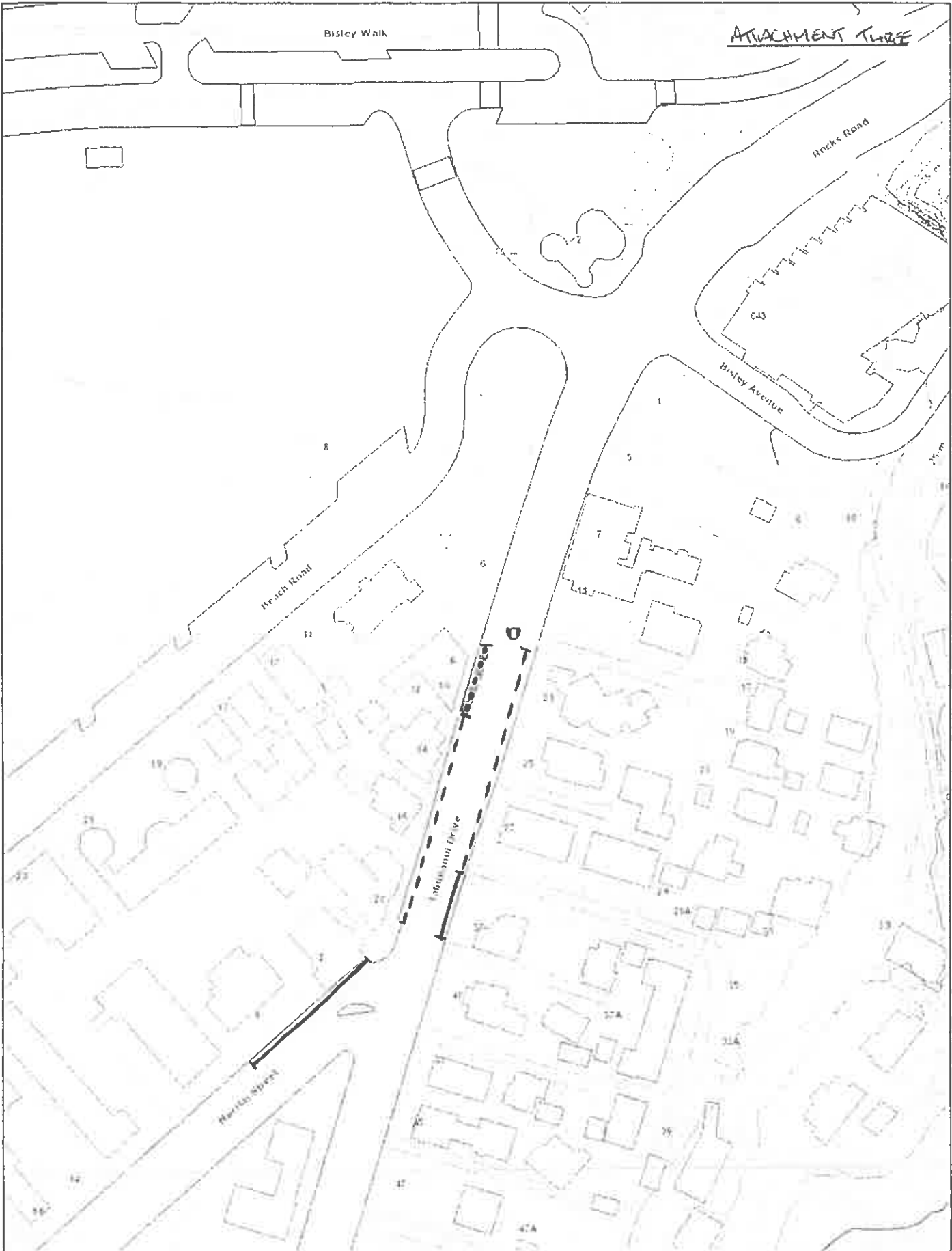


Date 2/10/2014


A1255861





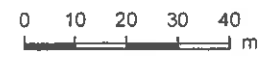
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 Proposed new P90
 currently unrestricted.

 Proposed change P30/60 to P90
 Proposed change P60 to P10 8-4pm
 P60 other times



Scale 1:1,000



 Nelson City Council
 PO Box 645 Nelson 7040 New Zealand
 PH 03 5460200
 www.nelson.govt.nz

Council Submission on Proposed Registration of Te Taero a Kereopa – Te Tāhuna a Tama-i-ea (Nelson Boulder Bank) – as a Wāhi Tapu Area

1. Purpose of Report

- 1.1 To confirm Council's submission to Heritage New Zealand Pouhere Taonga (HNZ) relating to the proposal by HNZ to enter Te Taero a Kereopa – Te Tāhuna a Tama-i-ea (Nelson Boulder Bank) onto the New Zealand Heritage List/Rarangi Korero as a wāhi tapu.

2. Delegations

- 2.1 As outlined in section 6.3.2 of the Delegations Register 2014 Council has delegated to the Planning and Regulatory Committee the power to lodge and present submissions to external bodies on policies and legislation relevant to the areas of responsibility.

3. Recommendation

THAT the report Council Submission on Proposed Registration of Te Taero a Kereopa – Te Tāhuna a Tama-i-ea (Nelson Boulder Bank) – as a Wāhi Tapu Area (A1258280) and its attachment (A1258080) be received;

AND THAT the submission (A1258080) on the Proposed Registration of Te Taero a Kereopa – Te Tāhuna a Tama-i-ea (Nelson Boulder Bank) – as a Wāhi Tapu Area is confirmed.

4. Background

- 4.1 HNZ listed Nelson's Boulder Bank as a Historic Area in December 2013. Nelson City Council provided a submission in support of this at the time.
- 4.2 The Maori Heritage Council of HNZ now proposes to enter the Boulder Bank onto the New Zealand Heritage List/Rārangi Korero as a wāhi tapu. This is in addition to the listing as a Historic Area.
- 4.3 The listing as a wāhi tapu site recognises the importance of the area to Māori. The listing does not introduces legal requirements on any party

beyond those which already exist. The current protections exist through administration of the Boulder Bank (and Haulashore Island and Fifeshire Rock) by the Department of Conservation and Nelson City Council; the archaeological site protections under the Heritage New Zealand Pouhere Taonga Act 2014 and the recent Treaty Settlements and Statutory Acknowledgement areas.

- 4.4 Recommendations on increased levels of protection are made to both Council and the Department of Conservation. Regard will be given to this during the development of the Nelson Plan.

5. Discussion

- 5.1 The draft Council submission is in support of the proposed listing as a wāhi tapu site. A note is made in the submission that the content of the recent Treaty Settlements and Statutory Acknowledgements should be acknowledged in the content of HNZ's report on the Boulder Bank.
- 5.2 There are a number of landowners in the Wakapuaka area who currently undertake various economic activities and which rely on the Te Taero a Kereopa – Te Tāhuna a Tama-i-ea to various degrees. It is envisaged that these activities will not be hindered by this proposed registration.

6. Assessment of Significance against the Council's Significance Policy

- 6.1 This is not a significant decision in terms of Council significance criteria.

7. Alignment with relevant Council Policy

- 7.1 Heritage protection and recognising the relationship of Māori to sites of significance is consistent with Council's Policies including Nelson 2060 and the Nelson Resource Management Plan.

8. Consultation

- 8.1 No external consultation has been carried out in preparing this submission.

9. Inclusion of Māori in the decision making process

- 9.1 HNZ is responsible for consulting with Iwi as part of their registration process. They have confirmed that all Iwi have received the relevant information.

Reuben Peterson
Planning Adviser

Attachments

Attachment 1: Council draft submission to Heritage New Zealand Pouhere
Taonga A1258080

Attachment 2: New Zealand Heritage List / Rārangi Korero – Report for a Wāhi
Tapu Area Te Taero a Kereopa / Te Tāhuna a Tama-i-ea (List No
7823) A1257543



**Proposed Registration of Te Taero a Kereopa – Te
Tāhuna a Tama-i-ea (Nelson Boulder Bank) – as a
Wāhi Tapu Area
(List No 7823)**

**Submission from Nelson City Council
on Consultation Document**

October 2014

To: Anthony Tipene
Pouarahi
Heritage New Zealand Pouhere Taonga
PO Box 2629
Wellington 6140

This submission is made by: Nelson City Council

Address for Service

Postal: Nelson City Council
PO Box 645
Nelson 7040

Email: reuben.peterson@ncc.govt.nz

Fax: (03) 546 0239

Contact Person: Reuben Peterson, Planning Adviser

Direct Phone: (03) 546 0295

Appearances

Nelson City Council does not wish to present its submission.

Signed

.....
Councillor Brian McGurk
Chair – Planning and Regulatory Committee

Date:...../...../.....

1. Introduction

- 1.1. Nelson City Council (the Council) thanks Heritage New Zealand Pouhere Taonga for the opportunity to make a submission on the proposal to enter Te Taero a Kereopa – Te Tāhuna a Tama-i-ea (Nelson Boulder Bank) onto the New Zealand Heritage List/Rārangī Korero as a wāhi tapu.
- 1.2. The Council supports the proposal and recognises the importance and significance of Te Taero a Kereopa – Te Tāhuna a Tama-i-ea (Nelson Boulder Bank) locally, nationally and internationally.

2. Discussion

- 2.1. Council has previously submitted in support of the listing of Te Taero a Kereopa – Te Tāhuna a Tama-i-ea as a Heritage Area with Heritage New Zealand.
- 2.2. Council is also supportive of the listing of Te Taero a Kereopa – Te Tāhuna a Tama-i-ea as a wāhi tapu as proposed by Heritage New Zealand on advice from the Maori Heritage Council.
- 2.3. Council recognises the aesthetic, archaeological, architectural, cultural, historical, social, technological and traditional significance and value of the Te Taero a Kereopa – Te Tāhuna a Tama-i-ea and agree with the findings within the registration report that it qualifies as an important part of Nelson's and New Zealand's historic and cultural heritage.
- 2.4. In terms of this proposed listing as wāhi tapu Council recognises that Te Taero a Kereopa – Te Tāhuna a Tama-i-ea is sacred to Māori in the mythological, spiritual and traditional senses.
- 2.5. Council recognises that the management of Te Taero a Kereopa – Te Tāhuna a Tama-i-ea by the Department of Conservation (DOC) and the Conservation Zone provisions within the Nelson Resource Management Plan (NRMP) provide a high level of control on activities. This affords protection for Te Taero a Kereopa – Te Tāhuna a Tama-i-ea. However, through the current review of the Nelson Plan, Council will have regard to the recommendations for additional protection made by Heritage New Zealand Pouhere Taonga in the report for this site.
- 2.6. There are a number of landowners in the Wakapuaka area who currently undertake various economic activities and which rely on the Te Taero a Kereopa – Te Tāhuna a Tama-i-ea to various degrees. It is envisaged that these activities will not be hindered by this proposed registration.
- 2.7. Council also recognises the recent Treaty Settlements for Te Tau Ihu Iwi and the associated statutory acknowledgement areas. These include Te Taero a Kereopa – Te Tāhuna a Tama-i-ea.

3. Conclusion

- 3.1. Council is supportive of the proposed listing as wāhi tapu but would like to ensure the recent Treaty Settlement and Statutory Acknowledgements are reflected in the content of the report.



Attachment 2

HERITAGE NEW ZEALAND
POUHERE TAONGA

3rd .Oct. 2014

Richard Johnson
Nelson City Council
PO Box 645
Nelson (7040)

RECEIVED

06 OCT 2014

NELSON CITY COUNCIL
Customer Service

File Ref: 29015-256

Tēnā Koe Richard

**Proposed Entry into the New Zealand Heritage List / Rārangī Kōrero
Te Taero a Kereopa – Te Tāhuna a Tama-i-ea (List no. 7823).**

Since December 2013, Nelson's Boulder Bank (also known as Te Taero a Kereopa – Te Tāhuna a Tama-i-ea) has been listed with Heritage New Zealand as a Historic Area.

This area is in part a Scenic Reserve and in part a Local Purpose and Harbour Improvement Reserve (NZ Gazette 1992, p. 2186.) Nelson City Council schedules Haulashore Island as a City Reserve (NRMP, Volume 2, Section OSs.3, Map Reference CR4, p. 11-7). The Nelson City Council also identifies the Boulder Bank as a landform of international importance (NRMP, Volume 3, Appendix 4, Table 4.1, No. 2, p. A4-1.) This scheduling is linked to identification of Nelson Haven as a site of national importance (NRMP, Volume 3, Appendix 4, Table 4.1, No. 2, p. A4-2).

Heritage New Zealand Pouhere Taonga is now writing to inform you that the Māori Heritage Council has carefully considered a proposal to enter **Te Taero a Kereopa – Te Tāhuna a Tama-i-ea (List no. 7823)**, Nelson onto the **New Zealand Heritage List/Rārangī Kōrero** as a wāhi tapu. Te Rārangī Kōrero is the national schedule of New Zealand's historic and cultural heritage.

Under section 6 of the Heritage New Zealand Pouhere Taonga Act 2014, a wāhi tapu is defined as *"... a place sacred to Māori in the traditional, spiritual, religious, ritual, or mythological sense."*

Pouhere Taonga is now formally seeking views on the proposed List entry and a public notice will go in the Nelson Mail paper on Saturday 11th October requesting submissions on the proposal. Letters often include reasons for or against the proposal as well as comments on the information provided in the assessment report. Written comments can be provided up until Monday 10th November (20 working days).



Please address letters to:

Anthony Tipene
Pouārahi
Heritage New Zealand Pouhere Taonga
PO Box 2629
Wellington. (6140).

Following the close of submissions, the Māori Heritage Council will consider the List entry proposal and any submissions received at its next Council meeting. You will be advised in writing of the decision of the Council in due course.

If you have any questions regarding entry on the New Zealand Heritage List / Rārangi Kōrero, please contact Anthony Tipene, 04 4948329, atipene@heritage.org.nz.

Nāku noa, nā,

Anthony Tipene
Pouārahi
0272463791
PP Xavier Forde – Pou Rārangi Taonga

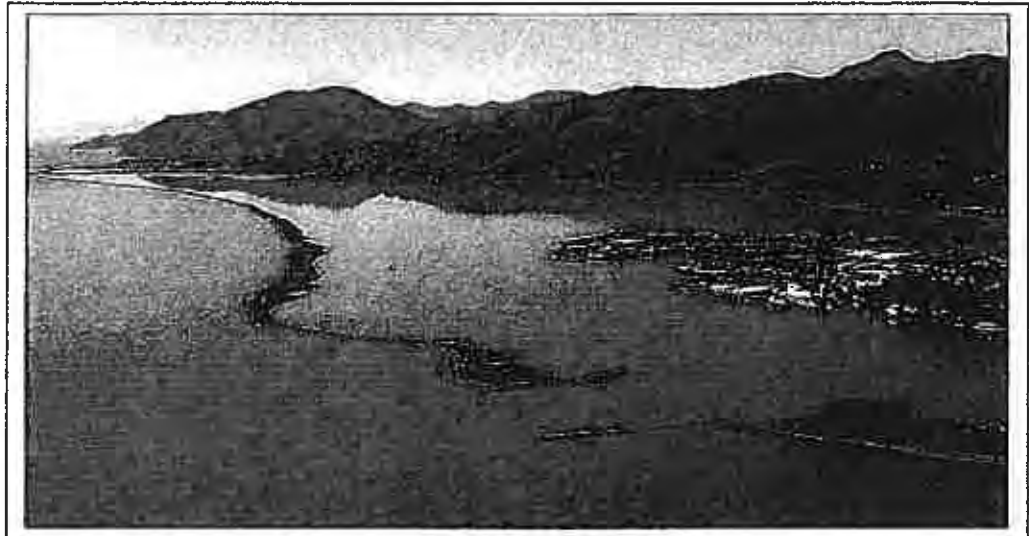
Attachments: List Entry Report; information pack





HERITAGE NEW ZEALAND
POUHERE TAONGA

New Zealand Heritage List / Rārangi Kōrero - Report for a Wāhi Tapu Area
Te Taero a Kereopa / Te Tāhuna a Tama-i-ea (List no. 7823)



View of Te Taero a Kereopa/Te Tāhuna a Tama-i-ea looking north towards Mackay Bluff, with Haulashore Island in the foreground

Authors: Anthony Tipene, Karen Warren, Jacinta Paranihi and Blyss Wagstaff
Draft: 11.Sep.2014.
Heritage New Zealand Pouhere Taonga

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BRIEF SUMMARY

Te Taero a Kereopa/Te Tāhuna a Tama-i-ea wāhi tapu, or, the Nelson Boulder Bank, is a unique landscape feature within the Whakatū region. It is an integral part of the Māori cultural landscape and speaks to the *pūrākau* (traditional stories) of ancestral connection to the *whenua* (land). Further, Te Taero a Kereopa/Te Tāhuna a Tama-i-ea, is connected to the history of iwi occupation in the wider Te Tau Ihu o Te Waka a Māui (the prow of Maui's canoe, or, Te Tau Ihu) area and is significant to Māori in the traditional, spiritual and mythological senses.

Te Taero a Kereopa/Te Tāhuna a Tama-i-ea connects the periods of early tangata whenua history of activity and occupation in Whakatū (Nelson). It is considered sacred and traditional due to its *pūrākau* featuring Kupe, the earlier *tūpuna* (ancestor) and voyager who explored, named and used significant places in and around Aotearoa, particularly in the Hokianga Harbour, Cook Strait/Wairarapa and Te Tau Ihu.¹ Kupe is an intricate part of the whakapapa (genealogy) links of many iwi throughout Aotearoa New Zealand. Today, some descendants of Kupe and Kereopa are still present in Te Tau Ihu.²

Māori communities traditionally used Te Taero a Kereopa/Te Tāhuna a Tama-i-ea area and its environs seasonally as *mahinga kai* (food gathering sites) during summer.³ Iwi established encampments on Motu Manuka (Haulshore Island) and villages on the coastal land at Wakapuaka.⁴ The bank was also part of a series of large quarries of *pakohe* (argillite) dotted along the eastern ranges of Nelson which provided iwi with a source of material to make stone adzes.

The extensive history of Māori occupation, activity and association has been woven into the landscape with histories that remain integral to the collective tribal identity of Te Tau Ihu iwi – Ngāti Kuia, Ngāti Koata, Rangitāne, Ngāti Apa, Ngāti Tama, Ngāti Rārua, Te Ātiawa and Ngāti Toa-Rangatira. Te Taero a Kereopa/Te Tāhuna a Tama-i-ea is acknowledged as the embodiment and symbolic representation of the *mauri* (life-giving force) of Whakatū.

¹ Mitchell, H & J.M. (2004). *Te Tau Ihu O Te Waka: A History of Maori of Nelson and Marlborough, Vol 1: Te Tangata me te Whenua -The People and the Land.* (The Kupe Story, pp 31-36); Royal, Te Ahukaramu Charles. (2009). First peoples in Māori tradition – Kupe. *Te Ara - the Encyclopedia of New Zealand*, Retrieved from : <http://www.TeAra.govt.nz/en/first-peoples-in-maori-tradition/c>

² Ngāti Kuia Te Whakataua / Deed of Settlement. (October, 2010). p.15 Retrieved OTS website: <http://nz01.terabyte.co.nz/ots/DocumentLibrary/NgatiKuiaDeedofSettlement.pdf>

³ *Nelson Evening Mail*, 19 April 1997.

⁴ Walker, D., Bunt, W. & Stephens, M.A. (2002). *Cultural Impact Assessment of the Nelson City Council Fisheries Outfall*. Nelson, New Zealand: Nelson City Council [pp.37-38]; Mitchell H. & J.M., 2004, p.304; Allan, R.M. (1965). *Nelson: A History of Early Settlement*. Wellington, New Zealand: A.H. & A.W. Reed [p.24].

1. IDENTIFICATION⁵

1.1. Name of Wāhi Tapu

Name: Te Taero a Kereopa/Te Tāhuna a Tama-i-ea

Other Names: Nelson Boulder Bank, Boulder Bank Scenic Reserve, Te Taero-a-Kereopa, Te Tāhuna I Otama-i-ea, Te Tāhuna a Tama, Tāhunanui o Te Maia, Te Tāhunanui a Tama and Te Tāhunanui a Tama-i-ea.

1.2. Location Information

Address

Boulder Bank
The Glen (Glenduan) to Urenui (Fifeshire/Arrow Rock)
Boulder Bank Drive, Wakapuaka
NELSON

Additional Location Information

The Te Taero a Kereopa/Te Tāhuna a Tama-i-ea is a granodiorite spit formation which commences at the southern end of Mackay Bluff, next to the small settlement of the Glen (Glenduan). From here the spit continues southwestwards as a border to the reclaimed Wakapuaka Flats for approximately 4 kilometres. It then splits off from the mainland at the top of Boulder Bank road and stretches as a lineal spit for over 8 kilometres, approximately 1-2 kilometres offshore, dividing Tasman Bay to the northwest from the lagoon of Nelson Haven in the southeast. Its southern termination is Motu Manuka (Haulashore Island), to the south of Port Nelson. Urenui (Fifeshire/Arrow Rock) lies to the immediate south of Motu Manuka, not far offshore of Rocks Road on the mainland.

Te Tau Ihu iwi: Ngāti Koata, Te Ātiawa, Ngāti Toa-Rangatira, Ngāti Apa ki te Rā Tō, Ngāti Rārua, Ngāti Tama, Rangitāne, Ngāti Kuia.

Local Authority: Nelson City Council

1.3. Current Legal Description

Pt Sec 1, Secs 2 and 3 SO 14733 (NZ Gazette 1992, p. 2186); Sec 1132 CITY OF Nelson (CT NL55/205); Secs 1-7 SO 15161 (NZ Gazette 1994, p.2793); Lot 1 DP 14762 (NL9B/576); Sec 1100 CITY OF Nelson (CT NL72/175); Sec 1099MR CITY OF Nelson (NZ Gazette 1958 p.1379); Secs 1097-1098 CITY OF Nelson (CT NL72/176); Pt Sec G CITY OF Nelson (NZ Gazette 1962 p.594, see GN 83553); ARROW Rock Crown Land (under action) CITY OF Nelson; Pt Seabed. All land

⁵ This section is supplemented by visual aids in Appendix 1 of the report.

parcels are Nelson Land District.

1.4. Physical Extent⁶

Extent includes the land described as Pt Sec 1, Secs 2 and 3 SO 14733 (NZ Gazette 1992, p. 2186); Sec 1132 CITY OF Nelson (CT NL55/205); Secs 1-7 SO 15161 (NZ Gazette 1994 p. 2793); Lot 1 DP 14762 (NL9B/576); Sec 1100 CITY OF Nelson (CT NL72/175); Sec 1099MR CITY OF Nelson (NZ Gazette 1958 p. 1379); Secs 1097-1098 CITY OF Nelson (CT NL72/176); Pt Sec G CITY OF Nelson (NZ Gazette 1962 p. 594, see GN 83553); ARROW Rock Crown Land (under action) CITY OF Nelson; Pt Seabed.

The extent of Te Taero a Kereopa/Te Tāhuna a Tama-i-ea begins where the beach and spit formation commences at the southern end of Mackay Bluff (the Bluff is not a part of this registration), next to the small settlement of the Glen (Glenduan). From here the spit continues southwestwards as a border to the reclaimed Wakapuaka Flats (the Flats are not a part of this registration). It then splits off from the mainland and stretches as a lineal spit approximately 1-2 kilometres offshore, dividing Tasman Bay to the northwest from the lagoon of Nelson Haven in the southeast. Its southern termination is Motu Manuka (Haulashore Island), to the south of Port Nelson. Urenui (Fifeshire/Arrow Rock) lies to the immediate south of Motu Manuka, not far offshore of Rocks Road on the mainland.

The land parcels included in the extent extend to the marine contour along the outside of the Bank.⁷

1.5. Identification Eligibility

There is sufficient information included in this report to identify this place.

⁶ This extent information is supplemented by the extent map p.22

⁷ This is to ensure the widest extent of the boulder platform, which is evident at low tides, is included in the registration, and also to encompass the remains of any shipwrecks or evidence of maritime activity, of which there is known to be much in the area surrounding Te Taero a Kereopa/Te Tāhuna a Tama-i-ea (Boulder Bank), Motu Manuka/Haulashore Island, Urenui/Fifeshire Rock and Bolton Hole. The coastal boundaries of the land parcels have a legal ambulatory status, i.e. they move as the landform changes.

2. SUPPORTING INFORMATION

2.1. General Nature of Wāhi Tapu

Te Taero a Kereopa / Te Tāhuna a Tama-i-ea is the narrow coastal boulder strip which lies between the Glen and Motu Manuka (Haulashore Island). For most of this distance it is a spit, physically separated from the mainland. While Motu Manuka has been physically severed from the rest of the bank by the dredging of the Cut, it is still part of the Boulder Bank formation. Urenui (Arrow/Fifeshire Rock) lies immediately south of Motu Manuka. Together, Urenui, Motu Manuka and Te Taero a Kereopa form the protective arm that encircles the port of Whakatū.

2.2. Statement of Wāhi Tapu Values

Te Taero a Kereopa/Te Tāhuna a Tama-i-ea is sacred to Māori in the mythological, spiritual and traditional senses. The spiritual mauri of Whakatū is captured in the 'barrier' itself involving earlier tūpuna, Kupe and Kereopa. Today the descendants of Kupe and Kereopa still reside in Whakatū, and the wider Te Tau Ihu area. Te Taero a Kereopa/Te Tāhuna a Tama-i-ea is significant to Ngāti Kuia as it is a site that incorporates their cultural values of *take kitea* and *take tūpuna* – a place their tūpuna discovered, named and used.

Te Taero a Kereopa/Te Tāhuna a Tama-i-ea is tapu in the mythological and spiritual senses, because it is a site where earlier tūpuna visited and occupied. Kupe's pursuit of Kereopa and Pani, where Kereopa formed the boulder bank to save his life, provides the descendants with an insight of former times in Whakatū. There is a proud history here showing Kereopa's cunning and skill in escaping Kupe, Kupe's persistence in capturing Kereopa and Pani's self-sacrifice.

2.3. Historical Narrative

E kore e hekeheke he kākano rangatira⁸: Tangata whenua occupation in Te Tau Ihu

The history of earlier tangata whenua occupation in Te Tau Ihu is multi-layered and the linking of whakapapa is an essential element in the narrative of settlement in Te Tau Ihu. It is thought that the earliest tribes to arrive in Te Tau Ihu were Ngā Hawea from Taranaki, followed by Ngā Rapuwai and Waitaha from Hawaiiiki.⁹ Rakaihautu is said to have arrived at Whakatū on the *Uruao* waka more than forty generations ago circa 850 A.D.¹⁰ In some traditions, the eponymous ancestor of Waitaha descends directly from Rakaihautu. Around

⁸ Our ancestors will never die for they live on in each of us. Mitchell, H. & J.M., 2004, [Back cover].

⁹ *ibid*, p. 46.

¹⁰ Mitchell, H. & J.M., 2004, p.51

the thirteenth century A.D., Kupe landed in Te Tau Ihu aboard the *Matahourua* and spent time in parts of the Marlborough Sounds and Te Koko a Kupe (Cloudy Bay). He is known to have named many localities and created many features in the landscape.¹¹ Groups of *Kurahaupō* tribes arrived during the same period from Hawaiiki or else parts of the North Island with some iwi heading south or staying.¹²

In the seventeenth century, established iwi in Te Tau Ihu included Ngāti Tūmatakōkiri, Ngāti Mamoe, Ngāi Tara, Rangitāne, Ngāti Apa and Ngāi Tahu hapū, such as Ngāti Kuri, Ngāi Tūahuriri and Ngāti Waewae, who descended from earlier tūpuna of former times.¹³ It was in the nineteenth century that the first stage of movement and activity involving the Kurahaupō iwi took place across Te Moana Raukawa (Cook Strait). Kurahaupō iwi were drawn in to a battle called *Waiorua*, Kapiti Coast, where they sustained heavy losses, and a loss of mana for the tribes. The consequence of this battle was the settlement of Ngāti Kōata and a smaller group of Ngāti Toa in Te Tau Ihu, based on a tuku (gift with reciprocal rights) sanctioned by Tūtepourangi, a Ngāti Kuia high-ranking *rangatira* (chief) who had been captured by Te Putu of Ngāti Koata for the whenua between Anatoto to Te Matau, including land at Wakapuaka and Whakatū.¹⁴ This allowed Ngāti Kuia to remain on the land and to build an alliance with Ngāti Kōata, strengthened through marriage.¹⁵ It was after Tūtepourangi's tuku that the settled inhabitants, called *Te Iwi Hou* (the new people), were strongly assaulted by an allied *ope tauā* (armed force) of Tainui (Kawhia) and Taranaki led by Te Rauparaha of Ngāti Toa.¹⁶

Today Te Tau Ihu iwi continue to hold manawhenua over the Whakatū area – Ngāti Koata, Ngāti Rārua, Ngāti Tama, Ngāti Toa, Te Ātiawa and Ngāti Apa. Place names of eastern Whakatū and in Tōtaranui are attributed to Ngāti Kuia; these names have been permanently fixed to the land and have survived over time. For example, Te Hoiere (Pelorus Sounds) was the name of the *waka* of Matuahautere, a senior chief of Ngāti Kuia.¹⁷ Te Taero a Kereopa is a place name from the past which people still acknowledge in the present context.

¹¹ Ibid, p.56

¹² For a timeline of who appeared in Te Tau Ihu see Mitchell, H. & J., 2004, pp.474-478.

¹³ Waitangi Tribunal. (2007). *Te Tau Ihu o te Waka a Māui: Preliminary Report on Te Tau Ihu Customary Rights in the Statutory Ngāi Tahu Takiwā WAI 785*. Wellington, New Zealand: Legislation Direct [p.28]; Mitchell, H. & J.M., 2004, p.478

¹⁴ WAI 785, 2007, p.32; Meihana Kereopa of Ngāti Kuia, Ngāti Apa and Ihaka Tekateka of Ngāti Koata gave this account in Native Land Court, Nelson 1892. Cited in WAI785, 2007, p.34.

¹⁵ Smith, R. & Te Rūnanga o Ngāti Kuia Resource Management. (2012, 23 April). *Te Rūnanga o Ngāti Kuia Cultural Impact Report* (Prepared for King Salmon NZ).

¹⁶ Ibid; Meihana Kereopa and Ihaka Tekateka cited in WAI785, 2007, p.34

¹⁷ WAI 785, 2007, p.28.

Te Whai a Kupe i a Kereopa rāua ko Pani: Kupe pursues Kereopa and Pani

The following pūrākau, held by Ngāti Kuia and Ngāti Koata, tells the story of how the boulder bank came to be known as Te Taero a Kereopa. It involves Kupe, and two of his crewmen, Kereopa and Pani, while on board the *Matahourua* as they were travelling through parts of the Te Moana Whakatū (Tasman Bay) and preparing to return to Hawaiiki. There are many accounts of this story and John and Hillary Mitchells' (2004) extended version features below.¹⁸

After collecting his family from Rimurapa, Kupe returned to Te Tau Ihu before heading to the North Island. His party landed at Nuku-waiata (Chetwode Island) to obtain further provisions for their long journey north. Kupe led one party into the forest to snare and preserve birds while other crew members were delegated to catch fish and gather shellfish and dry them. However, two of the men from the latter party, Pani and Kereopa, did not wish to return to Hawaiiki and decided to escape so that they could stay.

Pani and Kereopa kidnapped Kupe's daughter and departed westwards towards Rangitoto (D'Urville Island) and Whakatū. Kupe was extremely angry and set off in hot pursuit, travelling first to Te Aumiti (French Pass). The fugitives tried a number of ploys to impede Kupe's progress. They threw Kupe's daughter overboard, causing him to divert from the chase to rescue her; they offered *karakia* (prayers, incantations) to their *atua* (gods, spirits) to invoke currents, whirlpools and storms; they created reefs and rocky headlands. Despite these tactics, the *Matahourua* steadily gained on Pani and Kereopa. Kupe almost caught up on them as they swung southwards into the large bay (now called Te Moana Whakatū, or, Tasman Bay) and coasted towards Whakatū but the two then separated; Kereopa stuck to an inshore escape route while Pani swung out into the centre of the bay.

Kupe chose initially to pursue Kereopa who directed his canoe into shallow waters near the shore. Kupe was closing fast but Kereopa had considerable powers over the elements and used *karakia* which caused the boulders to move at the foot of Horoirangi (Mackay's Bluff) south of Wakapuaka (approximately eleven kilometres north-east of Nelson City). The boulders moved into the water to form a barrier between his waka and the *Matahourua*. No matter how hard Kupe's crew paddled, Kereopa's boulder bank grew apace to maintain a barrier between the two canoes. Kupe could not get around the end of the boulder bank and Kereopa was given sufficient breathing space to land and flee inland to the south.

Pani's fate was not as favourable as Kereopa for he and his crew perished in a

¹⁸ Ngāti Kuia Te Whakatau/Deed of Settlement, 2010; Mitchell, H. & J.M., 2004, pp 31-36

passage between Rangitoto and Takaporewa (Stephen's Island) when they were overcome by disaster. Kupe was in pursuit of Pani when he saw them drown so he named the passage Ngā Tai Whaka Hoki Hoki a Pani (the wild seas which caused Pani's canoe to overturn). Kupe named a reef near the passage, Te Waka a Pani, after the overturned canoe and Pani's daughters became an unusual split rock called Ngā Tamāhine a Pani. Kupe also named a cave which entrapped Pani's spirit – Te Ana a Pani – and loud moaning noises during certain times are thought to be Pani's eternal grief for his demise¹⁹.

Kereopa seemed to have escaped completely. He has been commemorated down to the present day by the repeated use of his name in the senior lines of Ngāti Kuia and other South Island tribes. The ancient name of the Boulder Bank at Nelson commemorates Kereopa's escape from Kupe; to Ngāti Kuia and Ngāti Koata it has long been known as Te Taero a Kereopa (the obstruction of Kereopa) and a site of significance.

Kia wawe ia te ihu ki Otama-i-ea: Quickly shall the bow reach the strand at Otama-i-ea

The Boulder Bank has another name, Te Tāhuna a Tama²⁰ and Te Tāhuna a Tama-i-ea.²¹ These names are variations of the fuller name "Te Tāhuna i Otama-i-ea" that appears in a *waiata tawhito* (ancient songs) of Ngāti Tūmatakōkiri origin²².

Archaeological Significance or Value

Archaeological studies of the area further support iwi activity at Te Taero a Kereopa/Te Tāhuna a Tama-i-ea before 1400 AD when the area was first settled.²³ The Māori sites, consisting of midden and occupation sites, provide information on the natural resources that were being utilised for tools or

¹⁹ Cape Stephens is the area where Pani and the others perished. Presently, these wāhi that memorialise Pani, his daughters and mokai are under the guardianship of Ngāti Koata (*Ngāti Koata and Te Pataka o Ngāti Koata Deed of Settlement (21 December 2012)*. [p. 17] Retrieved OTS website: <http://www.ots.govt.nz> (Accessed 15 March 2013). See also: Ngāti Koata Trust. (2002). *Ngāti Koata No Rangitoto ki Te Tonga Trust Iwi Management Plan* (10 June 2002). Retrieved from <http://www.koata.iwi.nz/news-and-downloads/ngati-koata-taiao-management/> (Accessed 11 March 2013).

²⁰ Passl, U. (2004). *Ngā Taonga Tuku Iho ki Whakatū Management Plan: Prepared for Ngāti Rārua Iwi Trust, Te Rūnanga o Toa Rangatira, Te Ātiawa Manawhenua ki te Tau Ihu Trust, Ngāti Koata nō Rangitoto ki te Tonga Trust, Ngāti Tama Manawhenua ki te Tau Ihu Trust*. Retrieved from: <http://www.qualityplanning.org.nz/pubs/Nga-Taonga-Tuku-Iho-Ki-Whakatu.pdf> [p.59].

²¹ Reed, A.W. (2002). *The Reed Dictionary of New Zealand Place Names*. (2002 edition). Auckland, New Zealand: Reed Books (Original work published in 1975 and 1979). [p.334]; Name is on "Te Moana Whakatu" map in Appendix Two of this report.

²² According to Smith, the waiata was preserved by the captors of Ngāti Tūmatakōkiri women who were taken prisoner (Smith, S.P. (1909). *History and Traditions of the Taranaki Coast: Ch XVI South Island raids. Journal of the Polynesian Society*, 18 (4), pp.189-193).

²³ Nelson City Council (2009). *The QEII Gateway Art Site: Nelson City Council QEII Gateway Sculpture Project 2010-2011*.

ornaments, subsistence economy and settlement patterns. At the time of European contact there were people living along the Glen indicating that settlement in the area was early and continuous. D'Urville recorded that he had interacted with iwi at a pā site called "Skoi-te-hai" (Kohi-te-whai, or Kohi te wai) near Mackay's Bluff in 1827.²⁴ When James Mackay occupied the country to the north of the Nelson Haven in 1845, he observed a very large number of *papa-whare* (house foundations) all along Te Taero a Kereopa, and that at the head of this place "there are numerous *papa-whare* to be seen in close contiguity and of all shapes, as also along the bank for several miles, along the margin of the flax swamp which formerly existed there."²⁵

The archaeological remains confirm that Māori used Te Taero a Kereopa and its environs as a seasonal base for food gathering during summer.²⁶ Fresh water was available at the Glen and land for cultivation. The adjacent coastal forest, estuary and wetlands were rich in food and other resources (e.g. harakeke/ flax). The Boulder Bank itself also provided a source of birds and birds' eggs.²⁷ Ngāti Rarua from Motueka had an encampment at the southern end of the Boulder Bank on what is now Haulashore Island.²⁸

New Zealand Archaeological Association records in 2007 identified seven pre-European archaeological sites located on Te Taero a Kereopa between Haulashore Island and the Glen. These identified mostly small midden/pits which were distributed along the northern half of the Bank, as well as one midden site on Haulashore Island and two settlement sites at the Glen. A 2010 field inspection identified two new sites on Haulashore Island and also re-recorded one of the midden sites at the northern end of the Boulder Bank as four separate sites given the distance between each archaeological deposit.²⁹

Motu Manuka (Haulashore Island)

In 1906 Motu Manuka (Haulashore Island) became a permanent island when it was severed from the Boulder Bank when a shipping channel was dredged through in 1906. The dredged channel is known locally as 'the Cut'. The island effectively doubled in size as a direct result of the dumping of dredge spoil

²⁴ Smith, S.P., 1909, p.194; refer to Appendix Two of this report to see Kohi te wai pā location.

²⁵ Ibid, p.193

²⁶ NEM, 19 Apr 1997.

²⁷ Walker, D., Bunt, W. & Stephens, M.A. Cultural Impact Assessment of the Nelson City Council Fisheries Outfall, 2002, pp. 37 & 38; NEM, 19 Apr 1997; Mitchell, vol. 1, p. 304. Allan, Nelson: A History of Early Settlement, p. 24; Bartle, V. Owners Value Aging Harbour Icons. Heritage New Zealand. Issue 91. New Zealand Historic Places Trust, Wellington, 2003, p. 2.

²⁸ Walker et al, 2002, p. 27; NEM, 19 April 1997.

²⁹ The 2010 field inspection failed to re-locate two of the small sites along the Glen – O27/11 (Pits) and O27/51 (Midden), and O27/12 was not searched for. Fieldwork by New Zealand Historic Places archaeologist (Kathryn Hurren) and Department of Conservation officer (Steve Bagley) in February 2010.

from the excavation activities. This area was also a camp site of some of the early occupants of the region.

The Pakohe (Argillite) quarries

The Waitaha are said to have established dozens of the large pakohe quarries dotted along the Nelson Mineral Belt.³⁰ Over the generations, Māori have carried boulders (some up to 60kg) from Te Taero a Kereopa up to these argillite quarries.³¹ The bank boulders were used as a “hammers” to smash slabs of rock from solid outcrops, two metres or more high. Smaller hammerstones were then used to reduce chunks of argillite to adze-sized pieces.³² Both slabs that were partly worked and finished products were traded around Aotearoa.

Making a stone adze was a skilled job. Boulders or blocks were broken up using other boulders. Selected pieces were then worked into the desired shape (termed a ‘rough out’) by striking flakes off the edges with hammer stones, which were also used to smooth rough surfaces by ‘pecking’ or ‘bruising’. The final step was to polish the adze and sharpen the cutting edge by rubbing it back and forth on hōanga (sandstone used in cutting and grinding stone implements).

Pakohe quarrying was an important activity for iwi in Te Tau Ihu. This is indicated by the scale and number of the quarries, still in use just prior to European settlement, and the presence of Pakohe artefacts at ancient occupation and burial sites all over Aotearoa.³³ The legend of Ngahue and Poutini, common to many iwi, recounts how Pakohe and other valuable minerals such as obsidian or Pounamu came to be scattered throughout the land. Pakohe is also embedded in karakia and waiata of the iwi of Te Tau Ihu, who continue to use it today.³⁴ Thus, for reasons of traditional ancestral activity and lore, the sites associated with quarrying are culturally significant to Māori in Te Tau Ihu.

³⁰ Mitchell, H. & J.M., 2004, p.53

³¹ See Mitchell, H. & J.M., 2004, pp.21- 23 for the full account.

³² Collyer, E. (ed). (1976). History and Natural History of the Boulder Bank. Cawthron Institute, Nelson, [p. 6].

³³ Mitchell, H. & J.M., 2004, p.53

³⁴ Smith R., Submission of Te Runanga o Ngati Kuia Charitable Trust to Marlborough Sounds Resource Management Plan (Plan Change 17), October 2009

2.4. Discussion of Sources

Abbreviations

NZ Gazette: *New Zealand Gazette*
NZAA: New Zealand Archaeological Association
NZHPT: New Zealand Historic Places Trust
OTS: Office of Treaty Settlements
WAI: Waitangi Tribunal report number

Analysis of Sources Available

A range of material, both primary and secondary sources, has been called upon to research the history and values associated with the Boulder Bank. Sources were shared with the researchers and report writers of the Boulder Bank Historic Area registration (Record Number 7821) and others were located using information repositories.

However, gathering detailed information with Maori content for the history of Te Tau Ihu continues to be problematic for historical research purposes. The Waitangi Tribunal reported that the traditional narratives of the Kurahaupō iwi and their predecessors with whom they merged (Ngāti Tūmatakōkiri, Ngāti Wairangi and Ngāi Tara) were fragmented. They also mentioned the difficulties in ascribing tribal affiliations to individuals in the late eighteenth and early nineteenth centuries, and noted that the differing perspectives of neighbouring iwi Ngāi Tahu all preclude any single account of the traditional history of the region from gaining universal acceptance³⁵.

Hillary and John Mitchell's *Te Tau Ihu o Te Waka a Māui* (2004) and evidence presented to the Waitangi Tribunal (2004) in the WAI 785 claim provided most of the Maori information or at the very least, directed the choice of using other sources in this report.

Analysis of Material Accessed

The Māori information sources that feature in the report were primarily accessed via the internet and libraries. John and Hillary Mitchell's (2004) volume of Te Tau Ihu history was consulted, while some of the sources they referenced in their book, as well as the language they used to depict their tupuna, was also examined, analysed and used in the report.

Similarly, the Waitangi Tribunal report (WAI785) which addressed issues of customary title in the Ngāi Tahu statutory takiwā provided another insight into the layers of Te Tau Ihu iwi history of occupation. The Ngāti Kuia Deed of

³⁵ WAI785, 2007, p.27

Settlement (2010) listed Te Taero a Kereopa/Te Tāhuna a Tama-i-ea as a wāhi tapu and included a brief story of their enduring association with the site. All available *Deeds of Settlement* for Te Tau Ihu iwi (those who have Treaty settlement deeds and plans) were checked to see if the Nelson Boulder Bank was listed as a wāhi tapu. Deed plans that did include parts of the Boulder Bank came from Rangitāne, Ngāti Apa and Ngāti Kua (see Appendix Two).

Conclusion

There is sufficient information available on this wāhi tapu to support the List entry proposal. Sufficient information on this wāhi tapu has been accessed to support this List entry proposal.

Bibliography

- Allan, R.M. (1965). *Nelson: A History of Early Settlement*. Wellington, New Zealand: A.H. & A.W. Reed
- Bartle, V. (2003). Owners Value Aging Harbour Icons. *Heritage New Zealand*, (Issue 91). Wellington, New Zealand: New Zealand Historic Places Trust.
- Collyer, E. (ed). (1976). *History and Natural History of the Boulder Bank*. Nelson, New Zealand: Cawthron Institute.
- Cowan, J. (1921). The Patu-paiarehe: Notes of Māori folk-tales of the fairy people. *Journal of the Polynesian Society*, 30 (118), pp.97-102.
- Furey, L. (2004). 'Material Culture' in Furey, L. and S. Holdaway (eds), *Changes through time*, (NZAA Monograph 26). Auckland, New Zealand: New Zealand Archaeological Association. [pp. 29-54]
- Goldson, J. (1959). 'Culture change in prehistoric New Zealand' in Freeman, JD and WR Gedes (eds), *Anthropology in the South Seas: Essays presented to HD Skinner*. New Plymouth, New Zealand: Thomas Avery and Sons. [pp. 29-74].
- Hongi, Hare. (1893). He waiata whāngai ariki: A chant at the offering of first-fruits. *Journal of the Polynesian Society*, 2(1), pp.119-124.
- Hurren, Kathryn. Report on the Nelson Boulder Bank Archaeological Fieldwork, unpublished draft report, 2012. Copy held on NZHPT file 12023-213.
- Kurahaupo ki Te Waipounamu Letter of Agreement (11 November 2009). Retrieved from OTS website: <http://www.ots.govt.nz/> (Accessed 30 November 2012)
- Maranga Mai Iwi Newsletter*, July 2008. Retrieved from <http://www.Ngātikuia.iwi.nz/panui/>
- Mitchell, H. & J.M. (2004). *Te Tau Ihu O Te Waka: A History of Māori of Nelson and Marlborough, Vol 1: Te Tangata me te Whenua -The People and the Land*. Wellington, New Zealand: Huia
- Nelson City Council (2009). *The QEII Gateway Art Site: Nelson City Council QEII Gateway Sculpture Project 2010-2011*. Retrieved from: <http://www.nelsoncitycouncil.co.nz/assets/Our-council/Downloads/gateway-sculpture-project-EOI.pdf>
- Nelson City Council (Nov 2006). *Whakatu Nelson Heritage Strategy*. Retrieved

from: <http://www.nelsoncitycouncil.co.nz/council/plans-strategies-policies/strategies-plans-policies-reports-and-studies-a-z/whakatu-nelson-heritage-strategy/> (Accessed 16 Nov 2012).

Nelson Evening Mail, 19 April 1997.

Ngāti Apa ki te Rā Tō Deed of Settlement (29 October 2010). Retrieved OTS website <http://www.ots.govt.nz> (Accessed 30 November 2012).

Ngāti Apa ki te Rā Tō Deed Plans (29 October 2010). Retrieved OTS website <http://www.ots.govt.nz> (Accessed 30 November 2012).

Ngāti Koata Trust. (2002). *Ngāti Koata No Rangitoto ki Te Tonga Trust Iwi Management Plan* (10 June 2002). Retrieved from <http://www.koata.iwi.nz/news-and-downloads/Ngāti-koata-taiao-management/> (Accessed 11 March 2013).

Ngāti Koata and Te Pataka o Ngāti Koata Deed of Settlement (21 December 2012). Retrieved OTS website: <http://www.ots.govt.nz> (Accessed 15 March 2013).

Ngāti Kuia Office. Ngāti Kuia website. <http://www.Ngātikuia.iwi.nz> (Accessed 23 Nov 2012).

Ngāti Kuia Te Whakatau / Deed of Settlement. (October, 2010). Retrieved OTS website: <http://nz01.terabyte.co.nz/ots/DocumentLibrary/NgātiKuiaDeedofSettlement.pdf> (Accessed 16 Nov 2012)

Ngāti Kuia Te Whakatau Deed Plans (October 2010). Retrieved OTS website <http://www.ots.govt.nz/> (Accessed 30 November 2012).

Ngāti Rarua Initialled Deed of Settlement (01 March 2013). Retrieved OTS website <http://www.ots.govt.nz/> (Accessed 10 Mar 2013).

Ngāti Tama ki Te Tau Ihu Deed of Settlement (October, 2011). Retrieved OTS website <http://www.ots.govt.nz/> (Accessed 23 Nov 2012).

Ngāti Toa Rangatira Deed of Settlement (7 December 2012). Retrieved OTS website: <http://www.ots.govt.nz/> (Accessed 16 Mar 2013).

Passl, U. (2004). *Ngā Taonga Tuku Iho ki Whakatū Management Plan: Prepared for Ngāti Rārua Iwi Trust, Te Rūnanga o Toa Rangatira, Te Ātiawa Manawhenua ki te Tau Ihu Trust, Ngāti Koata nō Rangitoto ki te Tonga Trust, Ngāti Tama Manawhenua ki te Tau Ihu Trust*. Retrieved from: <http://www.qualityplanning.org.nz/pubs/NGA-Taonga-Tuku-Iho-Ki-Whakatu.pdf>

Rangitane o Wairau Deed of Settlement (4 December 2010). Retrieved OTS

website <http://www.ots.govt.nz/> (Accessed 30 Nov 2012)

- Reed, A.W. (2002). *The Reed Dictionary of New Zealand Place Names*. Auckland, New Zealand: Reed Books (Original work published in 1975 and 1979).
- Royal, Te Ahukaramu Charles. (2009). First peoples in Māori tradition – Kupe. *Te Ara - the Encyclopedia of New Zealand*. Retrieved from : <http://www.TeAra.govt.nz/en/first-peoples-in-Māori-tradition/6>
- Smith, R. & Te Rūnanga o Ngāti Kuia Resource Management. (2012, 23 April). *Te Rūnanga o Ngāti Kuia Cultural Impact Report: King Salmon marine farms, Marlborough Sounds* (Prepared for King Salmon NZ). Retrieved from: <http://kingsalmon.co.nz/Evidence/index.html>
- Smith R., Submission of Te Runanga o Ngati Kuia Charitable Trust to Marlborough Sounds Resource Management Plan (Plan Change 17), 22 October 2009
- Smith, S.P. (1909). History and Traditions of the Taranaki Coast: Ch XVI South Island raids. *Journal of the Polynesian Society*, 18 (4), pp.189-193.
- Te Atiawa o Te Waka a Maui Deed of Settlement (21 December 2012). Retrieved from <http://www.ots.govt.nz/> (Accessed 01 March 2013).
- Waitangi Tribunal. (2007). *Te Tau Ihu o te Waka a Māui: Preliminary Report on Te Tau Ihu Customary Rights in the Statutory Ngāi Tahu Takiwā* WAI 785. Wellington, New Zealand: Legislation Direct.
- Walker, D., Bunt, W. & Stephens, M.A. (2002). *Cultural Impact Assessment of the Nelson City Council Fisheries Outfall*. Nelson, New Zealand: Nelson City Council [pp.37-38]
- Walls, J.Y. 'Salvage at The Glen: A Late Archaic Site in Tasman Bay', NZAAN, Vol 22 (March 1979) [p. 6].

3. OTHER INFORMATION

3.1. Former Uses

Cultural landscapes [Historic landscape; Geographic/Natural historical Landscape, Cultural landscape – other]

Māori [Ancestral landscape]

Māori [Mahinga kai – food, forest and mineral resource site]

Māori [Pā]

Māori [Occupational site – temporary]

Māori [Taunga waka – waka landing area]

3.2. Current Uses

Māori [Mauri]

Māori [Place associated with particular ancestors]

Māori [Site of mythological event/traditional or cultural importance]

3.3. Associated List Entries

Nelson Boulder Bank Historic Area (List no. 7821)

Boulder Bank lighthouse, Nelson (List no. 41)

Midden, Nelson District (List no. 5960)

3.4. Heritage Protection Measures

Local Authority Plan Listing

Nelson City Council's current Nelson Resource Management Plan does not list Te Taero a Kereopa/Te Tāhuna a Tama-i-ea as a wāhi tapu. Part of the area is listed as Archaeological Sites (Volume 3, Appendix 3) under the references MS26 Haulashore Island; MS40 Shell midden; MS41 4 small shell middens; MS43 Middens; MS47 Kainga (Totorati).

The Nelson City Council identifies the Boulder Bank as a landform of international importance (Nelson Resource Management Plan, Volume 3, Appendix 4, Table 4.1, No. 2, p. A4-1.) This scheduling is linked to identification of Nelson Haven as a site of national importance (Nelson Resource Management Plan, Volume 3, Appendix 4, Table 4.1, No. 2, p. A4-2).

Reserve

This area is in part a Scenic Reserve and in part a Local Purpose and Harbour Improvement Reserve (NZ Gazette 1992, p. 2186). Nelson City Council schedules Haulashore Island as a City Reserve (Nelson Resource Management Plan, Volume 2, Section OSs.3, Map Reference CR4, p. 11-7).

Other Protection Measures

Archaeological sites are protected by the Heritage New Zealand Pouhere Taonga Act 2014, regardless of whether they are on the New Zealand Heritage List/Rārangi Kōrero or not. Archaeological sites include 'places associated with pre-1900 human activity, where there may be evidence relating to the history of New Zealand'. Places associated with post-1900 human activity may be declared archaeological sites. It is unlawful to destroy, damage, or modify an archaeological site without prior authority from Heritage New Zealand Pouhere Taonga.

NZAA Site Recording Scheme

This wāhi tapu includes recorded archaeological sites in the New Zealand Archaeological Association Site Recording Scheme³⁶. The references are: O27/13 Midden and ovens; O27/50 Midden; O27/51 Midden/Oven; O27/52 Midden; O27/56 Midden; O27/146 Midden; O27/147 Midden and historic artefacts; O27/148 Midden; O27/151 Midden and argillite roughout findspot; O27/152 Cultural soils and shell; O27/153 Original part of Haulashore Island.

Iwi Management Plans and Statutory Acknowledgement / Deed of Settlement.

This site has been identified in the Ngāti Kuia Te Whakatau / Deed of Settlement (2010) as a waahi tapu site of importance. Part of the Boulder Bank, namely Kohi te wai pā site, has also been identified by Rangitāne, Ngāti Apa and Ngāti Kuia in their Deed of Settlement Plans (OTS09939).

National Heritage Preservation Incentive Fund

This wāhi tapu is not currently a suitable candidate for the National Heritage Preservation Incentive Fund administered by Heritage New Zealand Pouhere Taonga, as the land titles it rests on are not privately owned.

³⁶ Refer to the Nelson Boulder Bank Historic Area registration report (List No. 7821) for further information about the archaeological sites.

Recognition and Protection of Te Taero a Kereopa/Te Tāhuna a Tama-i-ea Wāhi Tapu

The listing of a wāhi tapu is a way of recognising an area's wāhi tapu values, rather than actually protecting it. Protection is achieved by other means, mainly through the Resource Management Act 1991 (RMA). The protection of historic heritage from inappropriate subdivision, use, and development, is a matter of national importance (Section 6(f) of the RMA). Under Section 2(1) of the RMA, historic heritage includes sites of significance to Māori, including wāhi tapu.

It is important that a wāhi tapu of the size and heritage significance of Te Taero a Kereopa/Te Tāhuna a Tama-i-ea (Nelson Boulder Bank) be protected as a whole. Protection measures could be set in place by the Nelson City Council, as a Unitary Authority with responsibilities at both the regional level and district level, and also the Department of Conservation, as the authority with administrative responsibility for the wāhi tapu.

Heritage New Zealand Pouhere Taonga recommends the inclusion of Te Taero a Kereopa/Te Tāhuna a Tama-i-ea as a wāhi tapu in the Nelson Resource Management Plan, and considers the wāhi tapu warrants specific planning initiatives to better recognise and protect the wāhi tapu. Such initiatives could include:

- a specific Te Taero a Kereopa/Te Tāhuna a Tama-i-ea wāhi tapu which would be an overlay on the existing zoning, applying heritage protection-related objectives, policies, rules etc in addition to those presently applying to the existing zoning.
- updating the archaeological sites in the Nelson Resource Management Plan based on the 2010 archaeological assessment carried out by Pouhere Taonga and Department of Conservation officers.
- Pouhere Taonga would support the preparation of a specific management plan for Te Taero a Kereopa/Te Tāhuna a Tama-i-ea wāhi tapu by the Department of Conservation.
- Pouhere Taonga supports the Tangata Whenua ki Whakatū Heritage Statement³⁷ and encourages the Nelson City Council and the Department of Conservation to endorse tangata whenua protection, conservation and

³⁷ Nelson City Council. (2006). *Whakatu Nelson Heritage Strategy* (November 2006). Retrieved from: <http://www.nelsoncitycouncil.co.nz/council/plans-strategies-policies/strategies-plans-policies-reports-and-studies-a-z/whakatu-nelson-heritage-strategy/> (Accessed 16 Nov 2012). [p.19]

maintenance of tangata whenua heritage.

Pouhere Taonga Recommendations

To ensure the long-term conservation of this wāhi tapu, Heritage New Zealand Pouhere Taonga recommends that the Nelson City Council and Department of Conservation move to recognise the heritage significance of Te Taero a Kereopa/Te Tāhuna a Tama-i-ea Wāhi Tapu through appropriate planning processes with input from Tangata Whenua ki Whakatū.

Such actions would acknowledge that the protection of historic heritage from inappropriate subdivision, use and development is a matter of national importance, as provided for in Section 6(f) of the Resource Management Act 1991. They would also acknowledge that promotion of the conservation of New Zealand's natural and historic resources is sought by the Conservation Act 1987 and the preservation of areas of particular value for the benefit and enjoyment of the public is sought by the Reserves Act 1977.

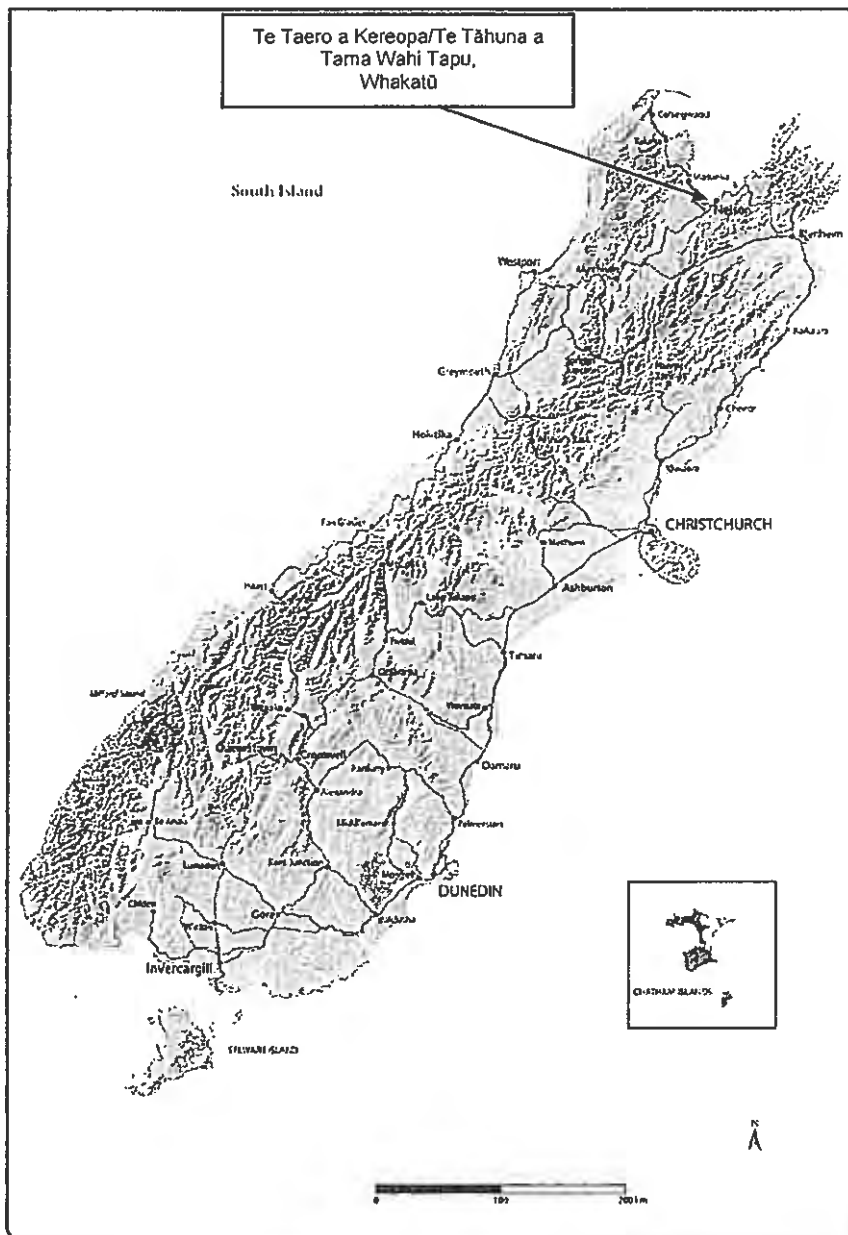
Disclaimer

Please note that registration of this wāhi tapu by Heritage New Zealand Pouhere Taonga identifies only the heritage values of the wāhi tapu concerned, and should not be construed as advice on the state of the property, or as a comment of its soundness or safety, including in regard to earthquake risk, safety in the event of fire, or insanitary conditions.

4. APPENDICES

4.1. Appendix 1: Visual Identification Aids

Location Maps





General geography of Te Taero a Kereopa / Te Tāhuna a Tama-i-ea (Mackay Bluff, Cable Bay and Peppin Island are not included in this wāhi tapu registration).



n
General geography of upper reaches of the Boulder Bank (Wakapuaka Flats is not included in this wāhi tapu registration).

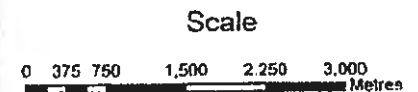


Legend

NZAA_sites_for_registration

site_type

- Historic - land parcel
- Industrial
- Lighthouse
- Midden/Oven
- Military (non-Maori)
- Transport/communication
- Baches
- Registration
- Marine Contours



Extent includes the land described as Pt Sec 1, Secs 2 and 3 SO 14733 (NZ Gazette 1992, p. 2186); Sec 1132 CITY OF Nelson (CT NL55/205); Secs 1-7 SO 15161 (NZ Gazette 1994 p. 2793); Lot 1 DP 14762 (NL9B/576); Sec 1100 CITY OF Nelson (CT NL72/175); Sec 1099MR CITY OF Nelson (NZ Gazette 1958 p. 1379); Secs 1097-1098 CITY OF Nelson (CT NL72/176); Pt Sec G CITY OF Nelson (NZ Gazette 1962 p. 594, see GN 83553); ARROW Rock Crown Land (under action) CITY OF Nelson; Pt Seabed

The extent of Te Taero a Kereopa/Te Tāhuna a Tama-i-ea begins where the beach and spit formation commences at the southern end of Mackay Bluff (the Bluff is not a part of this registration), next to the small settlement of the Glen (Glenduan). From here the spit continues southwestwards as a border to the reclaimed Wakapuaka Flats (the Flats are not a part of this registration). It then splits off from the mainland and stretches as a lineal spit approximately 1-2 kilometres offshore, dividing Tasman Bay to the northwest from the lagoon of Nelson Haven in the southeast. Its southern termination is Motu Manuka (Haulashore Island), to the south of Port Nelson. Urenui (Fifeshire/Arrow Rock) lies to the immediate south of Motu Manuka, not far offshore of Rocks Road on the mainland.

The land parcels included in the extent extend to the marine contour along the outside of the Bank.³⁸

³⁸ This is to ensure the widest extent of the boulder platform, which is evident at low tides, is included in the registration, and also to encompass the remains of any shipwrecks or evidence of maritime activity, of which there is known to be much in the area surrounding Te Taero a Kereopa/Te Tāhuna a Tama-i-ea (Boulder Bank), Motu Manuka/Haulashore Island, Urenui/Fifeshire Rock and Bolton Hole. The coastal boundaries of the land parcels have a legal ambulatory status, i.e. they move as the landform changes.

Conservation

Conservation Act 1987

Declaring Conservation Land to be a Reserve

Pursuant to section 8 (1A) of the Conservation Act 1987, the Minister of Conservation hereby declares that the conservation areas described in the Schedule hereto, shall be set apart as reserves subject to the Reserves Act 1977, and classified as reserves for the purposes specified in the respective descriptions.

Schedule

Nelson Land District—Nelson City

Boulder Bank:

(i) 87.2000 hectares, more or less, being Sections 1 and 2, S.O. Plan 14733, situated in Block XVI, Moutere Survey District and Blocks V, VI and IX, Wakapuaka Survey District (scenic reserve subject to section 19 (1) (a) of the Reserves Act 1977).

(ii) 1.800 hectares, more or less, being Section 3, S.O. Plan 14733, situated in Block XVI, Moutere Survey District (local purpose, harbour improvement reserve).

Secs 1-7 SO 15161 (NZ Gazette 1994 p. 2793), Nelson Land District

New Zealand Gazette PDF's

Notice Number: 6539
Year: 1994
Publication Date: 08 September 1994
Page Number: 2793
Title: RESERVES CITIES NELSON
Notice Text: Change in Classification of Reserve Pursuant to the Reserves Act 1977, and to a delegation from the Minister of Conservation, the Nelson/Marborough Regional Conservator, Department of Conservation, hereby changes the classification of those parts of reserve described in the Schedule hereto, from scenic reserve to recreation reserve. Second Schedule Nelson Land District Nelson City: 4375 square metres, more or less, being part of Section 1, S.O. Plan 14733; shown marked "A", "B", "C", "D", "E", "F" and "G" on S.O. Plan 15161. Dated at Nelson this 31st day of August 1994. H. LOGAN, Nelson/Marborough Regional Conservator. (DOC C.O. LEA 257, CU: 871)

<http://www.dca.govt.nz/MSOS118/On-Line/NZGazette.nsf/6cae7698a9bbc7cfcc256d...> 15 Oct 2012



**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**



Search Copy

E. W. Muta
Registrar-General
of Land

Identifier **NL55/205**
Land Registration District **Nelson**
Date Issued **02 March 1927**

Prior References
HLIC/719 WA 331

Estate *Fee Simple*
Area *7537 square metres more or less*
Legal Description *Section 1132 City of Nelson*

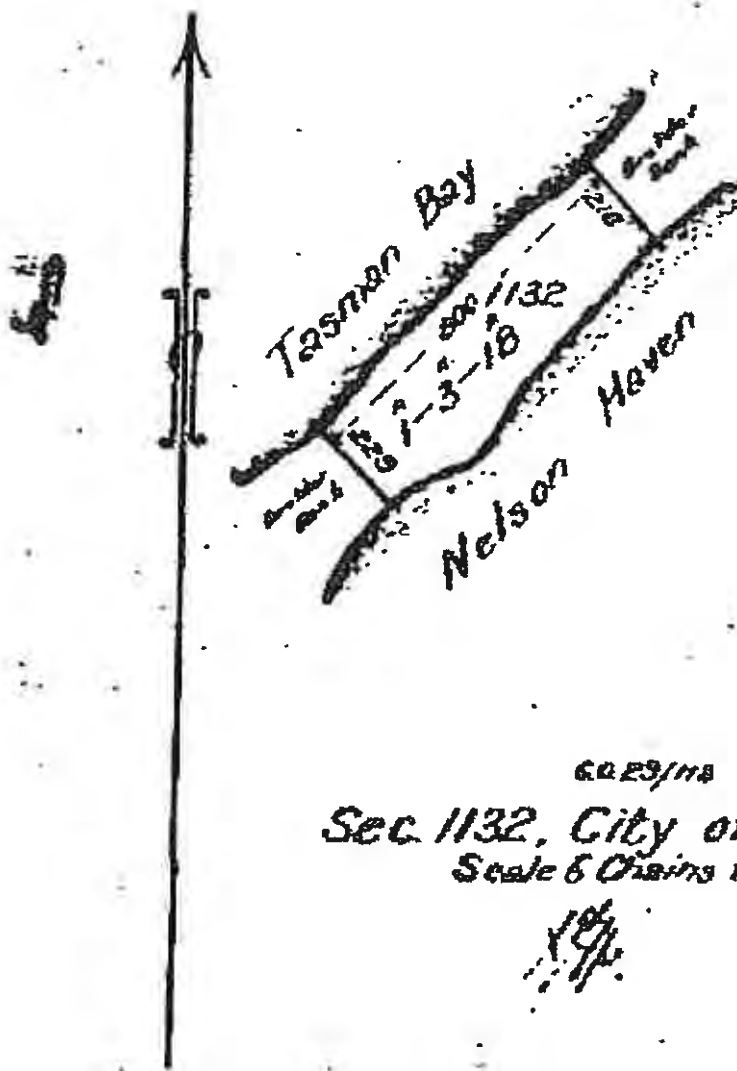
Proprietors
Port Nelson Limited

Interests
Land Covenant in Transfer 7563821.1 - 4 10.2007 at 9:00 am
Land Covenant in Easement Instrument 8117969.2 - 14.7 2009 at 11:29 am

Transaction ID 2831591
Cross Reference to 2016/551

Search Copy Issued 22/07/2014 10:43 am Page 1 of 1
Register File

**Image Quality due
to Condition
of Original**



6023/na
Sec. 1132, City of Nelson
Scale 6 Chains to an inch

G. G. G.

Lot 1 DP 14762, Nelson Land District: NL9B/576



**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**



Search Copy

R W Milne
Registrar General
of Land

Identifier **NL9B/576**
Land Registration District **Nelson**
Date Issued **12 October 1990**

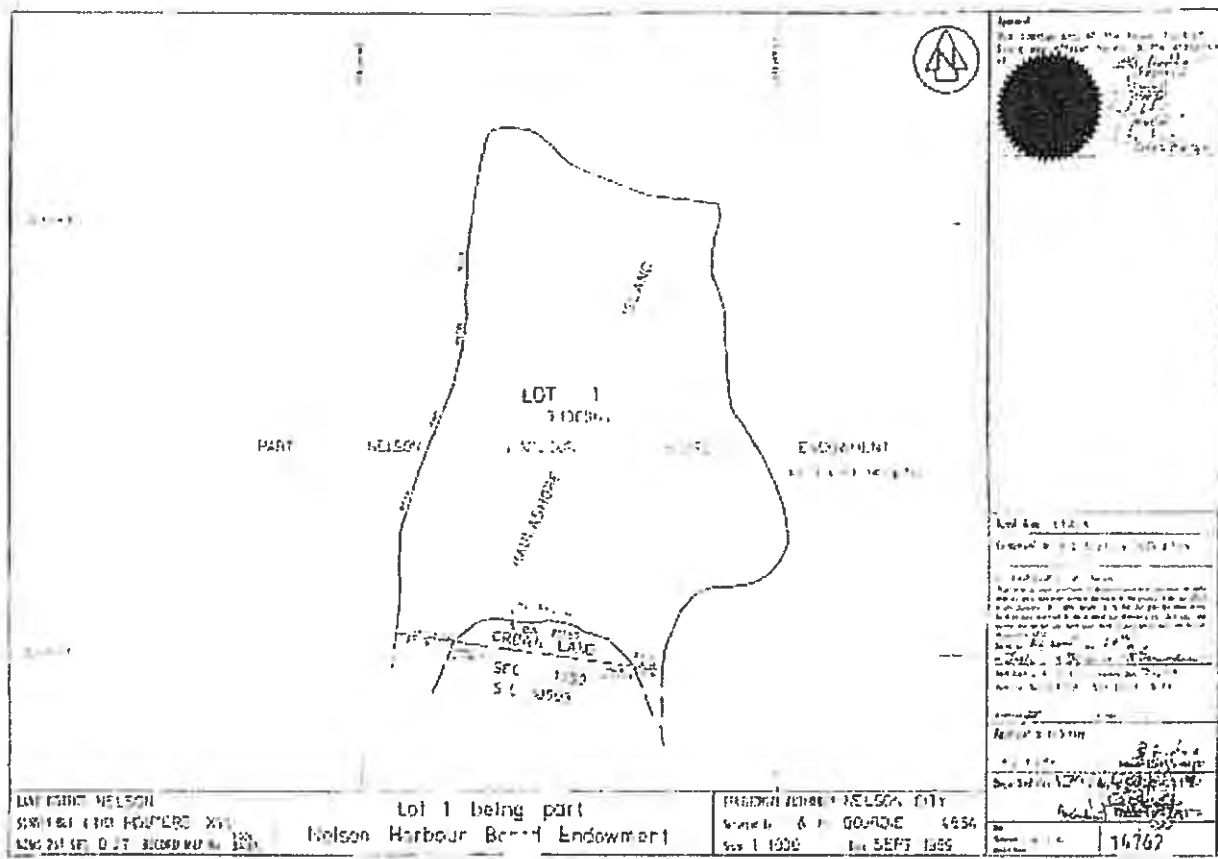
Estate Fee Simple
Area 3.1000 hectares more or less
Legal Description Lot 1 Deposited Plan 14762
Proprietors
Nelson City Council

Interests
The within land has no frontage to a road

Registration No. 24517394
Computer No. 149412960

Search Copy Form 2500 - 01-11-1990, Page 1 of 1
Register 1494

Sec 1100 CITY OF NELSON, Nelson Land District: CT NL72/175



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**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**
Limited as to Parcels



Search Copy

R. W. Muir
Registrar-General
of Land

Identifier NL72/175
Land Registration District Nelson
Date Issued 27 January 1933

Prior References
DI 4/546

Estate	Fee Simple
Area	4679 square metres more or less
Legal Description	Section 1100 City of Nelson
Purpose	Trust as a recreation ground for the City of Nelson with full power to set aside and appropriate any part thereof for the special purposes of a childrens playground for the children of the said City of Nelson (Vide Conveyance 51945 (12/3/25)) (DR 71462)

Proprietors
The Nelson City Council

Interests

Transaction Id 35037588
Client Reference bva251q@001

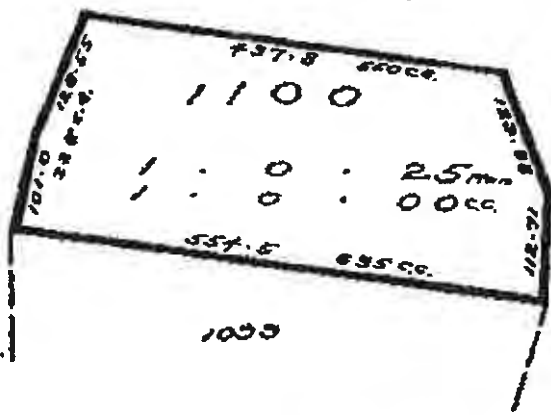
Search Copy Created 15/10/12 9:32 am, Page 1 of 1
Register Only

Sec 1100 CITY OF NELSON, Nelson Land District: CT

NL72/175

Quality due
 condition
 original

Library Reserve



*Land Taken for the Purpose of Pleasure Grounds in the
City of Nelson*

COBHAM, Governor-General

A PROCLAMATION

PURSUANT to the Public Works Act 1928, I, Charles John, Viscount Cobham, the Governor-General of New Zealand, hereby proclaim and declare that the land described in the Schedule hereto is hereby taken for the purpose of pleasure grounds and shall vest in the Mayor, Councillors, and Citizens of the City of Nelson as from the date hereinafter mentioned; and I also declare that this Proclamation shall take effect on and after the 20th day of October 1958.

SCHEDULE

All that piece of land in the Nelson Land District containing 1 acre and 15.7 perches, situated in the City of Nelson, Nelson R.D., being all the land on D.P. 1398, being Section 1099, City of Nelson. All certificate of title, Volume 51, folio 201, Nelson Land Registry.

Given under the hand of His Excellency the Governor-General, and issued under the Seal of New Zealand, this 13th day of October 1958.

[L.S.] H. WATT, Minister of Works.

GOD SAVE THE QUEEN!

(P.W. 50/20; D.O. 19/2/16/0)



Revocation of the Reservation Over a Reserve

PURSUANT to the Reserves and Domains Act 1953, the Minister of Lands hereby revokes the reservation for defence purposes over the land described in the Schedule hereto.

SCHEDULE

NELSON LAND DISTRICT

RESERVE G, City of Nelson: Area, 1 acre 3 roods 22 perches, more or less. (S.O. Plan Roll 113)

Dated at Wellington this 9th day of April 1962.

R. G. GERARD, Minister of Lands.

(L. and S. H.O. 6/1, 885; D.O. 8, 5/6)



COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952
Limited as to Parcels



Search Copy

R. W. Muir
Registrar-General
of Land

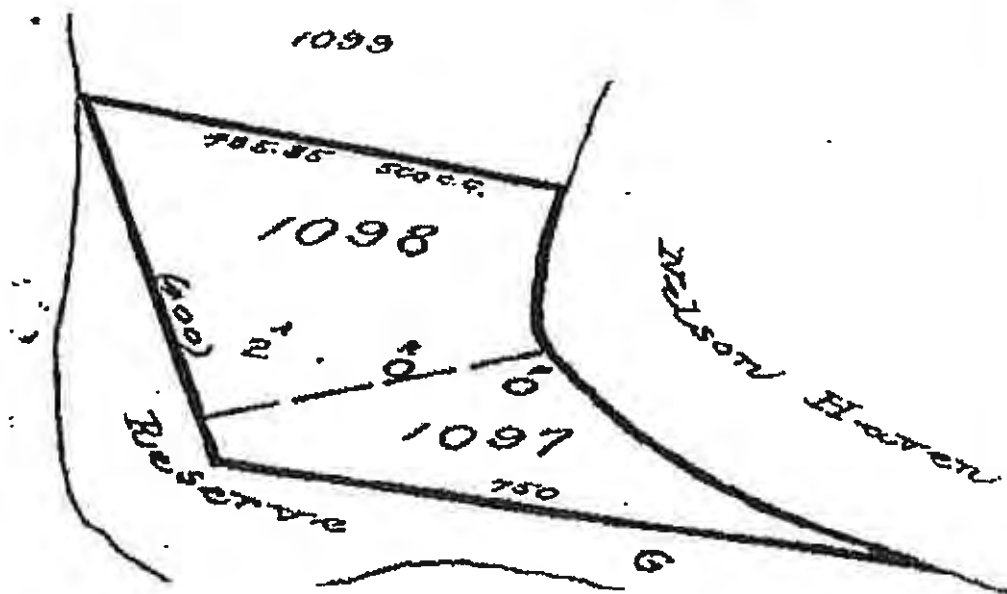
Identifier **NL72/176**
Land Registration District **Nelson**
Date Issued **27 January 1933**

Prior References
DI 2/576

Estate Fee Simple
Area 8094 square metres more or less
Legal Description Section 1097-1098 City of Nelson
Proprietors
The Nelson City Council

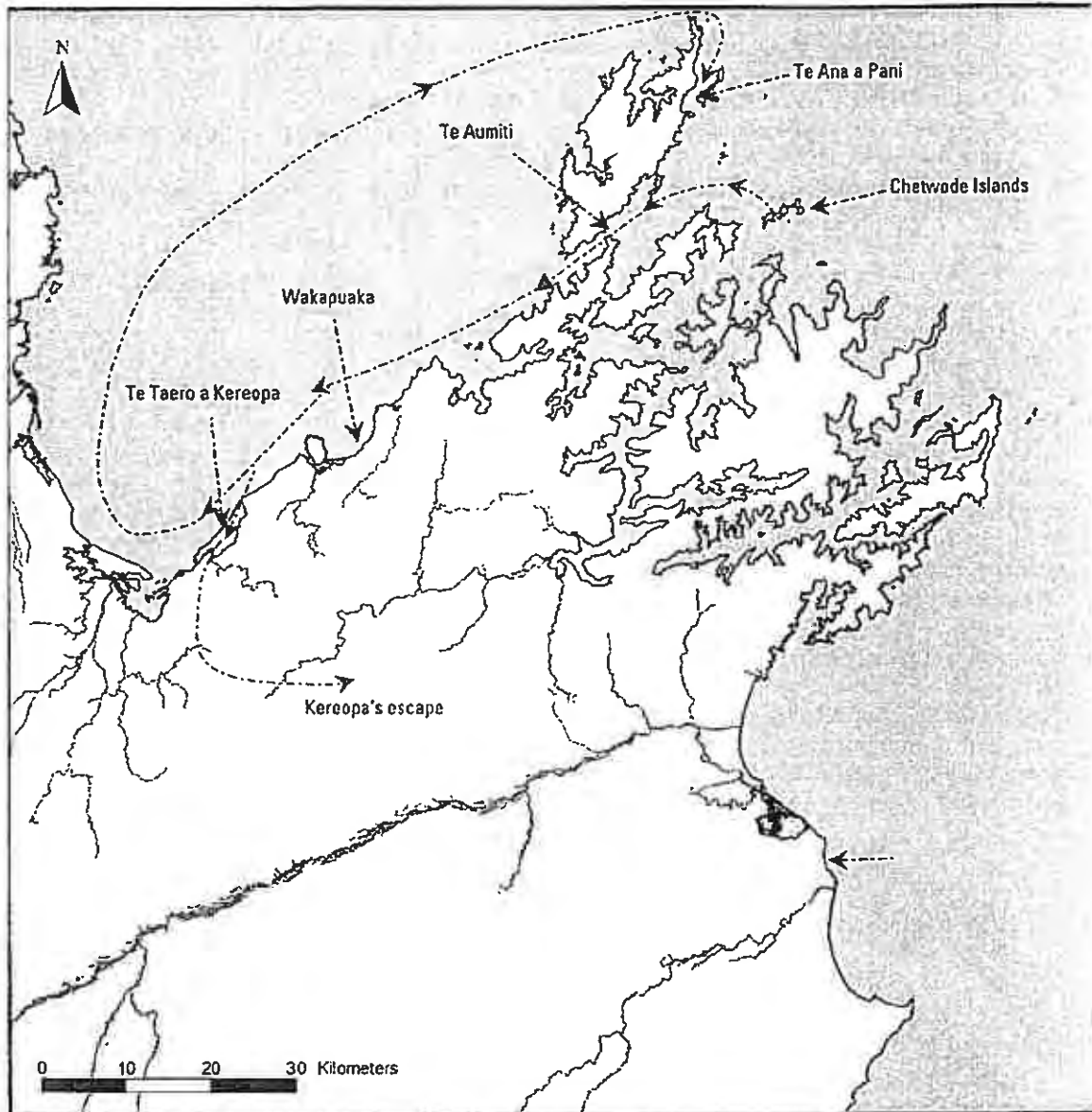
Interests

Image Quality due
to Condition
of Original

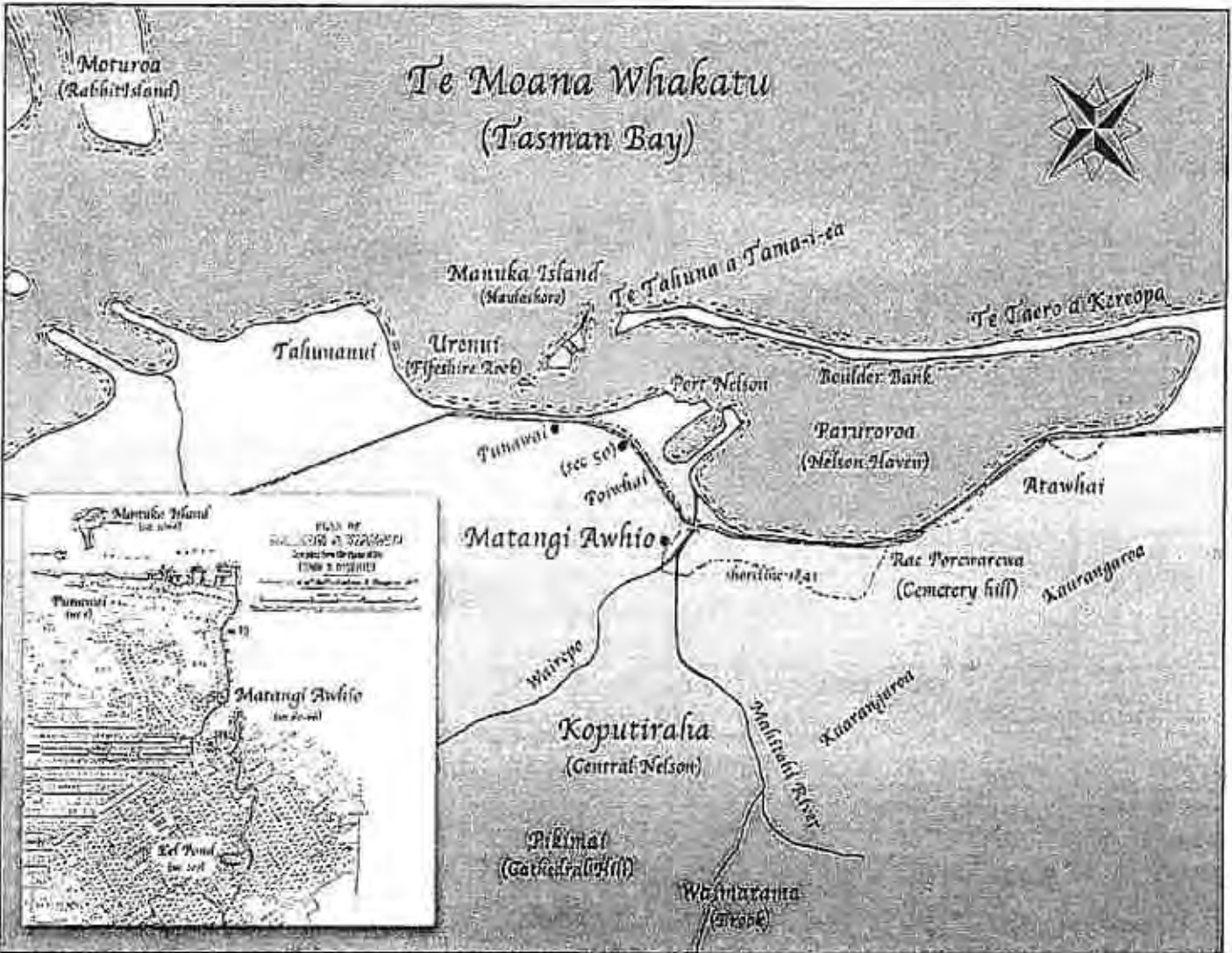


4.2. Appendix 2: Visual Aids to Historical Information

Plans and images



Above: Map showing the route of Kupe's pursuit of Pani and Kereopa through the Tasman Bay area and up to northern and eastern parts of Rangitoto / D'Urville Island (Mitchell, H. & J.M, 2004, p.35).



Above: Te Taero a Kereopa/Te Tahuna a Tama-i-ia and other places of significance to Māori in the Whakatu area (Whakatu Incorporation and Murray Inglis).

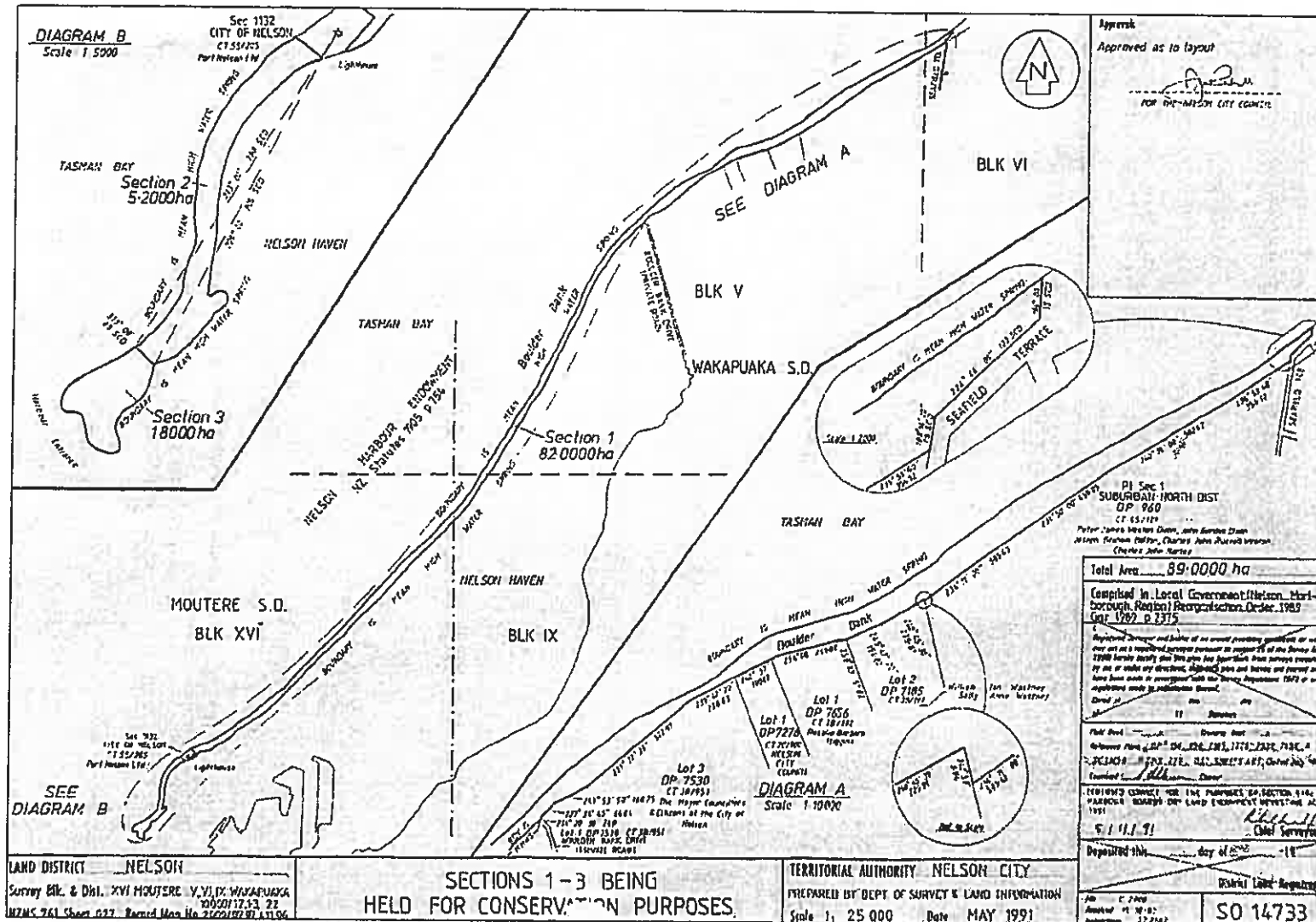
4.3. Appendix 3: Visual Aids to Physical Information

Current Plans

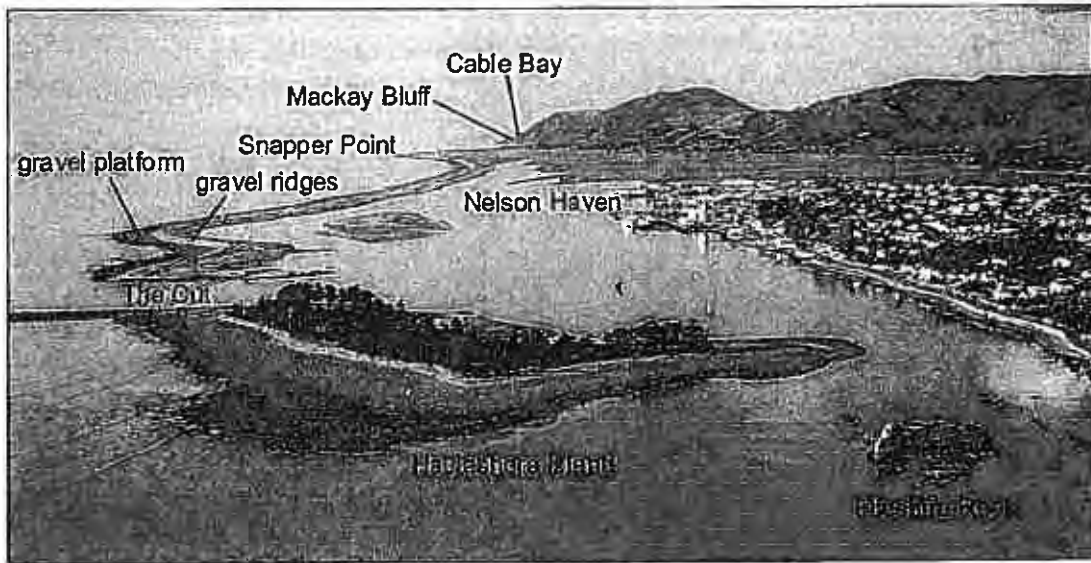


Map featuring Kohi te wai pā site which was occupied by Rangitāne, Ngāti Apa and Ngāti Kūia (Ngāti Kūia Deed Plans, Oct 2010 (OTS09939)).

Map showing the legal description of the Boulder Bank between the Glen and the northern side of the Cut, i.e. excluding Haulashore Island to the south and the boulder beach at the foot of Mackay Bluff to the north.



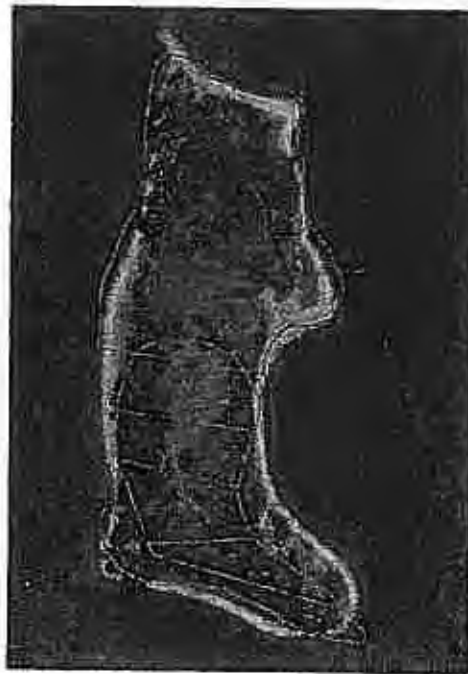
Photographs



Above: The Boulder Bank looking northeast at a lowish tide. Significant features of the Bank are highlighted. Aerial photo taken in 1993. (Dr Warren Dickinson)

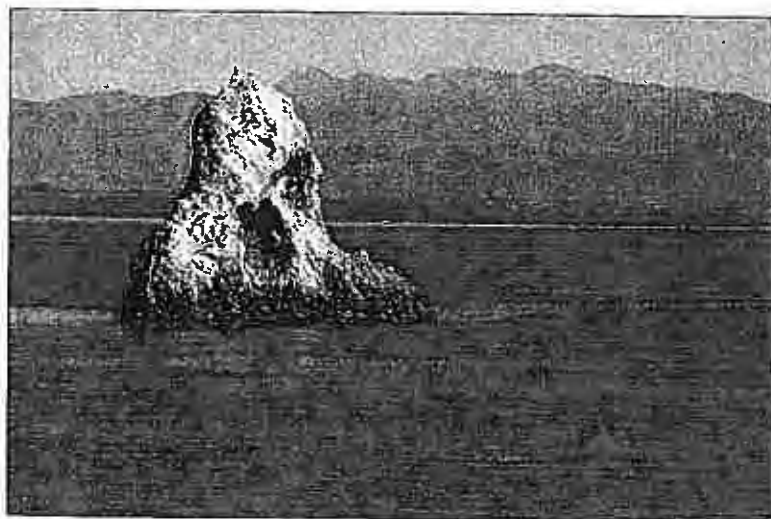


Left: Mackay Bluff is on the left of the photo. Rocks which have fallen off it onto the beach at its foot will be picked up by the tides and sea currents and swept southwards to be deposited on the Boulder Bank, 2009. (John Warren)



Left: Haulashore Island (Motu Manuka). The orange lines show the certificates of title, with the large northern title having accrued from the dumping of material as a result of dredging the Cut (Google and John Warren).

Below: Urenui (Fifeshire Rock), located to the immediate south of Motu Manuka



(Haulashore Island), 2009. The original harbour entrance lay between Urenui and Motu Manuka and was used until the Cut was dredged through the Boulder Bank in 1906 (John Warren).



Small boulder showing signs of chipping on its end from use as a hammerstone. It is set amongst argillite flakes, Rushpool, Maitai Valley (John Warren, 2009).



Rushpool Argillite Quarry

Quarried face of outcrop and debris on working floor. Large scars on the rock result from Māori quarrying using large boulders carried from the Boulder Bank as hammers. Several argillite quarries lie within Whakatū Nelson boundaries. (Photos courtesy of the Department of Conservation)

WHAT IS THE PROCESS FOR ENTRY ON THE LIST?

Anyone can nominate an historic place, historic area, wāhi tūpuna, wāhi tapu or wāhi tapu area for entry on the List by completing an application form available from Heritage New Zealand. Staff will then assess the application and, if the application has merit, the views of owners, iwi and other interested parties will be sought and a proposal prepared. The decision on whether to enter the proposal on the List will be made by the Heritage New Zealand Board, or in the case of wāhi tūpuna, wāhi tapu and wāhi tapu areas, the Māori Heritage Council.

The precise criteria for inclusion on the List are set out in the *Heritage New Zealand Pouhere Taonga Act 2014*. Generally speaking, a property need not be large or impressive to qualify for entry on the List, but it must have significant heritage values.

Historic places and historic areas must possess some type of aesthetic, archaeological, architectural, cultural, historic, scientific, social, spiritual, technological or traditional significance.

Decisions relating to the entry of wāhi tūpuna, wāhi tapu and wāhi tapu areas will be consistent with the views of iwi, hapū and whānau, or other relevant Māori interests with historical and cultural association in any particular place.



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CAN I VISIT PROPERTIES ON THE LIST?

Most properties on the List are privately owned, and their inclusion on the List does not imply that they are open to the public or available for any form of viewing. Some are owned by Heritage New Zealand, by local authorities or by other public groups and may be visited. Local visitor information centres should be able to provide advice on heritage properties open to the public.

WHAT INFORMATION IS KEPT ON THE LIST?

The List contains detailed information about a diverse range of New Zealand's heritage places. The amount of information contained in the List varies between entries and is supported by paper files.

Some of the information Heritage New Zealand holds about properties on the List includes

- Location (e.g. address, legal description)
- Date of construction or age
- Description
- History of the place
- Function of the property including current and former uses
- Architectural, archaeological and traditional information
- Photographs – contemporary and historic.

WHERE CAN I FIND THE LIST?

Paper copy

A paper copy of the List is available in all Heritage New Zealand offices. Your local city or district council also holds an updated copy of the List and details of proposed List entries in their particular area.

Online

An online version of the List is also available and is regularly updated after each meeting of the Heritage New Zealand Board and Māori Heritage Council.

Please see: www.heritage.org.nz/the-list ■

RĀRANGI KŌRERO – THE NEW ZEALAND HERITAGE LIST



HERITAGE NEW ZEALAND
POUHERE TAONGA



COMPILED UNDER THE *HERITAGE NEW ZEALAND POUHERE TAONGA ACT 2014*, THE NEW ZEALAND HERITAGE LIST/RĀRANGI KŌRERO ('THE LIST') IDENTIFIES THE NATION'S HERITAGE PLACES, INCLUDING PĀ, WHALING STATIONS, CHURCHES, MEMORIALS, URUPĀ, MAUNGA TAPU, FARM BUILDINGS, BRIDGES, MINING SITES, PUNAWAI, THEATRES, SETTLEMENTS, PUBLIC AND COMMERCIAL BUILDINGS, HOTELS, BREWERIES, PUBLIC PARKS, AND DWELLINGS. THE LIST IS THE ONLY STATUTORY NATIONAL RECORD OF OUR RICH, SIGNIFICANT AND DIVERSE HERITAGE PLACES.

WHAT IS THE LIST?

The List identifies New Zealand's significant and valued historical and cultural heritage places. It is maintained by Heritage New Zealand Pouhere Taonga (Heritage New Zealand) and was formerly known as the New Zealand Historic Places Trust Register of historic places, historic areas, wāhi tapu and wāhi tapu areas, established under the *Historic Places Act 1993*. Its size, scale and national focus make the List one of the most important historical information resources in New Zealand.

WHY IS THE LIST IMPORTANT?

The List

- informs and notifies owners, the public, community organisations, government agencies and local authorities about significant heritage places; and
- is a source of information about historic places, historic areas, wāhi tūpuna, wāhi tapu and wāhi tapu areas for the purposes of the *Resource Management Act 1991*.

- 1 Cover image: The Bath House, Rotorua Government Gardens (IMAGE: PHIL BRAITHWAITE FLICKR.COM)
- 2 Alberton, Auckland (IMAGE: AMANDA TRAYES)
- 3 Balclutha Bridge (IMAGE: SHELLEY MORRIS FLICKR.COM)
- 4 St Mary's Basilica, Invercargill (IMAGE: SHELLEY MORRIS FLICKR.COM)
- 5 Chinese miner's hut, Chinatown near Arrowtown (IMAGE: ALLISON BENNETT FLICKR.COM)

FURTHER INFORMATION

If you'd like to find out more about the List please contact or visit any one of our Regional or Area Offices:

Northern Regional Office
Premier Buildings
Level 2, 2 Durham Street East
Private Box 105-291,
Auckland 1143
Ph: (64 9) 307 9920
infonorthern@heritage.org.nz

Northland Area Office
Level 1, 62 Kerikeri Road
PO Box 836,
Kerikeri 0245
Ph: (64 9) 407 0470
infonorthland@heritage.org.nz

Central Regional Office
Level 7, 69 Boulcott Street
PO Box 2629
Wellington 6140
Ph: (64 4) 494 8320

Lower Northern Area Office
Level 1, 28 Wharf Street
PO Box 13339,
Tauranga 3141
Ph: (64 7) 577 4530
infolowernorthern@heritage.org.nz

Southern Regional Office
International Antarctic Centre
38 Orchard Road
PO Box 4403
Christchurch Mall Centre, 8140
Ph: (64 3) 357 9629
infosouthern@heritage.org.nz

Otago / Southland Area Office
Level 4, 109 Princes Street
PO Box 5467,
Dunedin 9058
Ph: (64 3) 477 9871
infodeepsouth@heritage.org.nz

Free phone 0800 HERITAGE

IMAGES:

- 1 The tohu maumahara at Rangitiri (IMAGE: AMANDA TRAYES)
- 2 T Gilchrist and Sons General Store, Otarehua (IMAGE: SHELLEY MORRIS FLICKR.COM)

IMAGES:

- 1 Cover image: The Bath House, Rotorua Government Gardens (IMAGE: PHIL BRAITHWAITE FLICKR.COM)
- 2 Alberton, Auckland (IMAGE: AMANDA TRAYES)

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RĀRANGI KŌRERO - THE NEW ZEALAND HERITAGE LIST

WWW.HERITAGE.ORG.NZ