



# AGENDA

Ordinary meeting of the

## Planning and Regulatory Committee

**27 November 2014**  
**Commencing at 1.00pm**  
**Council Chamber**  
**Civic House**  
**110 Trafalgar Street, Nelson**

Membership: 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.

**27 November 2014**A1276519

---

Page No.

**Apologies****1. Confirmation of Order of Business****2. Interests**

- 2.1 Updates to the Interests Register
- 2.2 Identify any conflicts of interest in the agenda

**3. Public Forum****3.1 Urban Environment Bylaw**

Hans Anderson, on behalf of Halifax Veterinary Centre, will speak on the changes to bylaws involving cats.

**3.2 Urban Environment Bylaw**

Jennifer Baumfield will speak on the changes to bylaws.

**3.3 Woodburners**

Tom Higgins will speak on the topic of woodburners.

**4. Hearings on submissions to the Local Approved Products Policy (Psychoactive Substances)**

Note: The submissions index and copy of submissions was circulated to Councillors in advance of a meeting to hear submissions scheduled for 29 April 2014. This meeting was cancelled in response to a change in legislation by Central Government at which point this consultation process was put on hold. It is now appropriate to continue with this process and the following submitters wish to be heard in support of their submissions.

Time	Sub No.	Page	Submitter name	Organisation
1.30	6	8-12	Rosey Duncan	Health Action Trust
1.35	10	30-51	Ed Kiddle, Jan Anderson	NMDHB
1.40	8	14-24	Karen Fallow	Be Adult Boutique Limited TBC

Note: A third submitter, Grant Hall of The Star Trust, wished to be heard but was unable to be present at this meeting. He asked that particular attention be placed on a section of his submission to be found on pages 26-29 of the submissions. Copies of all submissions have been circulated separately and are available from Council's website and on the Google Drive. Hard copies can be requested from an Administration Adviser.

**5. Confirmation of Minutes – 23 October 2014 8-14**

Document number A1265534

Recommendation

***THAT the minutes of the meeting of the Nelson City Council – Planning and Regulatory Committee, held on 23 October 2014, be confirmed as a true and correct record.***

**6. Status Report – Planning and Regulatory Committee 27 November 2014 15**

Document number A1155974

Recommendation

***THAT the Status Report – Planning and Regulatory Committee 27 November 2014 (A1155974) be received.***

**7. Chairperson's Report**

**8. Ngati Kuia Pakohe Management Plan 16-65**

Document number A1217380



Recommendation

**THAT the report Ngati Kuia Pakohe Management Plan (A1217380) and its attachments (A1275104 and A1275078) be received;**

**AND THAT the Chief Executive be requested to incorporate the Accidental Discovery Protocol (A1275078) into planning and operational processes.**

**9. Report of the Woodburner Working Party 66-87**

Document number A1262104

Recommendation

**THAT the report of the Woodburner Working Party (A1262104) and its attachments (A1272248 and A23847) be received.**

Recommendation to Council

**THAT Council agrees that the review of the Nelson Air Quality Plan be brought forward 3 years, that it be incorporated into one single integrated document to be called the Nelson Plan and that this work builds on the modelling and monitoring work completed to date;**

**AND THAT Council agrees to support initiatives that improve home insulation and continue with the free service of Council's Eco Building Design Advisor [refer to the recommendations in the separate agenda item A1248604].**

**10. Insulation and Clean Heating Assistance 88-98**

Document number A1248604

Recommendation

**THAT the report Insulation and Clean Heating Assistance (A1248604) and its attachment (A1276842) be received.**

Recommendation to Council

**THAT Council allocate \$40,000 this year (2014/2015) to partner with Canterbury Community Trust to jointly apply to EECA for further funding to provide additional funding to Nelson City residents for insulation upgrades.**

**AND THAT this sum be funded from unspent 2014/2015 Framing our Future and emission budget in the environmental area;**

**AND THAT Council support the \$100,000 budget line in the draft Long Term Plan for non-regulatory programmes around the Nelson Air Quality Plan for the 2015/2016 year with the view that some of this money be used to partner with Canterbury Community Trust to support the Warmer Healthier Homes Project programme for 2015/2016.**

**AND THAT at the completion of the 2015/2016 year a report be obtained from the Warmer Healthier Homes Project Steering Group on the outcomes and effectiveness of the scheme, to consider the reconfirmation of funding for subsequent years.**

**11. Draft Urban Environments Bylaw**

**99-203**

Document number A1267611

Recommendation

**THAT the report Draft Urban Environments Bylaw (A1267611) and its attachments (A1267616, A1267618, A1267798, A1269064 and A1274549) be received;**

**AND THAT the Statement of Proposal in document A1267616 be approved and advertised using the Special Consultative Procedure (section 83 of the Local Government Act), with a submission period from 29 November 2014 to 16 February 2015;**

**AND THAT the Planning and Regulatory Committee hear submissions in March 2015;**

**AND THAT the Planning and Regulatory Committee deliberate and make decisions on submissions in April 2015;**

**AND THAT the Planning and Regulatory Committee recommend to Council that an amended bylaw be adopted, reflecting the Committee's decisions on submissions, in mid-2015.**

**12. Nelson Plan Update November 2014**

**204-212**

Document number A1271384

Recommendation

**THAT the report Nelson Plan Update November 2014 (A1271384) and attachment (A1273726) be received;**

**AND THAT future updates relating to the Nelson Plan are provided in the Strategy and Environment Quarterly Report.**

---

**Minutes of a meeting of the Planning and Regulatory Committee**  
**Held in the Victory Community Centre, 2 Totara Street, Nelson**  
**On Thursday 23 October 2014, commencing at 9.00am**

---

**Present:** Councillor B McGurk (Chairperson), Councillors I Barker, R Copeland, K Fulton (Deputy Chairperson), M Lawrey, M Ward, and G Paine

**In Attendance:** Councillors L Acland, Group Manager Strategy and Environment (C Barton), Manager Operations (S Davies), Kaihautū (G Mullen), Environment Programmes Officer (R Frizzell), Manager Building (M Brown), Manager Operations (S Davies), Team Leader Resource Consents (C Jenkins), Administration Manager (P Langley) and Administration Adviser (E Farrell)

**Apologies:** Her Worship the Mayor, R Reese and Councillor E Davy

**1. Apologies**

Resolved

***THAT apologies be received and accepted from  
Her Worship the Mayor and Councillor Davy.***

Lawrey/Barker

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 Victory Primary School**

Ms. Suzy Garlick and Ngā Mana Kākano from Victory Primary School sang a waiata and spoke to the Committee about the work they had carried out on the York Stream. The Committee expressed their

gratitude to the students for their work on York Stream and for their presentation to Council in December 2013.

The Committee presented a Certificate of Acknowledgement (A1263899) to the students.

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

Mrs Chris Keay and Mrs Lois Morgan presented a "Petition for dogs to be allowed to run on the Monaco Reserve".

In reply to questions from the Committee it was explained that the petitioners concerns arose from an incident where two local dog owners had received fines for \$150 following a complaint. The Committee told the petitioners that they would request Council officers to investigate the matter and prepare a report.

Resolved

***THAT a report on dogs off the leash on Monaco Reserve be prepared.***

McGurk/Copeland

Carried

**6. Confirmation of Minutes – 18 September 2014**

Document number A1251236, agenda pages 12-22 refer.

Resolved

***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.***

McGurk/Paine

Carried

**7. Status Report – Planning and Regulatory Committee 23 October 2014**

Document number A1155974, agenda pages 23-24 refer.

Resolved

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

McGurk/Barker

Carried

## 8. Chairperson's Report

The Chairperson informed the Committee of the threat posed to the local ecosystem by Taiwan Cherry plants (*Prunus Campanulata*).

The Chairperson referenced the report of Dr Peter Williams (A1255269) and spoke of the history of the plant beginning with its introduction to the area in Dodson's Valley. The Committee was told that the Taiwan Cherry plant posed a major biodiversity threat and weed problem for the Nelson area. The committee was told that an opportunity existed at the moment to address the problem in a cost effective manner and that where eradication was concerned acting immediately was always the cheapest option.

The Chairperson also told the Committee that HAIL (Hazardous Activities and Industries List) sites were added to the NCC website and an interactive searchable map was also available. The Chairperson told the Committee that the availability of the HAIL site map would enable the public and contractors to identify these sites.

## 9. Environment Activity Management Plan

Document number A1252228, agenda pages 25-54 refer.

Environmental Programmes Officer, Mr Richard Frizzell, Manager Planning, Mr Matt Heale and Team Leader Resource Consents, Mr Carl Jenkins spoke on the report.

The Committee spoke of its concerns about the level of detail in the report as it related to Nelson 2060. Mr Heale informed the Committee that additional goals could be added to paragraphs 1.9 and 1.10 of the report that reflected the vision and goals of Nelson 2060.

The Committee spoke of its concerns about the level of funding for heritage buildings and formed the opinion that the amount contained in the plan was not adequate.

The Committee was also concerned that the plan did not provide for funding earthquake strengthening of heritage buildings within the CBD.

Resolved

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

McGurk/Fulton

Carried

Planning and Regulatory Committee  
23 October 2014

Recommendation to Council

**THAT the Draft Environment Activity Management Plan 2015-2025 (A1243203) be approved, subject to increasing the heritage incentives amount to \$270,000, as the version that will inform the Long Term Plan 2015-25.**

**AND THAT the Chief Executive investigates a range of options that could be available for earthquake strengthening of heritage buildings within the CBD.**

McGurk/Fulton

Carried

## **10. Plan Change 16 – Inner City Noise – operative date**

Document number A1238640, agenda pages 55-150 refer.

Manager Planning, Mr Heale and Planning Adviser, Mr Reuben Peterson presented the report.

Resolved

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

Barker/Copeland

Carried

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.**

Barker/Fulton

Carried

Attendance: The Committee adjourned for morning tea from 10.30am to 10.50am

## 11. **Strategy and Environment Report 1 July to 30 September 2014**

Document number A1237437, agenda pages 151-174 refer.

Manager Building, Mr Martin Brown and Team Leader Resource Consents, Mr Carl Jenkins spoke on the report.

The Committee was told the 20 day statutory time limit was breached six times over the last quarter. It was explained that the cause of these breaches were two-fold. Firstly, staff had experienced issues with the new "GoGet" processing tool. The Committee was told that this issue had been addressed by further training. The second cause was a capacity issue for commercial consents. This issue had been addressed by using external resources to assist when capacity was not available in house and an experienced commercial building consents processor had been recruited.

The Committee was told that the general quality of information from external agents was a concern and that recruiting staff was difficult due to limited availability and competition from other areas.

The Committee noted the positive feedback from the public to parking staff around the issue of the free parking trial.

The issue of algae and bacteria in the Maitai River was raised and the Committee was told that this was difficult to deal with. The Committee was told that bacteria was naturally occurring and was a long term project for Council.

The Committee noted the success of the logo for the Maitai walkway and spoke of the idea of utilising it further. The Committee spoke of the desirability of feedback on the success of Second Hand Sunday.

Resolved

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

McGurk/Copeland

Carried

## 12. **Draft Building and Other Regulatory Activity Management Plan**

Document number A1261318, agenda pages 175-189 refer.



Resolved

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

Barker/Copeland

Carried

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.***

McGurk/Copeland

Carried

**13. Parking and Vehicle Control Bylaw (2011), No.207 Amendments to Schedule**

Document number A1255440, agenda pages 190-195 refer.

Manager Operations, Mr Shane Davies presented the report to the Committee.

In reply to a question the Committee was told that the amendments to the bylaw included the prohibition of long term parking at Millers Acre and that would address the issue of freedom camping in that area.

Resolved

***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***

Lawrey/Ward

Carried

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

Document number A1258280, agenda pages 196-247 refer.

Group Manager Strategy and Environment, Ms Clare Barton presented the report.

Resolved

***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.***

McGurk/Ward

Carried

There being no further business the meeting ended at 11.41am.

Confirmed as a correct record of proceedings:

\_\_\_\_\_ Chairperson \_\_\_\_\_ Date

Planning and Regulatory Committee  
23 October 2014

## Status Report – Planning and Regulatory 28 November 2014

Date of meeting/Item	Action Resolution	Officer	Status
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	27/11/2014: Further information received from Ministry of Health. Hearings by Planning and Regulatory Committee scheduled for 27 November.  <b>ONGOING</b>
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;  AND THAT Council requests that the Top of the South Marine Biosecurity Partnership develop a proposal for a joint regional pathways plan.	Paul Sheldon	27/11/2014  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 Marine Biosecurity Pathway Plan. Now all three councils have a similar resolution.  Environlink application approved for Cawthron Institute to compile background resources for pathway management in Top of South.  Top of the South Biosecurity contactor currently preparing structural outline of a pathway plan.  <b>UNDERWAY</b>

---

## **Ngāti Kuia Pakohe Management Plan**

---

### **1. Purpose of Report**

- 1.1 To advise that Nelson City Council has received an iwi management plan, the 'Ngāti Kuia Pakohe Management Plan', and to direct staff to convert the action points within the plan into recommended guidelines for Council systems, processes, plans and policies.

### **2. Delegations**

- 2.1 The Resource Management Act 1991 (RMA) requires that Council must take into account and keep and maintain a record of any relevant planning document recognised by an iwi authority. The Planning and Regulatory Committee have the ability to decide to perform all functions, powers and duties relating to the areas of responsibility conferred on Council by the Resource Management Act 1991 and the Local Government Act 2002.

### **3. Recommendation**

***THAT the report Ngāti Kuia Pakohe Management Plan (A1217380) and its attachments (A1275104 and A1275078) be received;***

***AND THAT the Chief Executive be requested to incorporate the 'Accidental Discovery Protocol'(A1275078) into planning and operational processes.***

### **4. Background**

- 4.1 Pakohe is the Māori name for argillite. Pakohe is particularly found in the Nelson – Marlborough region on Rangitoto (Durville Island), along the Whangamoa mineral belt, and in the upper reaches of the Mahitahi, Wairoa and Motueka rivers (<http://www.theprow.org.nz/maori/pakohe-argillite/>).
- 4.2 Pakohe was used by early tūpuna Māori (Māori ancestors) of Ngāti Kuia descent to make adzes and taonga because of the strength, hardness and ability to hold a sharpened edge. Tūpuna Māori (Māori ancestors in times before 1827) obtained pakohe by quarrying it from places such as boulders in mountain streams.

- 4.3 Ngāti Kuia are one of the iwi (tribes) in Te Tau Ihu (The Top of the South). Ngāti Kuia are acknowledged in the Treaty Settlement for Te Tau Ihu Acts as kaitiaki (guardians) of pakohe and pakohe artefacts and have a responsibility and obligation to this taonga and its cultural, spiritual and traditional values.
- 4.4 Kaitiakitanga refers to the guardianship rights and responsibilities of an iwi (tribe) over their lands, forests, fisheries, taonga (precious things) and resources. Kaitiaki (guardians) are those people who carry out the act of kaitiakitanga (guardianship).
- 4.5 Principals of kaitiakitanga (guardianship) are part of traditional customary law practice. This may include the sustainable management of resources so that future generations can enjoy resources available today.
- 4.6 Acknowledgement of Ngāti Kuia's association with pakohe was made by the Crown in the Te Tau Ihu Treaty Settlements. All Iwi of Te Tau Ihu have acknowledgments for minerals fossicking under the Treaty Settlement Acts. Ngāti Kuia and Rangitane O Wairau are the only two Iwi in Te Tau Ihu with a statutory of association with Pakohe.

## **5. Discussion**

- 5.1 Ngāti Kuia have prepared a Pakohe Management Plan in partnership with staff from Nelson City Council, Marlborough District Council, Tasman District Council and the Department of Conservation. The Pakohe Management Plan is recognised as an Iwi Management Plan (IMP) prepared by an iwi authority as described by the Resource Management Act 1991.
- 5.2 IMPs provide a starting point for achieving the purposes of the RMA in relation to recognising and providing for Māori cultural values and interests. In particular they:
  - (i) assist to meet obligations under Part 2 of the RMA, by providing a general understanding of tangata whenua values and interests in the natural and physical resources in a particular area.
  - (ii) must be taken into account when preparing or changing regional policy statements and regional and district plans (sections 61, 66, 74).
  - (iii) provide a starting point for consultation with iwi and hapū on Council plans and policies (Schedule 1 clause 3(1)(d), clause 3B, and clause 3C), by providing information to understand key issues and the ways to resolve those issues.
  - (iv) provide a starting point for understanding potential effects of a proposed activity on Māori cultural values when making an application for resource consent (section 88 and Schedule 4).
  - (v) may be cited in submissions and/or evidence relating to applications for resource consent, and decision-makers may have regard to IMPs under section 104(1)(c).

- 5.3 IMPs are not just about the Resource Management Act 1991 (RMA). They also provide useful insight and information for Council in carrying out its powers and functions under various statutes, including the Local Government Act 2002 (LGA).
- 5.4 The LGA also places specific responsibilities on Council to recognise and respect the Crown's responsibility to take appropriate account of the Treaty of Waitangi principles. It establishes baseline principles on how Council maintains and improves opportunities for Māori to contribute to local government decision-making processes.
- 5.5 Section 8 of schedule 10 in the LGA 2002 requires long-term plans to 'set out any steps that the local authority intends to take, having undertaken the consideration required by section 81 (1) (b), to foster the development of Māori capacity to contribute to the decision-making processes of the local authority over the period covered by the plan. Receiving and implementing the Pakohe Management Plan provides an opportunity for Ngati Kuia to participate in Council decision making.
- 5.6 The Ngati Kuia Pakohe Management Plan focuses specifically on the management of Pakohe. The plan includes objectives, policies and methods for the management of Pakohe by Ngati Kuia. These require that:
  - (i) Council's develop a formal relationship agreement with Ngati Kuia to assist with the implementation of the management plan.
  - (ii) Resource Management Plan's include land disturbance and heritage provisions that cover the pakohe resource.
  - (iii) That Council's implement accidental discovery protocol.
  - (iv) That Council's (or contractors of Council) inform Ngati Kuia within 5 working days if any pakohe is discovered during roading, forestry or other works undertaken on Council owned/administered land.
- 5.7 At an operational level, Nelson City Council can provide policies and processes for Wāhi Tūpuna (Pakohe archaeological sites), Wāhi Pakohe (naturally occurring Pakohe) and Taonga Tūturu made from Pakohe, (Pakohe artefacts). By working with Ngati Kuia in the creation, and administration of policies that help protect the cultural and customary kaitiakitanga (guardianship) rights and responsibilities of Ngati Kuia over the pakohe resource, Nelson City Council forms a relationship with Ngati Kuia.
- 5.8 Policy and processes for the accidental discovery of pakohe have been developed that can be used in the Nelson Plan, Reserve Management Plans, Activity and Asset Management Plans and in tender documents for Council works.

- 5.9 At a governance level a Memorandum of Understanding has been drafted by Ngati Kuia and is to be presented to Council at a later date to formally establish an agreement to assist with the implementation of the Pakohe Management Plan.

## **6. Options**

- 6.1 Council is required to take into account IMP's when preparing or changing regional policy statements and regional and district plans. Council has no other option than to receive the IMP as a relevant planning document recognised by an iwi authority.
- 6.2 Council has options as to whether or not to accept all of the implementation recommendations within the IMP as described in section 5.6 above however these are either part of standard working practice at Council, required under other legislation (i.e. Heritage New Zealand Pouhere Taonga Act 2014) or can improve standard practice in a practical and efficient manner.
- 6.3 It is optional for Council to enter into a Memorandum of Understanding with Ngati Kuia for the management of Pakohe, however the MOU will help formalise the commitment to implementation as part of Council operations. A decision in regards to the MOU is not sought as an outcome of this report.
- 6.4 Acknowledgement of tangata whenua (people of the land) and working with tangata whenua when working in areas of cultural and customary significance is part of Council's functions and responsibilities under the RMA. These being to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga (Section 6), have particular regard to kaitiakitanga (section 7a) and take into account the principles of the Treaty of Waitangi (Section 8).
- 6.5 The Treaty Settlements of Te Tau Ihu seek to establish new relationships between the Crown and Iwi going forward. The settlements also imply the establishment of a partnership approach between local government and the Iwi of Te Tau Ihu.
- 6.6 Receiving and implementing the Ngati Kuia Pakohe Management Plan is a practical and efficient method of achieving Councils obligations and functions.

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

- 7.1 Receiving and implementing the Pakohe Management Plan is not a significant decision in terms of the Council's Significance Policy.

## **8. Consultation**

- 8.1 Ngati Kuia representatives and officers from Nelson City Council, Tasman District Council, Marlborough District Council and the Department of Conservation have been involved in the development of the IMP. The IMP is to be formally received by those agencies.

## **9. Alignment with relevant Council Policy**

- 9.1 The recommendation is not inconsistent with any other previous Council decision.
- 9.2 This costs associated with the recommendation are budgeted for as part of Council operational expenditure.
- 9.3 The recommendation aligns with Nelson 2060, in particular Goal 8 Nelson is a centre of learning and practice in kaitiakitanga and sustainable development. The recommendation is also consistent with the Community Outcomes and the Nelson Resource Management Plan and Regional Policy Statement objectives and policies.

## **10. Inclusion of Māori in the decision making process**

- 10.1 Ngati Kuia have led the development of the Pakohe Management Plan and the socialisation and implementation of the plan with staff.
- 10.2 Ngati Kuia undertook to consult the other Iwi of Te Tau Ihu in relation to the Pakohe Management Plan.

## **11. Conclusion**

- 11.1 The Pakohe Management Plan prepared by Ngati Kuia is required to be formally acknowledged by Council. The Resource Management Act 1991 (RMA) requires that Council must take into account and keep and maintain a record of any relevant planning document recognised by an iwi authority.
- 11.2 The IMP is a method through which Council can establish a relationship with Ngati Kuia and assist in fulfilling Council's Resource Management Act functions and responsibilities. These being to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga (Section 6), have particular regard to kaitiakitanga (section 7a) and take into account the principles of the Treaty of Waitangi (Section 8).
- 11.3 The IMP is also a method through which Council can acknowledge its Treaty Settlement obligations. It represents a partnership approach to managing Council's functions and operational activities where they may result in impacts on Ngati Kuia and their ability to undertake kaitiakitanga over pakohe.



Lisa Gibellini  
**Senior Planning Adviser**

### **Attachments**

Attachment 1: Pakohe Management Plan [A1275104](#)

Attachment 2: Pakohe Accidental Discovery Protocol [A1275078](#)

## TE RŪNANGA O NGĀTI KUIA

### PAKOHE MANAGEMENT PLAN



Tena koutou i te kaupapa Pakohe, he taonga no mai rānō, no Te Ao pōhatu, no ngā tūpuna i tuku iho. Kia mau ki te mauri o te kaupapa, he tikanga, hei arataki, tohutohu hoki mō tātou katoa.

*Welcome to the Pakohe management plan, a treasure from time immemorial, from the world of stone, handed down from our ancestors. Join the principles of this work, the advice and guidance for us all.*

Tiakina Pakohe, mō tātou, ā, mō ngā uri i muri ake nei  
*Protect Pakohe, for us, and for the coming generations*

## Table of Contents

<b>PART A – THE NGĀTI KUIA WORLD OF PAKOHE</b>	<b>3</b>
1 PAKOHE, a taonga, a treasure:	3
2 Kaupapa (purpose) of the Pakohe Management Plan	3
3 Introduction	3
3.1 What is this Document?	3
3.2 How to use this Plan?	4
3.3 Roles of Ngāti Kuia, DOC and the three councils	5
3.3.1 Role of Ngāti Kuia	5
3.3.2 Role of the Department of Conservation	5
3.3.3 Role of City and District Councils as Unitary Authorities	6
Map 1 - Marlborough / Nelson / Tasman regional boundaries	7
3.4 Legal requirements for the management and protection of Pakohe	8
3.4.1 Iwi Management Plans under the RMA	8
3.4.2 Unitary Authorities	8
3.4.3 Regional Policy Statements	8
3.4.4 Combined Plans – Resource Management Plans	8
3.4.5 Conservation Management Strategy	9
3.4.6 Archaeological sites	9
Map 2 - Pātuki and Croiselles mélange, Wāhi Tūpuna, MDC	10
Map 3 - Pātuki and Croiselles mélange, Wāhi Tūpuna, NCC and TDC	11
3.4.7 Land ownership	12
3.4.8 Protected Objects Act (2006)	12
4 Geology	13
4.1 What is Pakohe?	13
4.2 How was it formed?	14
5 Whakapapa o Ngāti Kuia, Te Iwi Pakohe	15
5.1 Ngā Wāhi Pakohe (Pakohe areas)	15
5.2 Te Kupenga a Kuia – area of influence	16
Map 4 - Te Kupenga a Kuia – The tribal area of influence of Ngāti Kuia with mineral belt	16
5.3 He whakapapa o Pakohe, the creation of Pakohe	17
5.4 Ngāti Kuia korero tuku iho / History of Association with Pakohe	17
5.5 Pakohe – Industry, trade and decline	18
6 SHARED LANGUAGE (GLOSSARY)	20
<b>PART B – MANAGING PAKOHE</b>	<b>22</b>
7 Policy Provisions	22
7.1 Recognition - Ngāti Kuia, Te Iwi Pakohe	22
7.2 Wāhi tūpuna (Pakohe archaeological sites)	24
7.3 Wāhi Pakohe (Naturally occurring Pakohe)	26
7.4 Customary Practise	28
7.5 Commercial use of Pakohe	29
7.6 Taonga Pakohe (artefacts)	30
8 Implementation, Review and Monitoring	32
Appendix 1 - Implementation Programme	33
Appendix 2 - The Protected Objects Act - Guidelines for taonga tūturu	38
Appendix 3 - Kaitiaki of Pakohe Agreement with Department of Conservation	39

## **PART A – THE NGĀTI KUIA WORLD OF PAKOHE**

### **1 PAKOHE, a taonga, a treasure:**

Ko Matua Hautere te tangata	<i>Matua Hautere is the Captain</i>
Ko Kaikaiāwaro te tangiwha	<i>Kaikaiāwaro is the guardian</i>
Ko Te Hoiere te waka	<i>Te Hoiere is the canoe</i>
Ko Ngāti Kuia te iwi Pakohe	<i>Ngāti Kuia are the people of Pakohe</i>

Ngāti Kuia are Tāngata Whenua (the people of this place), Te Tauihu o Te Waka a Māui (the prow or top of the South Island). We have a long association with Pakohe as the workers and traders of this stone. Pakohe is a taonga which is synonymous with Ngāti Kuia and which symbolises the intense nature of our relationship to the environment, and the mauri (life force) that is contained in all parts of the natural environment and binds the spiritual and physical world.

Ngāti Kuia have a responsibility and an obligation to this taonga and its cultural, spiritual, historic and traditional values. Refer to page 15, Whakapapa o Ngāti Kuia, Te Iwi Pakohe

### **2 Kaupapa (purpose) of the Pakohe Management Plan**

He Taonga Pakohe tuku iho - Mai ngā tūpuna ki ngā mokopuna

Maintaining our whakapapa and historical connections to Pakohe for today and for future generations and for managing its sustainable use forever.

### **3 Introduction**

#### **3.1 What is this Document?**

This Document is a tool for resource management purposes. Technically, it is an Iwi Environmental Management Plan (IEMP – Plan), developed by Ngāti Kuia, in partnership with the Marlborough District Council (MDC), the Tasman District Council (TDC), the Nelson City Council (NCC) and the Department of Conservation (DOC).

This Plan focuses specifically on the management of Pakohe (argillite, metosomatised mud stone).

The area that this Plan covers comprises

- Te Kupenga a Kuia (the tribal area of Ngāti Kuia). Refer to page 16, Map 4 - Te Kupenga a Kuia – The tribal area of influence of Ngāti Kuia

- the Marlborough, Tasman and Nelson regions, Te Taihū o Te Waka a Māui. Refer to page 7, Map 1 - Marlborough / Nelson / Tasman regional boundaries

Pakohe may be found in the Pātuki and Croiselles mélange together known as the mineral belt, which is within the Ngāti Kuia tribal area.

Refer to pages 10 and 11

Map 2 - Pātuki and Croiselles mélange, Wāhi Tūpuna, MDC

Map 3 - Pātuki and Croiselles mélange, Wāhi Tūpuna, NCC and TDC

### **3.2 How to use this Plan?**

This Plan can be used in different ways depending on the reader's requirements. These include:

- a) An information source on the importance of Pakohe to Ngāti Kuia and the historical and continuing association which Ngāti Kuia has with Pakohe (refer to page 15, Whakapapa o Ngāti Kuia, Te Iwi Pakohe).
- b) A Document which outlines Ngāti Kuia policy provisions (outcomes, issues, objectives, policy and methods) for the management of Pakohe (refer to page 22).
- c) A Document which outlines the different roles that Ngāti Kuia, MDC, NCC, TDC and DOC have in the management of Pakohe (refer to page 5).
- d) A Document that explains the legal requirements for the appropriate management and protection of Pakohe (refer to page 8).

Users of this Plan will include:

- Ngāti Kuia iwi members
- Other iwi
- Council elected representatives and staff, consultant resource management practitioners and the lay-public involved with resource management issues; this includes people preparing, assessing and making submissions on applications for resource consent and people preparing and submitting on proposed Plan changes
- Conservators from DOC
- The scientific community
- Those people with an interest in the commercial use of Pakohe
- Those groups / companies which have land uses in areas where Pakohe can be found, i.e. forestry companies
- People with a particular interest in the areas where Pakohe can be found, for example walking, tramping, mountain bike and hunting groups
- Land owners on whose property Pakohe is located



### **3.3 Roles of Ngāti Kuia, DOC and the three councils**

This document is an Iwi Environmental Management Plan, developed by Ngāti Kuia in partnership with MDC, TDC, NCC and DOC.

There are specific roles which each of these parties will have in delivering the outcomes of this Plan. These are outlined broadly below.

#### **3.3.1 Role of Ngāti Kuia**

Ngāti Kuia, Te Iwi Pakohe has the primary role as the Kaitiaki (guardian) of Pakohe to ensure the protection of our whakapapa (lineage) and history and sustainable use of Pakohe for future generations. This includes:

- Holders of the whakapapa and history of Pakohe
- Cultural and commercial users of Pakohe
- Being the Crown acknowledged Kaitiaki of Pakohe - refer to
- Being a registered collector of Taonga Tūturu under section 14 of the Protected Objects Act 1975, refer appendix 2

#### **3.3.2 Role of the Department of Conservation**

- A Government department with statutory roles defined through the Conservation Act 1987 and other enactments listed in Schedule 1 of that Act;
- Has particular obligations and responsibilities under the Treaty of Waitangi Settlement between Te Rūnanga o Ngāti Kuia and the Crown;
- Bound under section 4 of the Conservation Act 1987 to "give effect to the principles of the Treaty of Waitangi";
- Responsible under the Conservation Act 1987 and the Reserves Act 1977 for the administration and management of land containing identified archaeological sites and natural occurrences of Pakohe;
- Required under the Conservation Act 1987 to prepare and implement a Conservation Management Strategy for land administered by DOC including the identification of historical and cultural heritage on that land and required conservation outcomes for that heritage;
- Ability / responsibility to control public access to sites, provide interpretation and promote awareness;
- Authority to grant permission (concessions) for commercial activities such as guided tours, access for commercial quarrying and mining and forestry operations on Pakohe sites administered by DOC.

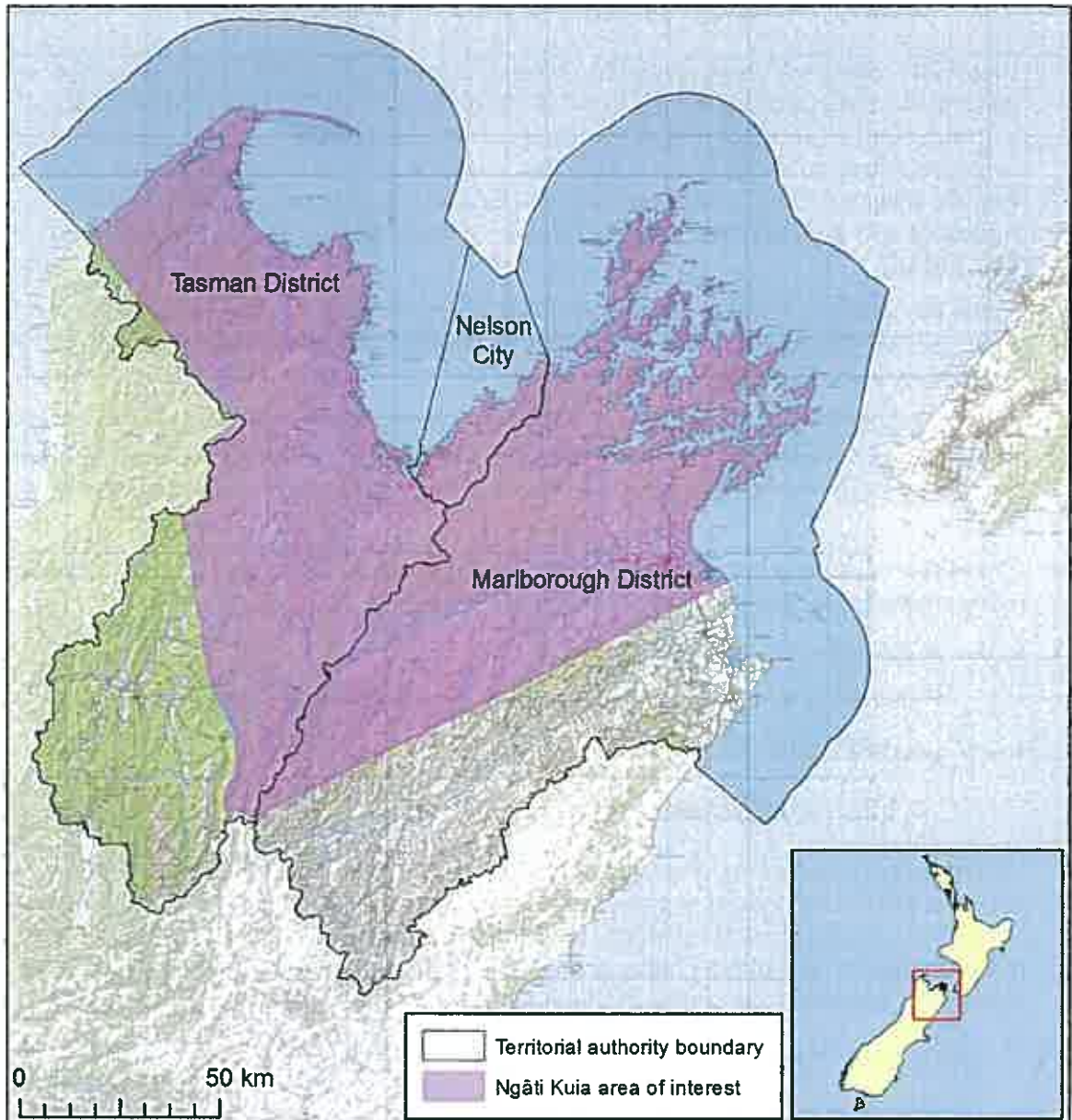
### 3.3.3 Role of City and District Councils as Unitary Authorities

The Marlborough District, Tasman District and Nelson City Councils' roles which are common to all three Councils include:

- A regional / territorial authority which has statutory obligations under the Resource Management Act 1991 (RMA), including the obligation to have and undertake reviews of a regional policy statement and a resource management plan (a plan which is a combined regional and district plan). Resource management plan provisions can influence the Ngāti Kuia management of Pakohe
- A local authority which processes applications for resource consents that have the potential to impact on Pakohe
- Owner of unformed and formed road reserves and other lands that traverse locations of the Pātuki and Croiselles mélange, the rock type that may contain deposits of Pakohe; or are close to known sites of Pakohe extraction.
- A local authority that may contract works affecting some of these road reserves where Pakohe may be found.
- A political body



Pakohe Boulders in the Mahitahi



**Map 1 - Marlborough / Nelson / Tasman regional boundaries**



### **3.4 Legal requirements for the management and protection of Pakohe**

#### **3.4.1 Iwi Management Plans under the RMA**

An iwi management plan (IMP) is a term commonly applied to a resource management plan prepared by an iwi, iwi authority, rūnanga (board or council) or hapū (sub tribe). IMPs are generally prepared as an expression of rangatiratanga to help iwi and hapū exercise their kaitiaki roles and responsibilities. IMPs are a written statement identifying important issues regarding the sustainable management of natural and physical resources in their area.

While the RMA does not define IMPs, it refers to these plans as 'planning documents recognised by an iwi authority'. IMPs are often holistic documents that cover more than RMA matters.

The RMA describes an IMP as "...a relevant planning Document recognised by an iwi authority and lodged with the council". IMPs must be taken into account when preparing or changing regional policy statements and regional and district plans.

The RMA establishes three criteria to enable IMPs to be taken into account when making plans under the RMA; they must be:

- Recognised by an iwi authority
- Relevant to the resource management issues of the region / district
- Lodged with the relevant council(s).

#### **3.4.2 Unitary Authorities**

Fortuitously the three councils affected by this Plan are unitary authorities – councils which carry both regional and district responsibilities under the RMA. Both the regional and district functions have direct relevance to the management of Pakohe. This one-stop-shop situation is of considerable utility in the integrated management of the Pakohe resource.

#### **3.4.3 Regional Policy Statements**

Each council is responsible for preparing a Regional Policy Statement, under section 60 of the RMA, which sets headline strategic policy for the management of regionally significant issues in each of the regions and acknowledges IMPs.

#### **3.4.4 Combined Plans – Resource Management Plans**

Combined Plans have been prepared by the three councils under Section 80 of the RMA and contain objectives, policies and rules which influence land use activities within each district / region. The operative combined plans as at December 2014 within Te Taihū which influence land use activities in areas in which Pakohe is located are:

#### Marlborough District Council

- Wairau / Awatere Resource Management Plan
- Marlborough Sounds Resource Management Plan

#### Nelson City Council

- Nelson Resource Management Plan

#### Tasman District Council

- Tasman Resource Management Plan

At least two of the plans are under current review.

The regulatory aspects of these plans, with most relevance to the management of Pakohe, involve rules about historic heritage and land disturbance.

### **3.4.5 Conservation Management Strategy**

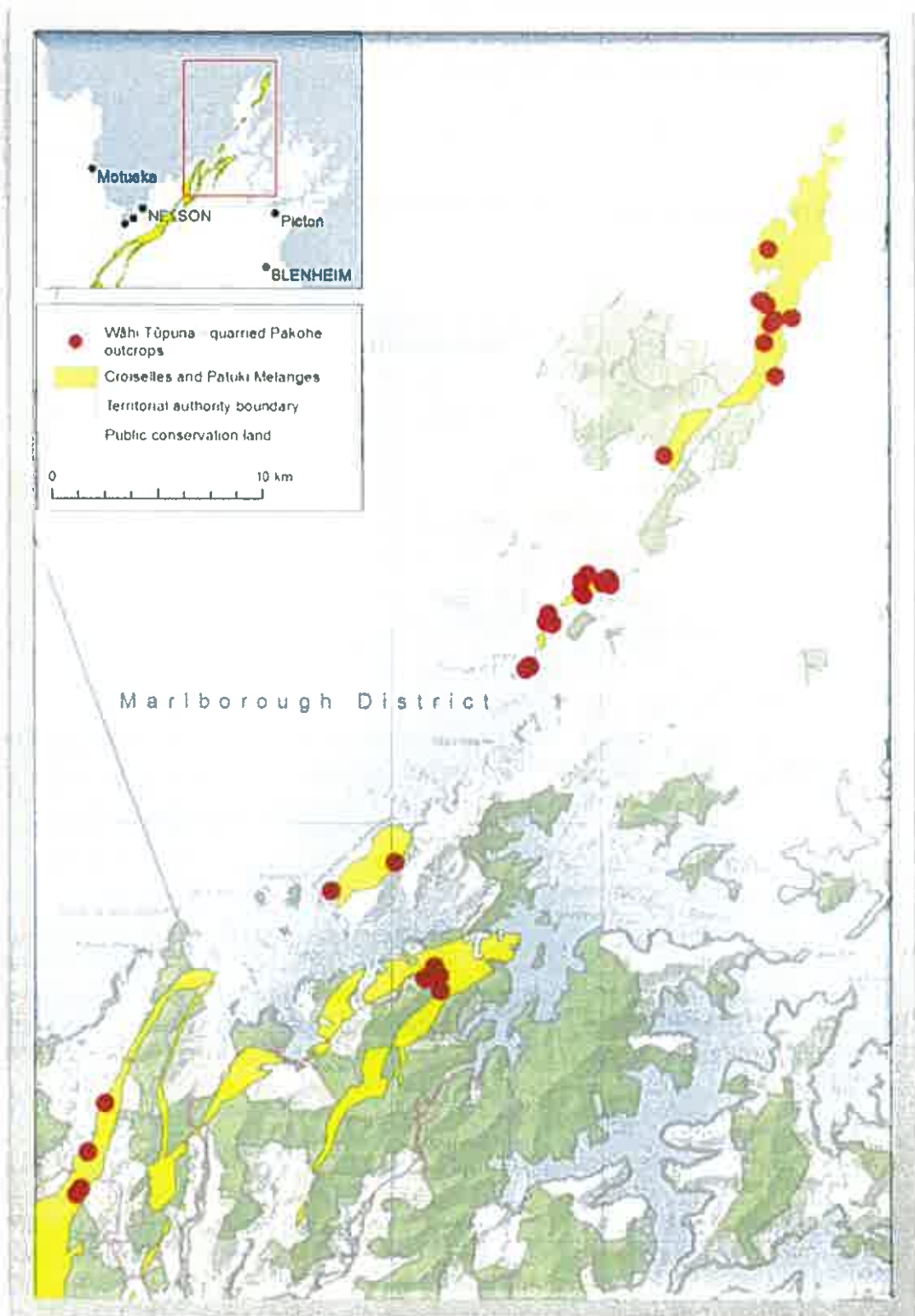
The Department of Conservation is required to prepare, administer and periodically review a Conservation Management Strategy for areas managed by the Department in accordance with section 17D of the Conservation Act 1987. The purpose of a Conservation Management Strategy is to establish objectives for the integrated management of natural and historic resources managed by DOC. This includes Pakohe on land administered by DOC under the Reserves Act 1977 and sites in the Mt Richmond Forest Park which is administered under the Conservation Act.

The current Conservation Management Strategy for the former Nelson Marlborough Conservancy came into effect in 1996 and is still operative. One of the identified priorities was to undertake archaeological surveys of “argillite (Pakohe) quarries of the Richmond Ranges” (Nelson Marlborough Conservation Management Strategy. Table 26, page 160). The archaeological surveys have been completed.

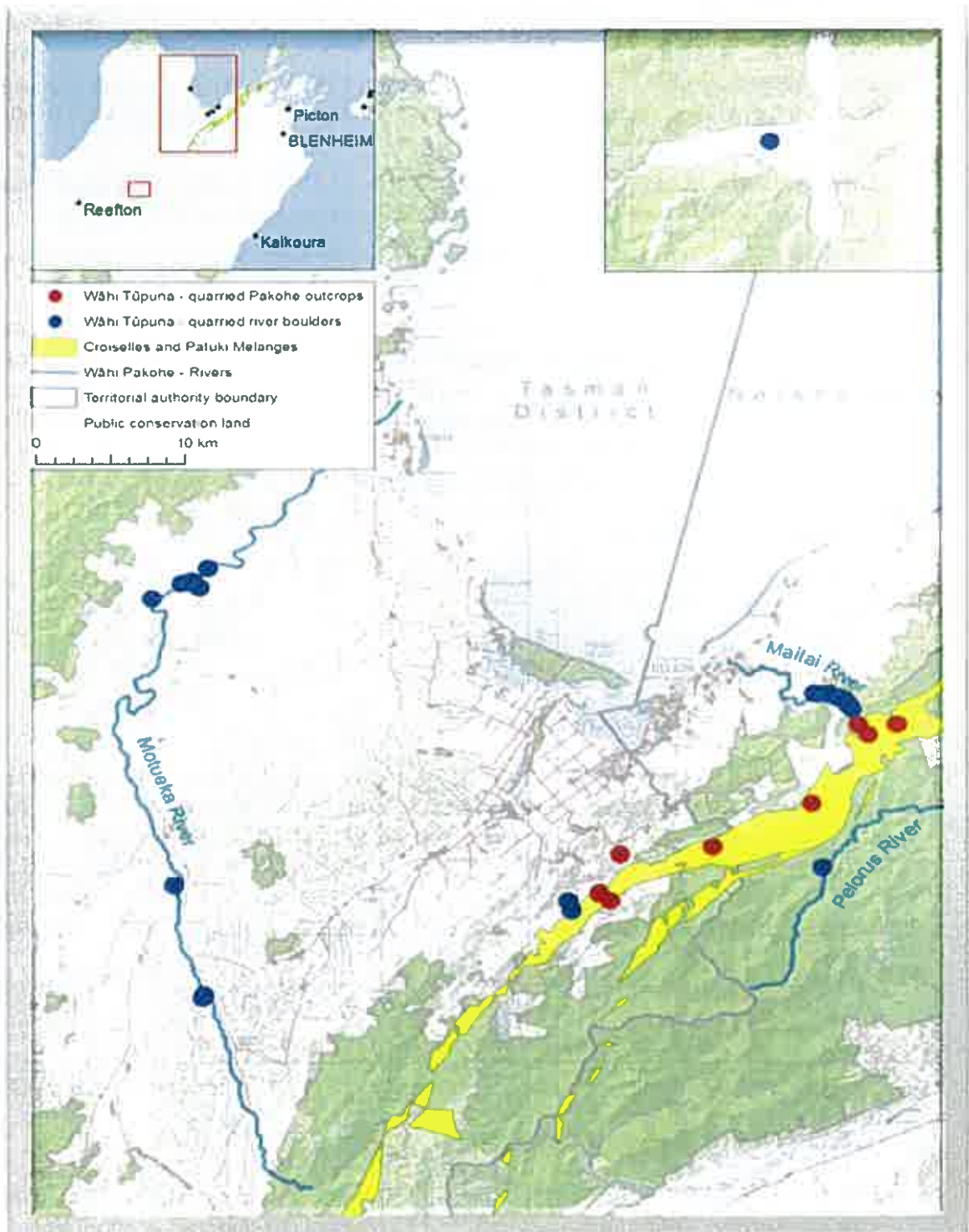
The Department must review the Conservation Management Strategy not later than 10 years after the date of its approval, although this period may be extended by the Minister after consultation with the New Zealand Conservation Authority. The Department will provide opportunities for Te Rūnanga o Ngāti Kuia to input into any relevant Conservation Management Strategy reviews.

### **3.4.6 Archaeological sites**

As shown on Maps 3 & 4 are 43 archaeological sites within Te Taihū registered under the Heritage New Zealand Pouhere Taonga Act 2014 which have Ngāti Kuia associations to Pakohe. Of these 43 registered archaeological sites, 11 are on DOC administered public conservation land, two are on Nelson City Council owned water supply reserve and the remaining 30 are on private land. The majority (23) of the sites on private land are on Rangitoto / D’Urville Island.



**Map 2 - Pātuki and Croiselles mélange, Wāhi Tūpuna, MDC**



**Map 3 - Pātuki and Croiselles mélange, Wāhi Tūpuna, NCC and TDC**

In addition to the in-situ quarry sites there are an additional 21 registered archaeological sites protected under the Historic Places Act 1993, where river boulders have been worked. One of these sites, in the Pelorus River, is on land administered by DOC. Nine of the sites are in the Maitai River, two in the Lee River, nine in the Motueka River and one in the Mātakitaki River in the Murchison area.

These known sites are identified in the New Zealand Archaeological Association (NZAA) database and can be viewed on [www.archsite.org.nz](http://www.archsite.org.nz).

Pakohe sites which have been worked by Ngāti Kuia including quarries and occupation sites – are considered wāhi tūpuna.

The Heritage New Zealand Pouhere Taonga Act 2014 makes it unlawful for any person to destroy, damage or modify the whole or any part of an archaeological site (whether recorded or unrecorded) without the prior authority of Heritage New Zealand. This is the case regardless of whether the land on which the site is located is designated, or the activity is permitted under the Resource Management Plan, or a resource or building consent has been granted. The Act also provides for substantial penalties for unauthorised destruction, damage or modification.

In addition, there are a number of other archaeological sites within the Marlborough, Nelson and Tasman regions which are identified as archaeological sites in these councils' resource management plans. This places restrictions on land uses within the vicinity of these sites.

#### **3.4.7 Land ownership**

As shown on Maps 2 and 3, a significant proportion of land with rock that may contain Pakohe, and known sites of extraction, is in public ownership. This public land is mostly in Crown ownership in the Mt Richmond Forest Park or other conservation lands, with management by DOC, or in land owned by NCC. TDC owns very small areas of land with rock that may contain Pakohe. This leaves a certain level of control over the Pakohe resource in the hands of some public authorities.

Refer to:

- Map 2 - Pātuki and Croiselles mélange, Wāhi Tūpuna, MDC
- Map 3 - Pātuki and Croiselles mélange, Wāhi Tūpuna, NCC and TDC

#### **3.4.8 Protected Objects Act (2006)**

On 1 November 2006, the Protected Objects Act came into force and superseded the Antiquities Act 1975. The Protected Objects Act is administered by the Ministry for Culture and Heritage and regulates:

- the export of protected New Zealand objects;
- the illegal export and import of protected New Zealand and foreign objects; and
- the sale, trade and ownership of taonga tūturu.

The Ministry can only regulate the sale and purchase of taonga tūturu. Taonga tūturu means an object that—

- (a) relates to Māori culture, history, or society; and
- (b) was, or appears to have been,—
  - (i) manufactured or modified in New Zealand by Māori; or
  - (ii) brought into New Zealand by Māori; or
  - (iii) used by Māori; and
- (c) is more than 50 years old.

This definition includes artefacts made from Pakohe.

The Ministry has developed guidelines for taonga tūturu which explains this process in more detail. These guidelines are attached as Appendix 2 - The Protected Objects Act - Guidelines for taonga tūturu

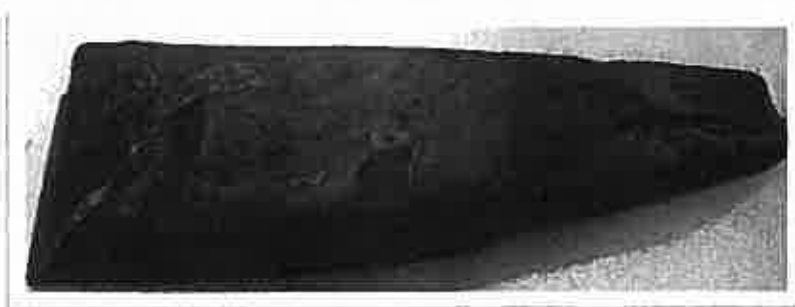
## 4 Geology

### 4.1 What is Pakohe?

**Pakohe** is also called **Uriuri** (dark coloured stone) and **Manutea** (Grey coloured stone). It is a local stone used to make tools. Its geological name is metamorphosed indurated mudstone or metasomatised argillite. It is also referred to as argillite or baked argillite and sometimes Adzite.



Toki made of Marutea



Toki made of Uriuri



## 4.2 How was it formed?

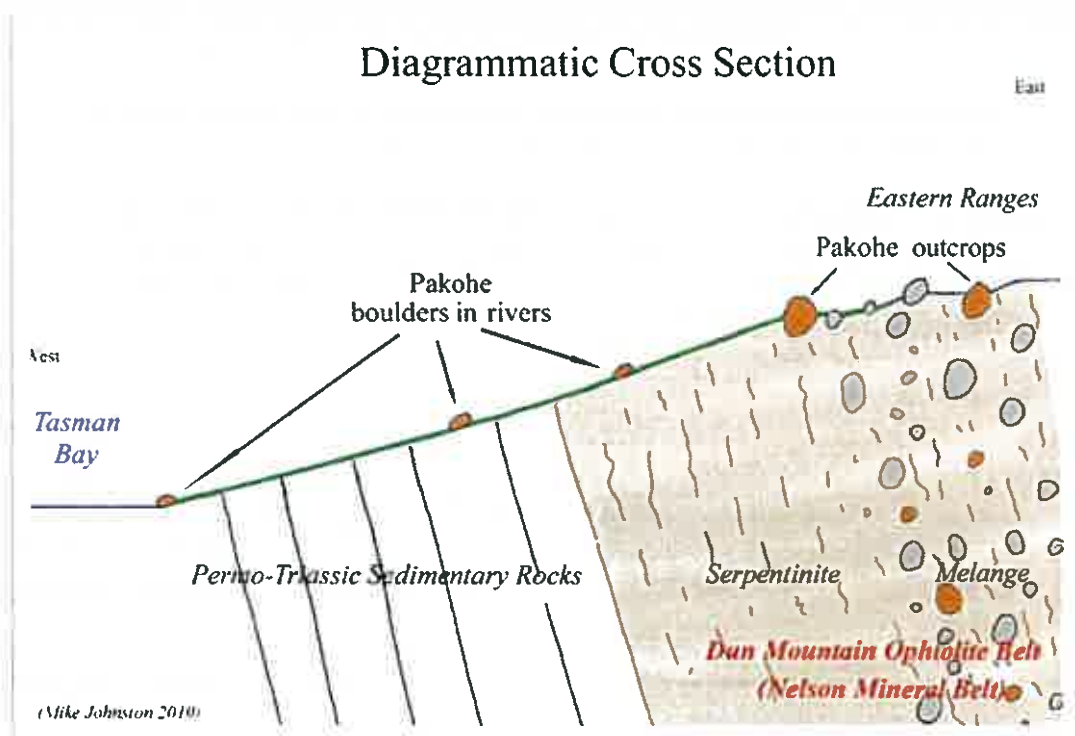
The Nelson mineral belt was formed when New Zealand was a part of Gondwanaland, it welled up through a spreading ridge under the sea, and as the Indo-Australian continental plate dived down under the Pacific plate, the ophiolite belt was caught in between. Later, the land was thrust up, shifted north along the Alpine Fault, and the softer parts eroded away.



Pakohe boulders

Metasomatised Argillite/Pakohe was formed millions of years ago by pressure and temperature associated with the tectonic processes deep within the mountain ranges. It formed where the silica has fused and recrystallised in to better quality material and created 'blocks' in veins like strata which ranges in quality. When the land was thrust up and the softer parts eroded away, Pakohe outcrops were exposed and smaller boulders were carried in to rivers.

The better quality Pakohe occurs as fine-grained uniform blocks that give a high pitched 'ring' when struck. It fractures conchoidally and can be broken into pre forms (spauls) for further strategic flaking reduction.



## 5 Whakapapa o Ngāti Kuia, Te Iwi Pakohe

Ngāti Kuia are the Tāngata whenua, the people of this place



Ko Matua Hautere te Tangata

Ko Kaikaiawaro te Taniwha

Ko Te Hoiere te Waka

Ko Ngāti Kuia te Iwi Pakohe

Ngāti Kuia korero tuku iho states our tupuna Matua Hautere, a mokopuna of Kupe, discovered Pakohe when he was exploring the Pelorus area. He climbed a mountain and reached a place where a kārearea was nesting and called it Parikārearea. There he surveyed the area and saw Whakatū. He looked back upon where he had been travelling and named it Te Hoiere after his waka. He then set up a tuahu made of Pakohe to acknowledge his tūpuna and atua and to claim the mauri of the area for him and his descendants. He then named the mountain Maungatapu because of these actions. Maungatapu is in the area which is a source for Pakohe.

The Ngāti Kuia people are the descendants of Matua Hautere, Ngāti Tūmatakōkiri, Ngai Tara, Ngāti Mamoe, Ngāti Wairangi and Ngāti Kopia who also occupied Te Taihū and worked Pakohe. We are the surviving whakapapa of these people who have continuously occupied wahi Pakohe since their arrival to the present day.

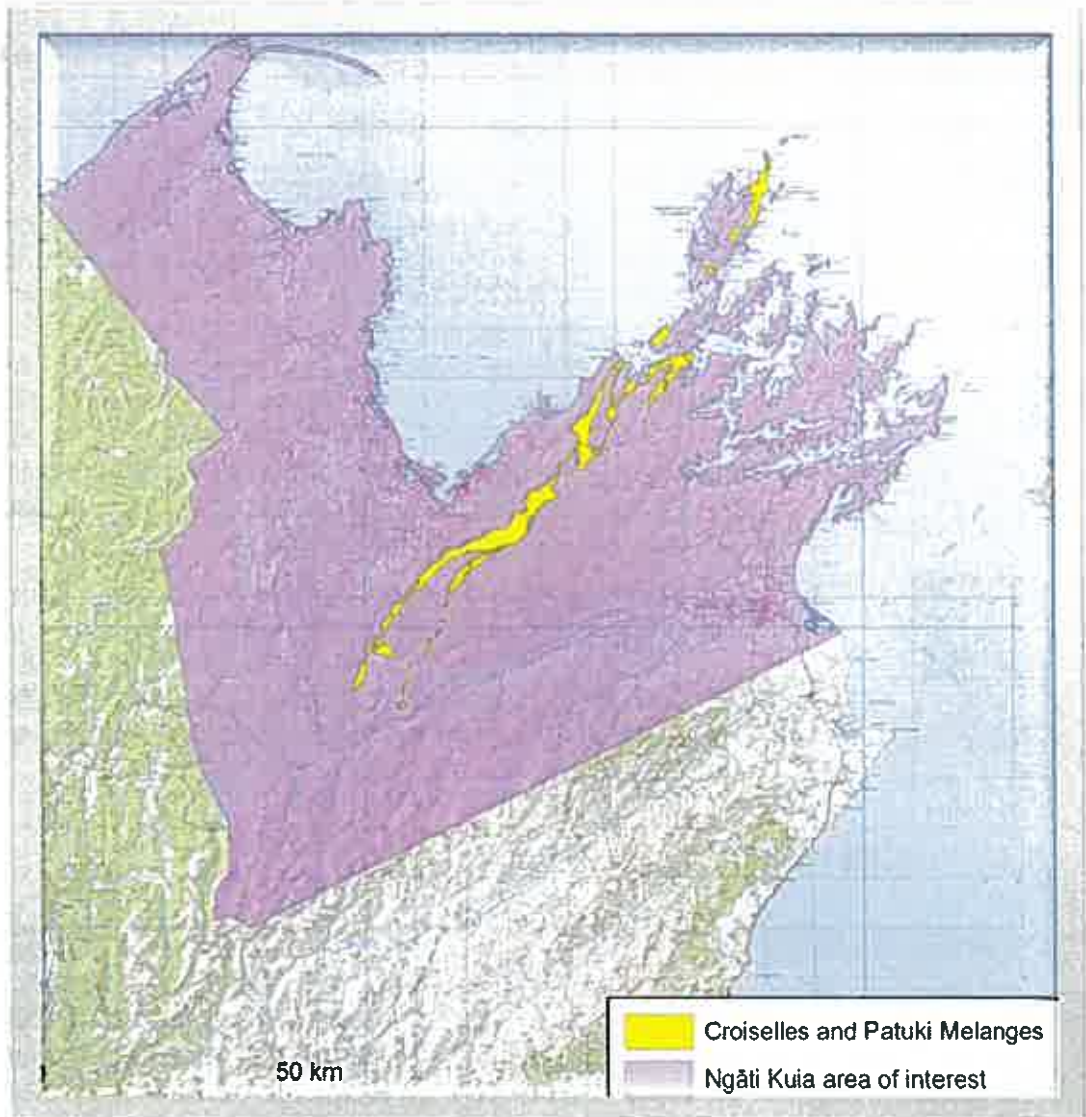
### 5.1 Ngā Wāhi Pakohe (Pakohe areas)

Pakohe is only found in what Ngāti Kuia call **Te Rohe Pakohe** - the Nelson Mineral Belt, also sometimes called the the Pātuki and Croiselles mélange. This area spans from Ngā Paepae Tāngata (the Richmond Range), Mahitahi and Motueka Rivers, Whakatū, Kokotoru, Whangamoa, Te Hoiere and onto Rangitoto. There are numerous source sites, what we call wāhi Pakohe, where the stone is harvested. Ngāti Kuia have lived on the mineral belt for generations.



## 5.2 Te Kupenga a Kuia – area of influence

The Ngāti Kuia area of influence, Te Kupenga-a-Kuia, is from Kahurangi point to Paranui-o-whiti.



**Map 4 - Te Kupenga a Kuia – The tribal area of influence of Ngāti Kuia with mineral belt**

### 5.3 He whakapapa o Pakohe, the creation of Pakohe

Ngāti Kuia has its own creation story for its taonga pōhatu (precious stones), such as Pakohe and Pounamu (Greenstone). Pakohe is the generic term used by Ngāti Kuia for local workable stone to make tools such as toki (adzes), Whao (chisels) and māripi (knives). A subset of names were also used to describe the color / shades of the stones and other features - **Uriuri** is the dark and black shades of stone; **Marutea** is the grey shades of stone.

The primary type of Pakohe used which is synonymous with Ngāti Kuia is Argillite or metamorphosed mudstone. It is a hardened rock which also required certain types of other rocks to work it for flaking, hammering and grinding. These associated rocks were also found in certain Ngāti Kuia localities, such as Kuru (Hammerstones) found at Rotokura (Cable Bay) used for flaking and at Te Hoiere (Pelorus Sound and River) for Hammer dressing. The Pakohe manufacturing of tools included whakapapa, atua and karakia. Hine-hoanga is the tūpuna and atua associated with grinding stones, used in the lengthy finishing stages of making a toki (adze). The following karakia (incantation) was used when sharpening the blade of a toki.

Hara mai ki te ngutu o hine	<i>Come to the lips of Hine (hōanga) the goddess</i>
Hara mai ki te waha o hōanga	<i>Come to the grinding mouth</i>
Kani orooro, kau orooro	<i>To be grinded, to be grinded</i>
Kia Matā, Matākoi e	<i>To be sharp, a sharpened blade</i>

### 5.4 Ngāti Kuia korero tuku iho / History of Association with Pakohe

We are the surviving whakapapa of these people who have continuously occupied wahi Pakohe since their arrival to the present day.

Pakohe shaped our Ngāti Kuitanga – tribal culture. “*He Waipounamu he maunga Pakohe*” is a Ngāti Kuia whakataukī (proverb) about the importance of these taonga worked by Ngāti Kuia. Our tūpuna associated place names that represent the significance of this toanga resource.

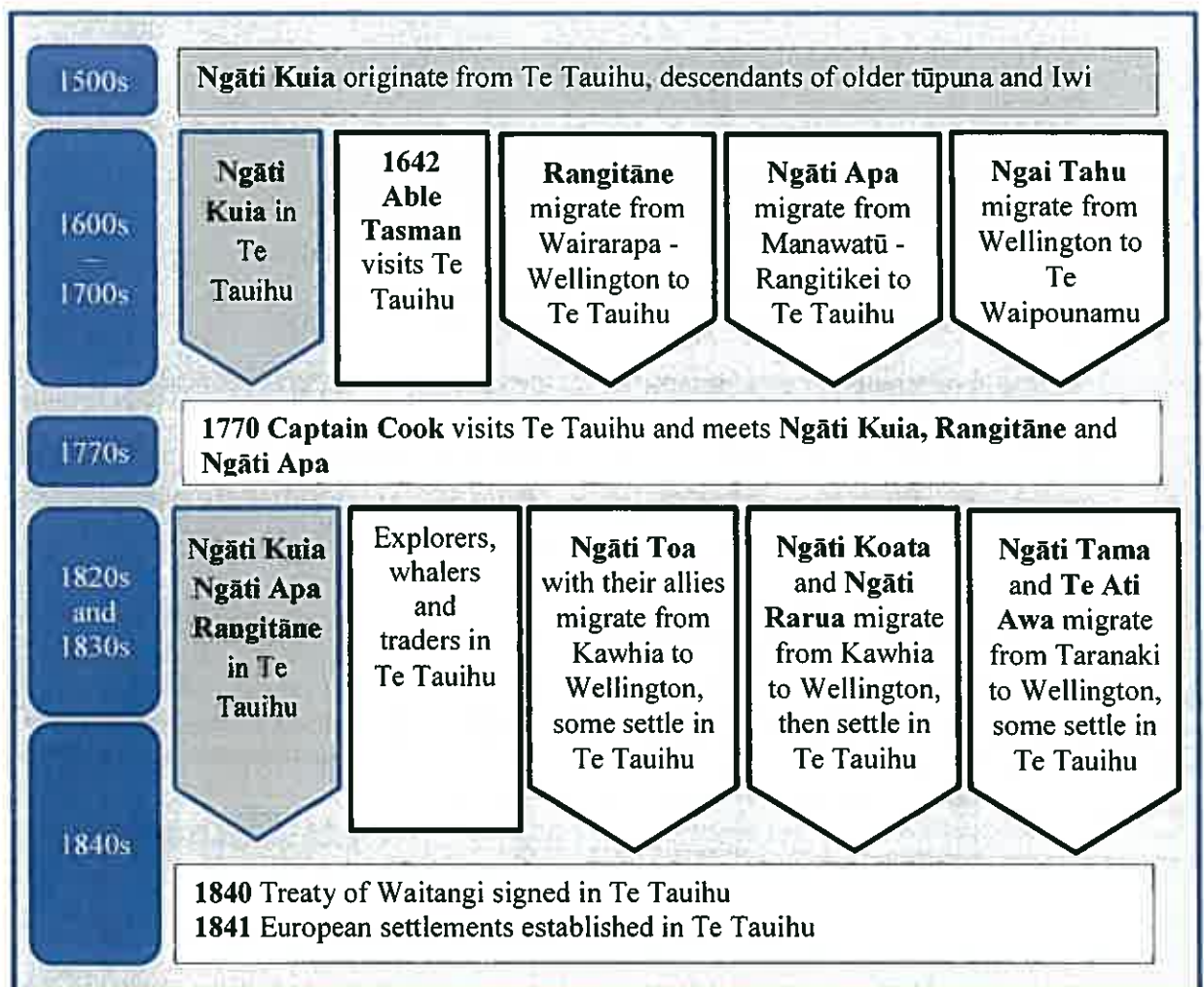
- Rangitoto Island, Maungatapu Mountain, Mahitahi River are sacred places due to the importance of Pakohe resources located there which is reflected in their names;
- Kurukuru Island is named after a type of stone used to work Pakohe because it is shaped like one and is located near to Pakohe source and work sites;
- Matākoi Point is near Pakohe Quarry sites and means the sharp blade and is shaped like one.



Pakohe tools such as māripi (knife), whao (chisels) and toki (adzes) were central to survival and shaped Ngāti Kuia material culture – whare (houses), waka (canoes), matau (fish hooks), ko (digging implement). Toki Pakohe were prized tools and symbols of mana, some being passed through generations with them being recycled, and some were buried as taonga with their owners representing their mana. Because this was a taonga resource, certain tikanga and kawa were applied to Pakohe gathering, manufacturing and use.

## 5.5 Pakohe – Industry, trade and decline

Ngāti Kuia tūpuna discovered and traditionally worked this taonga resource from the initial discovery and settlement of the area. Pakohe was the foundation for a trading industry which exported to other areas in both the North and South Island and was an early preeminent stone resource. Suitable quality Pakohe was broken out from outcrop quarries, from hill boulders, and from the beds of rivers draining the mineral belt. Products such as preform blocks and toki (adzes) were made and traded in Te Taihū and then on to other areas in both the North and South Islands. Communities and trails (Nga-Ara-Pakohe) were developed for the industry resulting in alliances, shared whakapapa and conflicts.



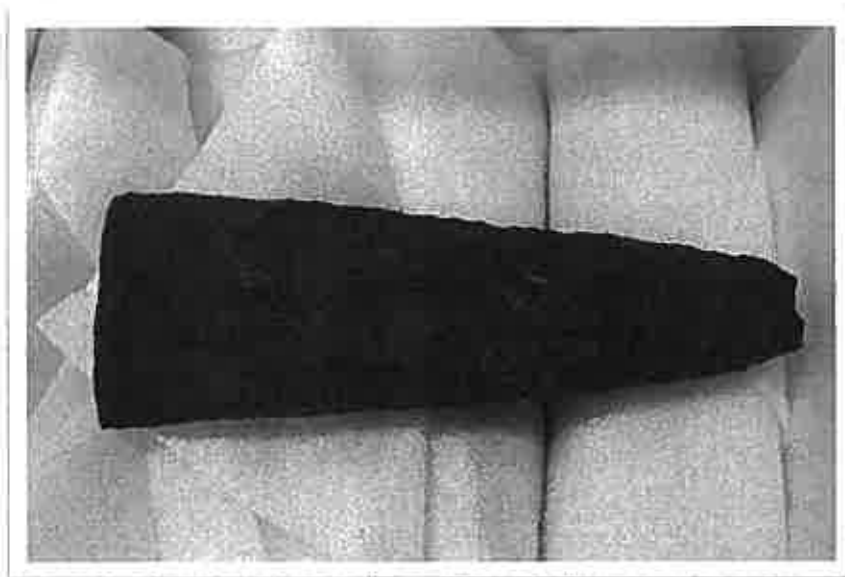
The scarcity of quality Pakohe and other influences resulted in the decline of the industry to localised production and the rise of other taonga resources such as Pounamu, which was traded through to other areas. Because of this, Pakohe also became a more valuable resource to Ngāti Kuia. Our tūpuna continued to live in the area and use Pakohe for many generations before the migration of new people (Māori and non-Māori) and metal tools changed the influence of its use.

Traditional Pakohe tool production ceased with the introduction of new tools and technology such as metal tools. Other influences such as conflicts and the arrival and settlement of new immigrants (Māori and European settlers) contributed to the cessation of the use of Pakohe for manufacturing tools.

Pakohe is still considered a taonga resource by our people today and is central to our history and heritage. No other Iwi has the same length of association with Pakohe.

Ngāti Kuia tūpuna had considerable knowledge of places for gathering Pakohe and associated rocks. They also had ways in which this taonga could be used with tikanga for the proper and sustainable utilisation of resources. All these values remain important to Ngāti Kuia today.

Whano whano	<i>Go fetch me</i>
Hara mai te toki pakohe	<i>The pakohe adze</i>
Whakamaua kia tina, tina	<i>So I may bind it</i>
Haumi e Hui e Tāiki e	<i>It is done</i>



Pakohe Toki

## 6 SHARED LANGUAGE (GLOSSARY)

Definitions of terms used in the Pakohe Management Plan

Te Reo Māori	English
Aotearoa	New Zealand
Hapū	Sub-tribe
Iwi	Tribe
Kaitiaki	Guardians
Kaitiakitanga	Guardianship – Māori have an obligation to protect and enhance the mauri of all natural resources, for the benefit of ourselves, other people living in our homeland and for future generations
Karakia	Incantations
Kuru	Hammer stones
Kaupapa	Purpose
Māripi	Knives
Marutea	Pakohe which is shades of grey
Mauri	Life force - All elements of the natural environment, including people, possess mauri and all forms of life are related
Pakohe	Argillite, metosomatised mud stone
Pounamu	Greenstone
Rangatiratanga	Self-determination
Rotokura	Cable Bay
Rūnanga	Iwi board or council
Tāngata Whenua	People of this place and land
Taonga	Treasure
Taonga Pakohe	Pakohe artefacts such as adzes and tools
Taonga pōhatu	Precious stones
Taonga Tūturu	Precious Māori artefact
Te Hoiere	Pelorus Sound and River

Te Kupenga a Kuia	The tribal area of Ngāti Kuia
Te Taihu (o Te Waka a Māui)	The prow or top of the South Island
Toki	Adzes
Tōtaranui	Queen Charlotte Sound
Tupuna / Tūpuna	Ancestor / Ancestors
Uriuri	Pakohe which is dark and shades of black
Wāhi Pakohe	Naturally occurring Pakohe
Wāhi tūpuna	Pakohe archaeological sites including quarries and occupation sites where Taonga Pakohe have been found
Whakapapa	Genealogical, lineage
Whānau whānui	Wider group of Iwi members
Whao	Chisels
Whare taonga	Museum

## Abbreviations

Iwi Environmental Management Plan	IEMP
Marlborough District Council	MDC
Tasman District Council	TDC
Nelson City Council	NCC
Department of Conservation	DOC
Resource Management Act 1991	RMA

## PART B – MANAGING PAKOHE

### 7 Policy Provisions

This section outlines the outcomes, issues (potential problems), objectives (aspirations), policies (direction) and methods (actions) related to the management of Pakohe by Ngāti Kuia.

#### 7.1 Recognition - Ngāti Kuia, Te Iwi Pakohe

Recognition - Ngāti Kuia, Te Iwi Pakohe	
<b>OUTCOME</b>	Ngāti Kuia, Te Iwi Pakohe - Ngāti Kuia is recognised as the People of Pakohe
<b>ISSUE</b>	A lack of recognition and acknowledgement of the association that Ngāti Kuia has with Pakohe and of the importance of Pakohe to Ngāti Kuia.
<b>OBJECTIVES</b>	<ol style="list-style-type: none"> <li>1. Ngāti Kuia is known as – Ngāti Kuia, Te Iwi Pakohe.</li> <li>2. Ngāti Kuia achieves a controlling influence over the name, "Pakohe".</li> <li>3. DOC, MDC, NCC and TDC have a relationship with Ngāti Kuia to assist with implementation of the relevant management policies for Pakohe.</li> <li>4. Key stakeholders understand and are aware within Aotearoa (New Zealand) and overseas, of the taonga (treasured) status Pakohe has for Ngāti Kuia.</li> <li>5. Taonga Pakohe (created before 1827) in public museums are noted as having an association with Ngāti Kuia.</li> </ol>
<b>POLICIES</b>	<ol style="list-style-type: none"> <li>1. Ensure targeted education of Ngāti Kuia Iwi members, key stakeholders and the public about the customary use and cultural collection of Pakohe and its value to and association with Ngāti Kuia.</li> <li>2. Take steps to determine the most effective way of Ngāti Kuia to achieve a controlling influence over the name, Pakohe.</li> <li>3. Develop a relationship with DOC, MDC, NCC and TDC to assist Ngāti Kuia to implement the relevant management policies for Pakohe.</li> <li>4. Work with relevant public museums to identify and enhance collections of Pakohe.</li> </ol>

<b>Recognition - Ngāti Kuia, Te Iwi Pakohe</b>	
<b>METHODS</b>	<ol style="list-style-type: none"> <li>1. Develop and implement a "Pakohe Branding Strategy" for – Ngāti Kuia, Te Iwi Pakohe.</li> <li>2. Develop and manage an on-going targeted education programme for Ngāti Kuia whānau whānui (wider group of Iwi members), key stakeholders and the public.</li> <li>3. Create information resources which highlight the destruction that moving, taking or damage to Pakohe can have on the resource and the historical association, value and taonga status Ngāti Kuia has with Pakohe and the legal requirements for the protection of wāhi tūpuna.</li> <li>4. Erect public information signs on easily accessible / frequently accessed wāhi tūpuna Pakohe sites, particularly on land owned or controlled by DOC, MDC, NCC and TDC, to improve public understanding and behaviour at these sites, along with signs pointing out related legal obligations and penalties.</li> <li>5. Identify and implement the most effective way for Ngāti Kuia to achieve a controlling influence over the name, Pakohe.</li> <li>6. Develop a formal relationship agreement and a Pakohe Management Implementation Plan, in conjunction with DOC, MDC, NCC and TDC.</li> <li>7. Engage with public museums which hold Taonga Pakohe, to support them to provide signage, information and resources, noting the association that Ngāti Kuia has with that particular taonga, if known, and with all Taonga Pakohe (created before 1820).</li> </ol>
<b>EXPLANATION</b>	<p>Pakohe is central to the cultural heritage of Ngāti Kuia. Pakohe was of great practical day-to-day utility to Ngāti Kuia. It was used for tools and weapons and traded with other iwi.</p> <p>Ngāti Kuia wishes to reawaken customary knowledge and practices about Pakohe, and also embark upon developing contemporary customary practices involving Pakohe.</p> <p>The intent of these provisions is to raise the awareness of Ngāti Kuia iwi members, key stakeholders and the public of the value of Pakohe to Ngāti Kuia and the association Ngāti Kuia has with Pakohe. It is also to ensure that Ngāti Kuia iwi members are able to fulfil their customary rights to utilise Pakohe (refer also to 7.5, Commercial use of Pakohe).</p>



## 7.2 Wāhi tūpuna (Pakohe archaeological sites)

<b>Wāhi tūpuna (Pakohe archaeological sites)</b>	
<b>OUTCOME</b>	<p><b>Wāhi tūpuna (Pakohe archaeological sites) are actively protected.</b></p> <p><b>Those who are involved with wāhi tūpuna either by intent or accidentally, respect Ngāti Kuia and its taonga, Pakohe, in all their associated actions.</b></p>
<b>ISSUE</b>	<p>Damage to or loss of Pakohe by unauthorised moving or taking of Pakohe within or around Wāhi tūpuna negatively impacts on the whakapapa of Ngāti Kuia and on our responsibility to act as kaitiaki.</p>
<b>OBJECTIVES</b>	<ol style="list-style-type: none"> <li>1. People moving on, in and around any known Pakohe sites will be aware of its wāhi tūpuna status (and legal archaeological site constraints and resource management plan status) and its significance to Ngāti Kuia as kaitiaki and will act accordingly, within the law and with respect.</li> <li>2. When a wāhi tūpuna is accidentally discovered, during building, civil, mining, forestry works or the like, within Te Kupenga a Kuia, work will cease and Ngāti Kuia will be advised, immediately.</li> </ol>
<b>POLICIES</b>	<ol style="list-style-type: none"> <li>1. Inform and educate groups and the public who are likely to engage in activities which may affect wāhi tūpuna.</li> <li>2. Establish recognition for the secure management of wāhi tūpuna under the provisions of the three Te Taihū resource management plans, which cover the extent of the Pakohe resource.</li> </ol>
<b>METHODS</b>	<ol style="list-style-type: none"> <li>1. Produce and strategically distribute a range of material resources, which highlight the destruction that moving, taking or damage to Pakohe can have on the resource, and the historical association, value and taonga status Pakohe has for Ngāti Kuia, including the legal requirements for the protection of wāhi tūpuna.</li> <li>2. Erect distinctive and uniform signs at well-known Pakohe archaeological sites, to identify the site as a wāhi tūpuna, explain the associated legal requirements and clarify the importance of this resource to Ngāti Kuia.</li> <li>3. Develop a dedicated website, which outlines the historical association, value and taonga status Pakohe has for Ngāti Kuia.</li> <li>4. Work with MDC, NCC and TDC so that the land disturbance and heritage provisions of the three related resource management plans, that cover the extent of the Pakohe resource, require that Ngāti Kuia be informed immediately, in the case of accidental discovery of wāhi tūpuna,</li> </ol>

Wāhi tūpuna (Pakohe archaeological sites)	
	5. Negotiate with DOC to include a condition on all research and collection permits for geological material, within areas that are likely to contain wāhi tūpuna, to explain the associated legal requirements and clarify the importance of this resource to Ngāti Kuia.
<b>EXPLANATION</b>	Because there is a general lack of awareness about the value of Pakohe to Ngāti Kuia, and its archaeological relevance and overall cultural importance, it is essential that steps are taken to educate and inform those people who have various associations with Pakohe about its status, and the legal requirements for the protection of wāhi tūpuna. These people include walking, tramping, mountain biking and hunting groups.



Pakohe Flaking site, Rush Pools

### 7.3 Wāhi Pakohe (Naturally occurring Pakohe)

<b>Wāhi Pakohe (Naturally occurring Pakohe)</b>	
<b>OUTCOME</b>	<p><b>Wāhi Pakohe (naturally occurring Pakohe) are sustainably managed.</b></p> <p><b>The nature and extent of wāhi Pakohe is known and the accessibility, quality and the limitations of wāhi Pakohe will be understood.</b></p>
<b>ISSUE</b>	<p>Pakohe is a finite resource.</p> <p>Damage to or loss of Pakohe by the accidental discovery of wāhi Pakohe through earthworks associated with a range of land use activities. This can lead to a loss of the resource and information about the discovery, if not properly managed.</p> <p>There is incomplete information on the extent of wāhi Pakohe within the Ngāti Kuia rohe.</p>
<b>OBJECTIVES</b>	<ol style="list-style-type: none"> <li>1. When wāhi Pakohe is accidentally discovered, as a by-product of building, civil, mining, forestry works or the like, within the rohe, Ngāti Kuia will be advised within 5 working days.</li> <li>2. Greater knowledge of the extent, accessibility, quality and the limitations to sustainable management of the Pakohe resource.</li> <li>3. Ngāti Kuia will hold a database that provides a comprehensive record of the location and characteristics of Pakohe deposits within its rohe.</li> </ol>
<b>POLICIES</b>	<ol style="list-style-type: none"> <li>1. Consult with and educate groups who are likely to engage in activities which affect the condition, amount, distribution and identification of new locations of Pakohe.</li> <li>2. Research and capture the current information regarding the Pakohe resource.</li> <li>3. Undertake a gap analysis of what is known (completed research) and what is required to actively manage the Pakohe resource.</li> <li>4. Research to fill gaps in knowledge.</li> </ol>
<b>METHODS</b>	<ol style="list-style-type: none"> <li>1. Produce and strategically distribute a range of material resources, which highlight the destruction that moving, taking or damage to wāhi tūpuna causes, and identify rivers as being appropriate places to access naturally occurring Pakohe for cultural practices.</li> <li>2. Negotiate with the three Te Taihū councils, so that when mining, forestry, roading or other works are undertaken on council owned / administered land, such licences / contracts for undertaking these works will be subject to clauses which require that Ngāti Kuia be informed, within 5 working days, if Pakohe is discovered.</li> </ol>

<b>Wāhi Pakohe (Naturally occurring Pakohe)</b>	
	<ol style="list-style-type: none"> <li>3. Negotiate with DOC, so that when mining, roading or other activities involving land disturbance are undertaken on DOC owned / administered land, such licences / contracts for undertaking these works will be subject to clauses which require that Ngāti Kuia be informed within 5 working days, if Pakohe is discovered.</li> <li>4. Negotiate with Forestry land owners within the rohe and their management companies, so that when mining, forestry, roading or other works are undertaken on their land, such licences / contracts for undertaking these works will be subject to clauses which require that Ngāti Kuia be informed within 5 working days, if Pakohe is discovered.</li> <li>5. Negotiate with DOC for Ngāti Kuia to be consulted when applications are received by DOC for access agreements to mine, quarry, remove or to fossick for Pakohe on public conservation land, and that all applicants be informed of the significance and association Ngāti Kuia has with Pakohe.</li> <li>6. Prepare and manage a database which progressively records the nature and extent of the Pakohe resource within the Ngāti Kuia rohe.</li> <li>7. Review the existing research on Wāhi Pakohe and identify gaps in information.</li> <li>8. Commission research to fill in any gaps in knowledge (as required).</li> <li>9. Survey potential and known Wāhi Pakohe, with assistance from landowners, DOC and councils to ascertain the extent of the resource.</li> <li>10. Develop appropriate policies for the sustainable management and use of Wāhi Pakohe.</li> </ol>
<b>EXPLANATION</b>	<p>Individuals or companies involved in land disturbance works (for example building, civil, mining, forestry works) must also understand the significance of Pakohe to Ngāti Kuia, and that they need to notify Ngāti Kuia, upon discovery, to enable Ngāti Kuia to discharge its kaitiaki (custodial management) responsibilities, with respect to the works and the related deposit of Pakohe.</p> <p>There is only very limited information about the extent of Wāhi Pakohe within the Te Kupenga a Kuia, with particular concentrations within the mineral belt (refer map 4 for location).</p> <p>The intent of these provisions is to ensure that Ngāti Kuia gain a better understanding of the location and characteristics of Pakohe sites and particularly of Wāhi Pakohe deposits within its rohe, so that more effective management of this resource can be undertaken.</p>

## 7.4 Customary Practise

Customary Practise	
<b>OUTCOME</b>	Ngāti Kuia members are aware of and engaged in cultural practices involving Pakohe
<b>ISSUE</b>	Ngāti Kuia cultural practices in relations to Pakohe and associated rocks for traditional stone tool making are not well understood by many Ngāti Kuia iwi members.
<b>OBJECTIVES</b>	<p>Ngāti Kuia has a greater knowledge of the customary practices involving Pakohe.</p> <p>Ngāti Kuia people will engage in the customary practices involving Pakohe, as an informed expression of their cultural association with Pakohe, whilst exercising kaitiakitanga.</p>
<b>POLICIES</b>	<p>Research the history of Ngāti Kuia and customary practices with Pakohe.</p> <p>Engage customary experts of Pakohe use to develop wananga and resources.</p> <p>Educate Ngāti Kuia members about the customary use, cultural collection, value and association Ngāti Kuia has with Pakohe.</p>
<b>METHODS</b>	<ol style="list-style-type: none"> <li>1. Review the existing research on Pakohe customary practices and identify gaps in information.</li> <li>2. Commission research to fill in any gaps in customary knowledge (as required).</li> <li>3. Develop and deliver an on-going targeted education programme on customary practices for Ngāti Kuia whānau whānui.</li> <li>4. Produce and strategically distribute a range of material resources, which highlight the destruction that moving, taking or damage to wāhi tūpuna causes and identifies rivers as being appropriate places to access naturally occurring Pakohe for cultural practices. (This information will also support cultural practice.)</li> <li>5. Erect distinctive and uniform signs at well-known Pakohe sites, to identify the site as a wāhi tūpuna, explain the associated legal requirements and clarify the importance of this resource to Ngāti Kuia.</li> <li>6. Develop a dedicated website, which outlines the historical association, value and taonga status Pakohe has for Ngāti Kuia.</li> </ol>

<b>Customary Practise</b>	
<b>EXPLANATION</b>	<p>Pakohe is central to the cultural heritage of Ngāti Kuia and, historically, Pakohe was of great practical day-to-day utility to the iwi; the application of which and knowledge about its application, has defined its historic customary use.</p> <p>Ngāti Kuia wishes to reawaken customary knowledge and practices about Pakohe, and also embark upon developing contemporary customary practices involving Pakohe.</p> <p>The intent of these provisions is to raise the awareness of Ngāti Kuia iwi members about the historical association and taonga status that Pakohe has with Ngāti Kuia; it is also to ensure that the Ngāti Kuia people are able to fulfil their customary rights through the cultural practices and use of Pakohe.</p>

## 7.5 Commercial use of Pakohe

<b>Commercial use of Pakohe</b>	
<b>OUTCOME</b>	<b>Ngāti Kuia whānau whānui are the principal commercial users of Pakohe.</b>
<b>ISSUE</b>	<p>There is a lack of information and a lack of understanding about the impact of the commercial use of Pakohe on the resource.</p> <p>Ngāti Kuia has aspirations to commercially use Pakohe, although how this will be done has not been fully investigated.</p>
<b>OBJECTIVES</b>	<ol style="list-style-type: none"> <li>1. Ngāti Kuia are holders of a greater knowledge of the extent, accessibility, quality and the limitations to sustainable management of the Pakohe resource.</li> <li>2. Ngāti Kuia are the leaders in the commercial use and distribution of Pakohe, whilst exercising their kaitiakitanga.</li> </ol>
<b>POLICIES</b>	<ol style="list-style-type: none"> <li>1. Survey the state and current commercial use of the Pakohe resource.</li> <li>2. Develop commercial opportunities for Pakohe and facilitate whānau whānui involvement.</li> <li>3. Investigate the creation of a “Pakohe” trademark for taonga and other products made from Pakohe.</li> </ol>
<b>METHODS</b>	<ol style="list-style-type: none"> <li>1. Prepare and manage a database which progressively records the nature and extent of the Pakohe resource within the Ngāti Kuia rohe.</li> </ol>



<b>Commercial use of Pakohe</b>	
	<ol style="list-style-type: none"> <li>2. Undertake an investigation of the existing commercial activities associated with Pakohe.</li> <li>3. Ascertain how Ngāti Kuia wants to commercially use Pakohe and undertake a feasibility study.</li> <li>4. Develop and implement a Pakohe Branding Strategy.</li> <li>5. Negotiate with the Ministry of Economic Development and DOC, for Ngāti Kuia to be consulted when applications are received for mining licences and access agreements to mine or quarry, within areas that are likely to contain Pakohe.</li> <li>6. Negotiate with the Ministry of Economic Development and DOC to provide a condition on relevant mining licenses and access arrangements, so that if Pakohe is accidentally discovered, as a by-product of land disturbance, then Ngāti Kuia will be informed, immediately.</li> </ol>
<b>EXPLANATION</b>	Ngāti Kuia has a range of aspirations for potential future commercial endeavour based upon the Pakohe resource. The shape and extent of these prospects are yet to be fully investigated. The intent of these provisions is to ensure that Ngāti Kuia has greater control of the commercial use of Pakohe.

## 7.6 Taonga Pakohe (artefacts)

<b>Taonga Pakohe (artefacts)</b>	
<b>OUTCOME</b>	Ngāti Kuia exercise kaitiakitanga over taonga Pakohe
<b>ISSUE</b>	<p>The potential for Taonga Pakohe created prior to 1827 and/or with cultural significance to Ngāti Kuia, to be lost because of a lack of understanding of the requirements of the Protected Objects Act (2006) in protecting these items.</p> <p>Taonga Pakohe created prior to 1827 are not identified, in museums, as having been worked / created by Ngāti Kuia.</p>
<b>OBJECTIVES</b>	<ol style="list-style-type: none"> <li>1. All persons who find a Taonga Pakohe are aware of how to deal with the find appropriately, and are familiar with their legal responsibilities.</li> <li>2. Taonga Pakohe created prior to 1827 and/or with cultural significance to Ngāti Kuia, and which are in private or public ownership within New Zealand or overseas, are identified as having been created by Ngāti Kuia, Te Iwi Pakohe and/or returned to Ngāti Kuia.</li> </ol>

<b>Taonga Pakohe (artefacts)</b>	
<b>POLICIES</b>	<ol style="list-style-type: none"> <li>1. Engage with owners of Taonga Pakohe for the item to be identified as created by Ngāti Kuia, Te Iwi Pakohe</li> <li>2. Engage with owners of Taonga Pakohe with cultural significance to Ngāti Kuia for their return to the ownership of Ngāti Kuia.</li> <li>3. Investigate possibilities for the establishment of a whare taonga (museum) to hold Taonga Pakohe.</li> <li>4. Provide advice to stakeholders about the status of Pakohe and their responsibilities.</li> </ol>
<b>METHODS</b>	<ol style="list-style-type: none"> <li>1. Review the existing research on taonga Pakohe and identify gaps in information.</li> <li>2. Commission research to fill in any gaps in knowledge (as required).</li> <li>3. Provide information to museums and holders of other collections of Taonga Pakohe about the historical associations of Ngāti Kuia with Pakohe.</li> <li>4. Work with museums and holders of other collections of Taonga Pakohe to identify Ngāti Kuia as the creator of Taonga Pakohe, particularly for those created prior to 1827.</li> <li>5. Establish a whare taonga (museum) and associated management policies to hold Taonga Pakohe</li> <li>6. Use the processes provided by the Protected Objects Act 2006 to negotiate the return of Taonga Pakohe with cultural significance to Ngāti Kuia.</li> <li>7. Develop a website which outlines the historical association, value and taonga status that Pakohe has for Ngāti Kuia, and provide specific information about the processes required for the accidental discovery of Taonga Pakohe.</li> </ol>
<b>EXPLANATION</b>	<p>Pakohe has traditionally been worked by Ngāti Kuia into a variety of different tools. Prior to 1827, all Taonga Pakohe would have been quarried and prepared for trade by Ngāti Kuia. The Protected Objects Act is administered by the Ministry for Culture and Heritage and regulates the sale, trade and ownership of taonga tūturu. Further detail on the requirements of the Protected Objects Act is on page 11 and Appendix 2 - The Protected Objects Act - Guidelines for taonga tūturu of this management plan.</p> <p>The intent of these provisions is to ensure that Taonga Pakohe (artefacts) created prior to 1827 are named as being created by Ngāti Kuia and that Taonga Pakohe that have been lost to Ngāti Kuia are returned to its ownership. This will be achieved through education of the public and better understanding and use of the requirements of the Protected Objects Act 2006.</p>



## 8 Implementation, Review and Monitoring

The implementation plan has been developed based on all of the management methods required to achieve the policy outcomes via

- Leadership
- Relationships
- Participation
- Capacity building
- Advocacy
- Monitoring

The implementation plan will be included in to the relevant management work plans and reviewed annually.

This is the first version of the Pakohe Management Plan 2014 which will be formally reviewed in five years.



Pakohe Boulder in the Mahitahi

## Appendix 1 - Implementation Programme

### Pakohe Management Plan - Implementation Plan

Priority for 2014/15

Work stream 2014/15	Method	Associated tools
Te Taiao Kotahitanga	1. Develop a formal relationship agreement and a Pakohe Management Plan implementation plan, in conjunction with DOC, MDC, NCC and TDC.	MOU
Te Taiao Kotahitanga Councils - MOU	2. Negotiate with the three Te Taihū councils, so that when mining, forestry, roading or other works are undertaken on council owned / administered land, such licences / contracts for undertaking these works will be <b>subject to clauses</b> which require that Ngāti Kuia be informed, within 5 working days, if Pakohe is discovered.	MOU, Accidental discover of wāhi Pakohe/wāhi tūpuna protocol, Pakohe website
Te Taiao Kotahitanga Councils - MOU	3. Work with MDC, NCC and TDC so that the land disturbance and heritage provisions of the three related resource management plans, that cover the extent of the Pakohe resource, require, in the case of <b>accidental discovery of wāhi tūpuna</b> , that Ngāti Kuia be informed, immediately.	MOU, Accidental discover of wāhi Pakohe/wāhi tūpuna protocol, Pakohe website
Te Taiao Kotahitanga DO - MOU	4. Negotiate with DOC for Ngāti Kuia to be <b>consulted</b> when applications are received by DOC for access agreements to mine, quarry, remove or to fossick for Pakohe on public conservation land, and that all applicants be informed of the significance and association Ngāti Kuia has with Pakohe.	MOU, Consultation agreement, Pakohe website
Te Taiao Kotahitanga DO - MOU	5. Negotiate with DOC to include a condition on all research and collection permits for geological material, within areas that are likely to contain wāhi tūpuna, to explain the associated legal requirements and clarify the importance of this resource to Ngāti Kuia.	MOU, Standard condition, Accidental discover of wāhi Pakohe/wāhi tūpuna protocol, Pakohe website

Work stream 2014/15	Method	Associated tools
Te Taiao Kotahitanga DO - MOU	6. Negotiate with DOC, so that when mining, roading or other activities involving land disturbance are undertaken on DOC owned / administered land, such licences / contracts for undertaking these works will be <b>subject to clauses</b> which require that Ngāti Kuia be informed within 5 working days, if Pakohe is discovered.	MOU, Standard condition, Accidental discover of wāhi Pakohe/wāhi tūpuna protocol, Pakohe website
Te Taiao Kotahitanga DOC - MOU MED - MOU	7. Negotiate with the Ministry of Economic Development and DOC, for Ngāti Kuia to be <b>consulted</b> when applications are received for mining licences and access agreements to mine or quarry, within areas that are likely to contain Pakohe	MOU, Standard condition, Accidental discover of wāhi Pakohe/wāhi tūpuna protocol, Pakohe website
Te Taiao Kotahitanga DOC - MOU MED - MOU	8. Negotiate with the Ministry of Economic Development and DOC to provide a <b>condition</b> on relevant mining licenses and access arrangements, so that if Pakohe is accidentally discovered, as a by-product of land disturbance, then Ngāti Kuia will be informed, immediately.	MOU, Standard condition, Accidental discover of wāhi Pakohe/wāhi tūpuna protocol, Pakohe website
Ngāti Kuitanga Kotahitanga Taonga Tūturu	9. Use the processes provided by the Protected Objects Act 2006 to negotiate the return of taonga Pakohe with cultural significance to Ngāti Kuia	Taonga Tūturu Working Group Terms of Reference
Te Taiao & Ngāti Kuitanga Whakatipuranga	10. Develop and deliver an on-going targeted education programme for Ngāti Kuia whānau whānui.	Annual Pakohe Wananga Pakohe tools Wananga series x3
Te Taiao & Te Tāngata Kotahitanga Communications	11. Develop a dedicated website which outlines the historical association, value and taonga status that Pakohe has for Ngāti Kuia, and provide specific information about the processes required for the accidental discovery of taonga Pakohe.	Pakohe website
Te Taiao & Te Tāngata Kotahitanga Communications	12. Develop and implement a "Pakohe Branding Strategy" for – Ngāti Kuia, Te Iwi Pakohe	Ngāti Kuia Communication Strategy

Work stream 2014/15	Method	Associated tools
Te Taiao & Te Tāngata Kotahitanga Communications	13. Identify and implement the most effective way for Ngāti Kuia to achieve a controlling influence over the name, Pakohe and implement.	

### Priority for 2015/16

Work stream 2015 /16	Method	Associated tools
Te Taiao Kotahitanga	1. Negotiate with Forestry land owners within the rohe and their management companies, so that when mining, forestry, roading or other works are undertaken on their land, such licences / contracts for undertaking these works will be subject to clauses which require that Ngāti Kuia be informed within 5 working days, if Pakohe is discovered	MOU, Standard condition, Accidental discover of wāhi Pakohe/wāhi tūpuna protocol
Te Taiao Whakatipuranga	2. Review the existing research on Wāhi Pakohe and identify gaps in information.	
Te Taiao	3. Develop appropriate policies for the sustainable management and use of wāhi Pakohe.	
Te Taiao	4. Prepare and manage a database which progressively records the nature and extent of the Pakohe resource within the Ngāti Kuia rohe.	GIS Pakohe website
Te Taiao	5. Survey potential and known Wāhi Pakohe, with assistance from landowners, DOC and councils to ascertain the extent of the resource.	GIS Pakohe website
Ngāti Kuitanga Kotahitanga Taonga Tūturu	6. Provide information to museums and holders of other collections of Taonga Pakohe about the historical associations of Ngāti Kuia with Pakohe	Taonga Tuturu/Pakohe Strategy
Ngāti Kuitanga Taonga Tūturu	7. Engage with public museums which hold Taonga Pakohe, to support them to provide signage, information and resources, noting the association that Ngāti Kuia has with that particular taonga if known and to all Taonga Pakohe (created before 1820).	Taonga Tuturu/Pakohe Strategy



<b>Work stream 2015 /16</b>	<b>Method</b>	<b>Associated tools</b>
Ngāti Kuiatanga Kotahitanga Taonga Tūturu	8. Work with museums and holders of other collections of taonga Pakohe to identify Ngāti Kuia as the creator of taonga Pakohe, particularly for those created prior to 1827.	Taonga Tuturu/Pakohe Strategy
Ngāti Kuiatanga Kotahitanga Taonga Tūturu	9. Review the existing research on taonga Pakohe and identify gaps in information.	
Ngāti Kuiatanga Whakatipuranga	10. Review the existing research on Pakohe customary practices and identify gaps in information.	
Te Taiao & Te Tāngata Kotahitanga Communications	11. Develop and manage an on-going targeted education programme for - key stakeholders and - the public	Training programmes - how to implement PMP - discovery protocols Pakohe website
Te Taiao & Te Tāngata Kotahitanga Communications	12. Erect public information signs on easily accessible / frequently accessed wāhi tūpuna Pakohe sites, particularly on land owned or controlled by DOC, MDC, NCC and TDC, to improve public understanding and behaviour at these sites. Signs to: - identify the site as a wāhi tūpuna, - note the historical association, value and taonga status Pakohe has for Ngāti Kuia - highlight the destruction caused that moving or taking Pakohe does to wāhi tūpuna - explain the associated legal obligations and penalties.	Pakohe website
Te Taiao & Te Tāngata Kotahitanga Communications	13. Produce and strategically distribute a range of material resources which: - note the historical association, value and taonga status Pakohe has for Ngāti Kuia - highlight the destruction caused that moving or taking Pakohe does to wāhi tūpuna - explain the associated legal obligations and penalties. - identify rivers as being appropriate places to access naturally occurring Pakohe for cultural practices	Pakohe website
Te Pūtea & Te Taiao	14. Undertake an investigation on the existing commercial activities associated with Pakohe.	





Work stream 2015 /16	Method	Associated tools
Te Pūtea & Te Taiao	15. Ascertain how Ngāti Kuia wants to commercially use Pakohe and undertake a feasibility study.	

**Priority for 2016/17**

Work stream 2016 /17	Method	Associated tools
Ngāti Kuitanga Kotahitanga Taonga Tūturu	16. Establish a whare taonga(museum) and associated management policies to hold taonga Pakohe	
Ngāti Kuitanga Whakatipuranga	17. Commission research to fill in any gaps in customary knowledge	

## **Appendix 2 - The Protected Objects Act - Guidelines for taonga tūturu**

### **(by the Ministry for Culture and Heritage)**

Under the Act, all taonga tūturu found are in the first instance (prima facie) Crown owned, to allow claims for ownership to be heard by the Māori Land Court. In the interim, the Ministry is legally responsible for recording, custody, facilitating claims for ownership and any conservation treatment for taonga tūturu. Any person who may have any right, title, estate, or interest in any such taonga tūturu may apply to the Māori Land Court for a determination on ownership.

The Act also regulates the trade of taonga tūturu and only certain people can purchase privately owned taonga tūturu.

Privately owned taonga tūturu can only be sold to registered collectors (of which Te Rūnanga o Ngāti Kūia is one), licensed dealers and public museums. Crown owned taonga tūturu cannot be sold. Taonga tūturu can be sold to an overseas buyer but it will require export permission from the Minister to leave New Zealand.

A Registered Collector of taonga tūturu can purchase privately owned taonga tūturu or become a Ministry appointed custodian of Crown owned taonga tūturu. Individuals and groups can apply to the Ministry to become a Registered Collector of taonga tūturu.

The Act also incorporates the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.

These provisions allow New Zealand to recover protected objects that have been illegally exported from the country after the signing of the Conventions (1 May 2007). They also allow fellow signatory countries to recover their protected objects which have been illegally exported to New Zealand.

### **Appendix 3 – Kaitiaki of Pākohe Agreement with Department of Conservation**





# Te Rūnanga o Ngāti Kuia Accidental Discovery Protocol

## 1. Purpose

To provide clear procedures in the event of accidentally discovering, as the result of physical disturbance to the existing ground surface:

- Wāhi tūpuna/archaeological site,
- Kōiwi/human bones
- Taonga/ Māori artefacts
- other artefacts

This protocol involves the following parties:

- Project Owner – include their lead Consultant/Project Manager, Contractor and Site Supervisor and Project Archaeologist
- Heritage NZ Regional Archaeologist
- NZ Police for Kōiwi
- Te Rūnanga o Ngāti Kuia (Ngāti Kuia)

These procedures reflect the minimum requirements of Ngāti Kuia in accordance with statutory obligations under the Heritage New Zealand Pouhere Taonga Act 2014<sup>1</sup> (which replaced the Historic Places Act 1993 on 20 May 2014) and the Protected Objects Act 1975<sup>2</sup>.

Evidence of archaeological sites can take the form of burnt and fire cracked stones, charcoal, rubbish heaps including shell, bone and/or 19<sup>th</sup> century glass and crockery, ditches, banks, pits, old building foundations, artefacts of Māori or early European origin, or human burials.

## 2. General Procedures Following the Accidental Discovery of Possible Wāhi Tūpuna, Kōiwi or Taonga

In the event of the accidental discovery of material that could be Wāhi tūpuna/archaeological site, Kōiwi/human bones<sup>3</sup> and/or Taonga/Māori artefacts<sup>4</sup> the following steps shall be taken:

1. All work in the discovery area (within 20 metres of the suspected site) shall cease immediately. The plant operator will shut down equipment and activity, leave the site area and unearthed archaeological material in situ and advise the Site Supervisor/Contractor
2. The Site Supervisor/Contractor shall then notify the following people of the discovery:
  - Resource Management Unit, Te Rūnanga o Ngāti Kuia
  - Consultant/Project Manager

<sup>1</sup> (New Zealand Heritage Pouhere Taonga Act 2014.)

<sup>2</sup> (Protected Objects Act 1975)

<sup>3</sup> (CSNZ guide for Kōiwi: Human Remains, 2014), (NZH Tangata Kōiwi guide, 2014)

<sup>4</sup> (MCH guide for Taonga Tūturu, 2014)

- Project Archaeologist (if there is one already). If a project archaeologist is not nominated the Consultant and/or Project Owner will appoint a qualified archaeologist to ensure all archaeological sites and Taonga Tūturu are dealt with appropriately
  - New Zealand Police if any Kōiwi are uncovered. This is a requirement of the Coroners Act 2006<sup>5</sup>.
3. The Contractor will secure the discovery area (20 metres from suspected site), ensuring the area (and any objects contained within) remains undisturbed and meets health and safety requirements. Work may continue outside of the site area.
  4. The Consultant shall ensure that either themselves or the Contractor, as appropriate, are available to meet and guide Ngāti Kuia, the Project Archaeologist, and Police (if required) to the discovery area. The Contractor and Consultant will assist with any reasonable requests that any of these people may make.
  5. The Consultant shall ensure that no information is released to the media except as authorised by the Project Owner, in consultation with Ngāti Kuia.
  6. In the event the discovery area is found to contain an archaeological site, the Regional Archaeologist, Heritage NZ will be contacted and an archaeological authority must be obtained in accordance with the Heritage New Zealand Pouhere Taonga Act 2014. Kōiwi that are part of an archaeological site can only be removed if an archaeological authority has been obtained.
  7. When the archaeological authority has been granted, the Consultant shall ensure the Contractor undertakes all subsequent works in accordance with the conditions of this authority.
  8. The Contractor shall ensure that all visits to the discovery area are cleared by the Consultant.
  9. The Consultant shall ensure that work in the discovery area does not recommence until all statutory and cultural requirements have been met.

### 3. Further Procedures in the Event that Kōiwi are discovered

1. As soon as practicable after the Consultant has given notice to Ngāti Kuia that Kōiwi have been discovered, the Consultant shall invite Ngāti Kuia to inspect the site and undertake appropriate cultural ceremonies at the site.
2. If Ngāti Kuia wish to undertake such ceremonies, the Consultant shall make the necessary arrangements for these ceremonies as soon as practicable.
3. Once these ceremonies are completed, the Consultant shall arrange for the Project Archaeologist, in consultation with the New Zealand Police and Ngāti Kuia, to inspect the skeletal remains.

---

<sup>5</sup> (Coroners Act 2006)

4. The Project Archaeologist will record details of the Kōiwi, the site of discovery, and any other relevant facts, and these records will be made available to the New Zealand Police and Ngāti Kuia.
5. If the Kōiwi are Māori, and the New Zealand Police and/or Coroner have no uncertainty or suspicion about the Kōiwi, the Consultant shall arrange for Ngāti Kuia to remove the Kōiwi from the site, or if they decline, arrange for the New Zealand Police and/or Coroner to do so.
6. In the event that the New Zealand Police and/or Coroner have any uncertainty or suspicion about the Kōiwi, they are responsible for making any records they require and for any Kōiwi that they remove from the site.
7. If the Kōiwi are Māori and the New Zealand Police and/or Coroner remove only part of the Kōiwi, the provisions of Section 3 (5) above will apply.
8. If the Kōiwi are non-Māori, the New Zealand Police and/or Coroner will be responsible for removing any remaining exposed Kōiwi.

#### 4. Custody of Taonga (Excluding Kōiwi) or Material Found at an Archaeological Site

1. The Project Archaeologist will have initial control of, and responsibility for, all material contained in the discovery area.
2. The Consultant shall ensure no objects are removed from the site until it has been determined, in consultation between the Project Archaeologist and Ngāti Kuia, whether it is associated with an archaeological site or the object is Taonga (be it Taonga Tūturu or otherwise).
3. If the object is of Māori origin and found in an archaeological site and/or is a Taonga Tūturu, the Project Archaeologist will record the object and notify the Ministry for Culture and Heritage of the finding as required under the Protected Objects Act 1975<sup>6</sup>. The Project Archaeologist will then hand the material to the local public museum for the Maori Land Court to make a determination on ownership. If the object is European in origin the Consultant shall deliver any such object to the Client so that the legal right to ownership can be determined.
4. If the object is a Taonga and less than 50 years old, (ie not Taonga Tūturu), the Consultant shall invite Ngāti Kuia to remove the Taonga from the site.

---

<sup>6</sup> (MCH guide for Taonga Tūturu, 2014)  
Draft v27/10/14

## 5. References

Coroners Act 2006. (n.d.). Retrieved 11 7, 2014, from

<http://www.legislation.govt.nz/act/public/2006/0038/latest/whole.html>

*CSNZ guide for Koiwi: Human Remains*. (2014, 11 7). Retrieved from Coronial Services of New Zealand: <http://www.justice.govt.nz/courts/coroners-court/publications/fact-sheets/koiwi-historical-remains/view>

*MCH guide for Taonga Tūturu*. (2014, 11 7). Retrieved from Ministry for Culture and Heritage: <http://www.mch.govt.nz/nz-identity-heritage/protected-objects/taongatuturu>

New Zealand Heritage Pouhere Taonga Act 2014;. (n.d.). Retrieved from [http://www.legislation.govt.nz/act/public/2014/0026/latest/DLM4005414.html?search=qs\\_act\\_heritage+new+zealand\\_resel\\_25\\_h&p=1&sr=1](http://www.legislation.govt.nz/act/public/2014/0026/latest/DLM4005414.html?search=qs_act_heritage+new+zealand_resel_25_h&p=1&sr=1)

*NZH Tangata Koiwi guide*. (2014, 11 7). Retrieved from NZ Heritage : <http://www.heritage.org.nz/protecting-heritage/archaeology/archaeological-guidelines-and-templates>

Protected Objects Act 1975. (n.d.). Retrieved from

<http://www.legislation.govt.nz/act/public/1975/0041/latest/DLM432116.html>

This protocol has been based on the NZ Transport Agency Minimum Standards - Z/22 Version 1, March 2009

## Te Rūnanga o Ngāti Kuia Discovery Protocol

### CONTACTS:

Name	Organisation	Phone Number	Email
Raymond Smith, Te Taiao Manager	Te Rūnanga o Ngāti Kuia	0272535043	<a href="mailto:raymond@ngatikuia.iwi.nz">raymond@ngatikuia.iwi.nz</a>
David Rudd, Regional Archaeologist	Heritage NZ	04 494 8323	
Harvey Ruru, Iwi Liaison Nelson	NZ Police	027 606 2727	
Sam Hedley, Iwi Liaison Blenheim	NZ Police	(04) 802 3606	
	Project Manager/Consultant		
	Project Archaeologist		

## **Woodburner Working Party report to the Planning and Regulatory Committee – 27 November 2014.**

As Chairman of the WWP and on behalf of the members of the WWP, I am pleased to present the recommendations in Clare Barton's report. I intend to briefly outline the context of how the WWP came to these recommendations and make some comments.

### **Background**

Nelson has a history of poor air quality. Measured in 2001 some parts of the Nelson region were three times over the national air quality standards that the Government subsequently introduced in 2004 (the Resource Management (National Environmental Standards for Air Quality) Regulations 2004). These regulations are known as the National Environmental Standards for Air Quality or NESAQ.

Nelson has made a concerted effort to change. Controls were introduced in the Nelson Air Quality Plan (operative in 2008) to achieve compliance with the NESAQ. Many homes have converted away from burning wood/coal. Others took advantage of phase out provisions and upgraded to a compliant woodburner. Nelson now enjoys much less polluted air. With the exception of Airshed A/Nelson South we comply with the NESAQ. It is a significant achievement.

Council is aware of residents reporting they are living in cold homes and some are getting sick. Other residents, who can heat their home, have told us they would prefer a woodburner and want that choice.

The NESAQ is binding on Council. Even if we wanted to we cannot change the Nelson Air Quality Plan to be more lenient than the NESAQ standards. That has restricted the WWP's focus to examine what Council can do *within* the NESAQ regulations.

### **Recommendation and comments**

Advice to the WWP suggests some areas in our region have pollution levels below the NESAQ standards. That 'space' or 'capacity' may allow for an increase in pollution up to the NESAQ standard. In other words Council may be able to permit woodburners in those areas with sufficient pollution capacity within the NESAQ regulations.

The WWP also took advice that 'capacity' is misleading. It has been emphasised that the NESAQ is a guideline for compliance rather than signalling a safe level of pollution. Any air pollution is harmful regardless of the level.

On balance, given residents' concerns, the WWP recommends Council review the Air Quality Plan taking a permissive approach to the NESAQ standard. The WWP recommends the review builds on the capacities identified in the modelling and monitoring work completed by the WWP.

The WWP recommends Council initiate any plan change as part of the wider Nelson Plan review which has a target notification date of mid 2016. There will be a slight delay compared with commencing a specific woodburner plan change now. That delay is prudent for two reasons: 1) the cost of a plan change is significant and combining the reviews will be less costly; and 2) it will allow time for further monitoring data needed to back up section 32 cost/benefit analysis report needed

for a plan change. It should be noted the proposed review brings forward the planned 2018 date for review of the Nelson Air Quality Plan.

### **My thanks**

The WWP has been well served with specialist advice and input. I especially thank Dr Emily Wilton for her work completing the emissions inventory and data modelling. My thanks also to the Council nominated stakeholders (NMDHB, TDC, and Iwi) for their time and specialist advice. I also acknowledge the very good work of Nelson City Council staff in this area. Finally my thanks to the WWP Members Cllrs Barker, Fulton, McGurk , and Skinner for their commitment and contributions culminating in these recommendations to the Planning and Regulatory Committee.

---

## **Report of the Woodburner Working Party**

---

### **1. Purpose of Report**

#### **1.1 The purpose of this report is to:**

- Provide Council with the findings of the Woodburner Working Party (WWP); and
- To seek agreement as to the actions that will be taken by Council to address options for managing air quality and home heating, insulation and ventilation.

### **2. Delegations**

#### **2.1 The members of the Woodburner Working Party are Councillors Acland (Chair), McGurk, Fulton, Barker and Skinner. Cindy Batt as an iwi representative, Mary-Anne Baker from Tasman District Council and Dr Ed Kiddle of the Nelson Marlborough District Health Board are key stakeholders of the Working Party. The Working Party has no powers to make decisions. The terms of reference are:**

- To affirm the programme of research including air quality emission inventory, survey information and airshed monitoring work.
- To request, receive and consider any information relevant to the options under consideration.
- To provide a recommended option to the Planning and Regulatory Committee.
- To be an interface between community and sector groups so that interested members of the public can provide feedback.

### **3. Executive Summary**

#### **3.1 The Woodburner Working Party is tasked with assessing whether the current regulations, contained in the Nelson Air Quality Plan, for woodburners should continue.**

#### **3.2 In reaching a recommendation on this matter the Working Party has had to critically consider the tension between cold homes and the health impact on occupants versus the health impact from air pollution. Both issues are real, contentious and costly in terms of impact.**



- 3.3 The Draft Position Statement from the Canterbury District Health Board (Attachment 1) notes this tension. The Statement acknowledges that home heating (temperature, humidity and ventilation), energy costs and fuel poverty are key housing issues with implications for health outcomes. The Statement also recognises that clean air is a requirement for health and wellbeing and that urban outdoor air pollution is the eighth most common risk factor for death in high income countries. There is no simple fix to the potential tension between these two issues.
- 3.4 The Working Party acknowledges there is a National Environmental Standard for Air Quality (NESAQ) which requires compliance with thresholds for PM<sub>10</sub> concentrations. This is a national regulation that must be complied with. Indications from Central Government at this point are there will be no change to the NESAQ.
- 3.5 The Working Party has considered modelling data that has been collected and analysed by Environet Ltd. There is potentially what has been termed "spare" capacity in Airsheds B2 and C. Spare capacity is somewhat of a misnomer. Whilst the NESAQ sets limits which must be met it does not mean that where an airshed is below the limit the full "resource or capacity" should be used up. The Working Party was cautioned that this "capacity" is not necessarily there given:
- Monitoring information is limited; and
  - Dispersion modelling indicates that emissions from Airshed C contribute to Airshed A and emissions from Airshed B2 contribute to Airshed B1. So by increasing emissions in the "spare" capacity airsheds there is the potential to adversely impact on airsheds where there is no capacity.
- 3.6 In addition, before any "spare" capacity was considered for allocation a minimum of an additional year of air quality monitoring would be required.
- 3.7 The Working Party is mindful that there are equity issues too. If changes are made to any regulatory approach then property owners who have already had to meet the cost of altering/removing woodburners or removing open fires would be penalised. In addition, Airshed C is the area where people could retain existing woodburners.
- 3.8 The Nelson Plan development process has commenced. As part of the development of the Plan it would be possible to include a review of the Nelson Air Quality Plan and combine the documents into one. This review process allows for a thorough examination of all air quality/woodburner issues at one time and enables thorough public consultation on the issue. The Nelson Air Quality Plan is due for review in 2018 so it means bringing forward the review of the Plan by approximately 3 years. The Working Party supports including a review of the Nelson Air Quality Plan within the Nelson Plan. The time for the development of any Plan provisions allows for necessary additional monitoring to be undertaken and the work recently completed will be current enough to feed into the Plan review. The Plan review process will require a thorough assessment of all alternatives and the costs and

benefits of any approach (refer RMA section 32)<sup>1</sup>. Even if a Plan Change was commenced now it would take the same time to prepare the necessary robust documentation and go through the hearing and appeal process. It seems prudent both in terms of time and cost to include the review as part of the Nelson Plan work and this has the added benefit of achieving one single plan which has been signalled to be a key goal for Central Government.

- 3.9 The Working Party also considers that a linked issue to air quality is cold homes. Included as a separate agenda item is a paper (A1248604) seeking Councils endorsement to provide financial assistance for insulation in homes and continuing to provide advice through Council's Eco Building Design Advisor. The health consequences of cold, damp homes can affect all age groups.

#### **4. Recommendation**

***THAT the report of the Woodburner Working Party (A1262104) and its attachments (A1272248 and A23847) be received.***

#### **Recommendations to Council**

***THAT Council agrees that the review of the Nelson Air Quality Plan be brought forward 3 years, that it be incorporated into one single integrated document to be called the Nelson Plan and that this work builds on the modelling and monitoring work completed to date;***

***AND THAT Council agrees to support initiatives that improve home insulation and continue with the free service of Council's Eco Building Design Advisor (refer to the recommendations in the separate agenda item A1248604).***

#### **5. Terms of Reference for the Woodburner Working Party**

- 5.1 The WWP has been tasked with guiding the development of the review of the woodburner provisions in the Nelson Air Quality Plan.
- 5.2 The WWP has considered the following in reaching the recommendations that are contained in this report:
- The current planning framework contained in the Nelson Air Quality Plan and the supporting non-regulatory programme;
  - The requirements of the National Environmental Standard for Air Quality and the latest indications from Government on the matter of air quality;
  - International approaches to managing air quality;

<sup>1</sup> A section 32 report outlines the alternatives, costs and benefits and must set out how the proposed provisions are effective and efficient.

- Environment Canterbury approach to air quality;
  - Health effects;
  - Results of monitoring and modelling work;
  - Options for alternative technology;
  - Other home heating options;
  - The link to home insulation and building design;
  - Other matters.
- 5.3 The report will be structured using the same headings as outlined in section 5.2.
- 5.4 There were presentations to the Working Party from the following people:
- Dr Ed Kiddle, Medical Officer of Health.
  - Dr John Hoare, Association for Independent Research Inc.
  - Dr Emily Wilton, Environet Ltd – Air Quality Specialists.

## **6. Discussion**

### **The Nelson Air Quality Plan and Non-Regulatory Programme**

- 6.1 Air pollution levels in 2001 in Airshed A were over three times the national standard. As a result the Council sought to manage air quality through provisions in the Nelson Air Quality Plan (NAQP) (Attachment 2). The provisions were targeted to the areas of the City and to those activities creating the greatest air quality impact.
- 6.2 The NAQP includes amongst other rules management measures for domestic home heating. In 2001 89% of particulates were coming from burning wood and coal for domestic heating and therefore controlling domestic home heating was an essential mechanism for managing air quality.
- 6.3 The management measures in the NAQP for domestic home heating are:
- A ban on the installation of solid fuel burners in new dwellings or existing dwellings using other home heating methods from August 2003;
  - A ban on outdoor rubbish burning from 2004;
  - Emission limits for new installations of solid fuel burners of 1.5 g/kg and an energy efficiency of 65% (when tested to NZS 4013);
  - A ban on the use of open fires from January 2008; and
  - Staged phase out of older burners in Airsheds A and B1 from 2010, 2011 and 2013. The latter phase out date of wood burners installed between 2000 and 2003 was withdrawn following 2011 revisions to the national standard. This resulted in approximately 500 burners in Airshed A and 200 burners in Airshed B1 not being phased out. There was also a staged phase out in Airshed B2 of older pre 1990 burners by 2010 and pre 1995 burners by 2012.

- 6.4 Policy A5-1.5 in the NAQP states the reduction in solid fuel fires (excluding low emission pellet burners) will be reviewed if new generation solid fuel burners become commercially available and can be shown to be consistently and significantly below a level of 1.5g of PM<sub>10</sub> emissions per kilogram of fuel burnt.
- 6.5 The regulatory approach is supported by a non-regulatory programme which includes:
- Subsidised home heating and insulation through the Clean Heat Warm Home scheme;
  - The Good Wood scheme which identifies and promotes suppliers of good quality firewood;
  - In conjunction with the 2004 ban on outdoor burning, a garden refuse scheme was implemented for 2 years; and
  - Energy efficiency, insulation and heating advice provided through Council's Eco-Design Advisor.
- 6.6 The programme of works has collectively resulted in the following outcomes:
- 2034 open fires and old enclosed burners (including 141 as mitigation for the then proposed Southern Link) being replaced with 1211 approved NES woodburners (59%), 698 heat pumps (34%), 92 gas burners (5%) and 33 pellet burners (2%); and
  - 1370 cold homes being insulated.
- 6.7 This programme of works has cost Council and the community approximately \$14 million to implement (includes \$12.6 million targeted rates under the Clean Heat Warm Homes scheme; \$454,000 staff costs; \$140,000 education campaign; \$26,000 Plan change costs; \$152,000 monitoring costs; \$31,700 enforcement staff costs).
- 6.8 The cost to individual property owners who have had to replace fires is more difficult to determine. Rates rebate recipients had all costs covered by Council up to \$4999 and others paid more than \$6000 including paying Council back \$4999 as a targeted rate.

### **The National Environmental Standard for Air Quality**

- 6.9 Environet Ltd's *Nelson Air Quality Assessment Report* dated October 2014 (page 2) contains a summary of the requirements of the National Environmental Standard for Air Quality (NESAQ) as follows:

*"The NESAQ for PM<sub>10</sub> specifies a limit of 50 µg/m<sup>3</sup> for PM<sub>10</sub> (particles in the air less than 10 microns in diameter) which can only be exceeded on one occasion per year. The NESAQ was introduced in 2004 (Ministry for the Environment 2004) and took effect from September 2005, although compliance for the PM<sub>10</sub> standard in non-complying airsheds was not required until 2013..."*

*In 2011 the NESAQ was reviewed. A number of changes were made including new compliance dates. An interim target of compliance with three exceedances of PM<sub>10</sub> was required by 2016 in Airshed A and full compliance with the NES was not required until September 2020. In Airshed B and C full compliance is required by 2016..."*

- 6.10 As set out in Policy A5-1.4 *Fine Particle Pollution* in the NAQP the standards that need to be met for each Airshed are as follows:

*"Airshed A*

- *1 September 2016 with not more than 3 exceedances in a 12 month period of the 24-hour mean NES up to and including 31 August 2020; and*
- *1 September 2020 onwards, not more than 1 exceedance in a 12 month period.*

*Airshed B*

- *1 September 2016 onwards, with not more than 1 exceedance in a 12 month period,*
- *Or sooner if practicable, towards ultimate compliance or better with the "Acceptable" air quality category as in Policy A5-1.3 by 2025.*

*Airshed C is expected to maintain its current compliance, subject to Policy A5-1.3d)."*

**Airsheds**

- 6.11 Airsheds defined under the NESAQ are primarily a management tool. Once an airshed is gazetted the process for removing or altering an airshed is complicated. A plan needs to be lodged with Land Information NZ with a request to the Minister for the Environment with supporting documentation as to why the change is proposed. Ministry staff provide advice to the Minister and if it is accepted the documents are forwarded to the Government Gazette Office where the airshed is gazetted and it comes into force from the date specified. There would also need to be a Plan change to make sure the Plan boundaries align with the newly gazetted airshed boundaries.
- 6.12 When the Nelson airsheds were established the following factors were used:
- Airsheds were grouped together where they had similar characteristics.
  - Airsheds often include geophysical boundaries such as hills and valleys. During cold winter nights in low wind conditions air tends to flow downhill much like water does in a river catchment.
  - Airsheds need to take into account the location of different activities and exposures.
  - Airsheds should take into account existing boundaries (e.g. council boundaries or census meshblocks).

- Airsheds should make sense on the ground and should follow roads and ridges and avoid cutting through land parcels.
- 6.13 Changing the airshed boundaries now, given the process required to make these changes, is not recommended. As part of the proposed Plan review process the airshed boundaries can be assessed and confirmed or altered as appropriate.
- 6.14 The indication from Government at this point is that there is unlikely to be any change to the NESAQ. It is unclear what the effect of non-compliance with the requirements of the NESAQ will mean for any individual community. Any Government changes will become clearer over the next year and can be accounted for in the Nelson Plan review. Some other regions in New Zealand do not yet comply with the NESAQ.

### **International Approaches to Managing Air Quality**

- 6.15 In many parts of the world including most of Europe and the United States standards are also set for PM<sub>2.5</sub> (less than 2.5 microns in diameter). As PM<sub>2.5</sub> is much smaller than PM<sub>10</sub> it penetrates deeper into the lungs. It is more strongly associated with adverse health effects than is PM<sub>10</sub> and hence the overseas maximum allowable concentrations for PM<sub>2.5</sub> are much lower than for PM<sub>10</sub>. Combustion sources such as woodfires and vehicles normally generate very fine particles in the PM<sub>2.5</sub> range.<sup>2</sup>

### **Environment Canterbury**

- 6.16 Environment Canterbury released their Draft Canterbury Regional Air Plan in October 2014. The Plan proposes:
- Introducing a policy that sets a long term target to achieve the health based guidelines set by the World Health Organisation for PM<sub>2.5</sub>.
  - Encouraging the development and introduction of “ultra low” emission wood burners although they acknowledge these are not yet available.
  - Continuing to require the installation of low emission wood burners in urban areas in Canterbury.
  - Continuing to not allow burners to be installed in new homes in many areas.
  - Potentially requiring regular maintenance of wood burners.

<sup>2</sup> Nelson City Council has undertaken monitoring of PM<sub>2.5</sub> in Airshed A since 2008. During the winter period approximately 90% of the PM<sub>10</sub> measured in Airshed A comprises of PM<sub>2.5</sub> particles or smaller. As a consequence when a winter measurement of 50 µg/m<sup>3</sup> of PM<sub>10</sub> occurs (not a breach of the NESAQ) the corresponding concentration of PM<sub>2.5</sub> is about 45 µg/m<sup>3</sup>. That concentration is nearly twice the maximum permissible under the European or US standards.

- 6.17 Other Councils are addressing how they manage exceedances including controlling woodburners. For example, Tasman District Council requires phase out of woodburners at point of sale; West Coast is promoting the use of Oeko tubes for coal burners and Auckland Council are currently developing a bylaw.

### **Health Effects From Air Pollution and Cold Homes**

- 6.18 Environet Limited (Health and Air Pollution in Nelson – Outputs from HAPINZ 2006 and Evaluation of Impact of Changes from 2001 to 2013 - dated July 2014 (page 17) found:

*"Concentrations of PM<sub>10</sub> have decreased significantly in Nelson in Airshed A where the annual average PM<sub>10</sub> concentration has reduced from 45 µg/m<sup>3</sup> in 2001 to around 18 µg/m<sup>3</sup> in 2013. Concentrations in other airsheds have reduced also but not to the same extent. Health benefits will occur as a result of improvements in air quality. The most significant measure in terms of costs avoided is premature mortality. This analysis estimates that air pollution related premature mortality in Nelson has reduced from around 31 deaths in 2001 to around 26 in 2013, a total of five premature deaths avoided per year. The majority of these occur as a result of reductions in PM<sub>10</sub> concentrations in Airshed A. Total health benefits associated with this improvement in air quality are estimated at around \$27 million per year."*

- 6.19 While air pollution has proven adverse impacts on human health so too have cold homes. Paul Sheldon (Monitoring Consultant) advised the Working Party that a review of the health impacts of cold homes was undertaken for the Friends of the Earth by the Marmot Review Team, Department of Epidemiology and Public Health, University College, London in 2010 and that review found (amongst other findings):
- Countries which have more energy efficient housing have lower excess winter deaths (EWD). EWD's are almost three times higher in the coldest quarter of housing than in the warmest quarter.
  - There is a strong relationship between cold temperatures and cardio-vascular and respiratory diseases.
  - More than 1 in 4 adolescents living in cold housing are at risk of multiple mental health problems compared to 1 in 20 adolescents who have always lived in warm housing.
- 6.20 The Canterbury District Health Board in its statement of 2012 (Housing, Home Heating and Air Quality: A Public Health Perspective) recognised the dual needs to improve indoor air temperatures and reduce air pollution levels both for public health benefits.

### **Results of Monitoring and Modelling Work**

- 6.21 Environet Ltd prepared a report for the Working Party (Nelson Air Quality Assessment – Meeting the NES for PM<sub>10</sub> 2014 Update – October 2014) which found:

- 6.21.1 The reduction required in PM<sub>10</sub> concentrations in **Airshed A** was originally evaluated at around 70% based on the maximum measured PM<sub>10</sub> concentration in Airshed A in 2001. Analysis of PM<sub>10</sub> concentrations from 2001 to 2014 suggest there has been a reduction of around 66% to 69% with the majority of the reduction occurring between 2001 and 2010.
- 6.21.2 A further reduction of around 14% of 2014 levels (equivalent to around 5% of 2001 levels) is still required to meet the NESAQ. A scenario was modelled of allowing the installation of ultra low emission burners (ULEB) and if all households were to install ULEB's then emissions in **Airshed A** would increase. It may be possible to allow the installation of ULEB's in **Airshed A** if a programme to reduce PM<sub>10</sub> emissions by 20% was successful and non-NESAQ compliant wood burners were all phased out. However, this would increase the risk of future non-compliance. In addition, a 20% reduction over and above what has already been achieved is a significant task. 35% of houses in Airshed A currently have a compliant woodburner.
- 6.21.3 The reduction required in PM<sub>10</sub> concentrations in **Airshed B1** was originally evaluated at about 45%. Results suggest a reduction in PM<sub>10</sub> concentrations of around 54% from 2002 to 2014. However, there is a large degree of uncertainty around this reduction owing to the absence of data for 2001 and 2003. A better statistic to base the reductions assessment is from 2006 which shows a reduction of around 40% from 2006 to 2014 and compares with a required reduction at 2006 of around 35%.
- 6.21.4 There is unlikely to be any spare capacity in **Airshed B1**.
- 6.21.5 The reduction required in PM<sub>10</sub> concentrations in **Airshed B2** was estimated at 24%. The maximum measured PM<sub>10</sub> concentration in 2010 was 40µg/m<sup>3</sup> which suggests the site is likely to be compliant with the NESAQ.
- 6.21.6 If any capacity was to be used by allowing the installation of new burners into **Airshed B2** then only a proportion should be allocated for the following reasons:
- 6.21.7 Monitoring in the Airshed is limited and it is possible that the most recent monitoring undertaken in 2010 does not represent worst case meteorological conditions. Therefore there is uncertainty about the magnitude of the capacity.
- 6.21.8 Dispersion modelling indicates that emissions from Airshed B2 contribute to PM<sub>10</sub> concentrations in Airshed B1.
- 6.21.9 Health impacts data indicates that PM<sub>10</sub> is a no threshold contaminant and a review by the World Health Organisation suggests that guidelines for PM<sub>10</sub> and PM<sub>2.5</sub> may be revised.
- 6.21.10 Environet Ltd recommend that before any capacity was considered for allocation one year of air quality monitoring be carried out at this site to ensure the predicted reductions in concentrations have actually occurred.



- 6.21.11 The reduction required in PM<sub>10</sub> concentrations in **Airshed C** was estimated at 24%. It is likely given the significant reductions in emissions in Airshed C since 2001 that concentrations are compliant with the NESAQ. Because of limited PM<sub>10</sub> monitoring at this site there is no trend data and indications of change only provide a rough indication of potential change.
- 6.21.12 Whilst there is the potential for capacity in Airshed C there is limited monitoring data to support the emissions estimates and there is the impact that Airshed C has on Airshed A.

### **Alternative Technology**

- 6.22 At present emission reduction technology suitable for domestic scale application is available (i.e. the Oeko Tube Electrostatic Precipitator). The cost of the purchase and installation is around \$2580. However, there is uncertainty around its effectiveness with wood burners.
- 6.23 Tests undertaken by the West Coast Regional Council regarding the Oeko Tube for coal burners suggest that requiring the installation and maintenance of the device on coal and multi fuel burners in Reefton in conjunction with a ban on the use of bituminous coals may be sufficient to meet the NESAQ in Reefton. There is however, uncertainty as the Tube needs to operate consistently as shown in test situations and the Tube requires ongoing maintenance to be effective.
- 6.24 As outlined in paragraph 6.16.2 above Environment Canterbury state there are currently no New Zealand tested ultra low emission burners available on the market. Overseas manufacturers of burners claim to achieve the limits specified for ultra low emission burners. The cost of purchasing and installing these systems is not known with accuracy although they appear to range between \$8000 and \$12,000 plus installation, which are around twice the cost of current NES compliant woodburners. This would not assist those struggling to afford heating.

### **Home Heating Options**

- 6.25 A report prepared for the Environment Canterbury and Canterbury District Health Board (A1272449 – page 10) concludes the following in relation to home heating options:
- Pellet fires – high capital cost, average operating cost.
  - Heat pumps – average capital cost, low operating cost.
  - Flued gas heaters – high capital cost, high operating cost.
  - Diesel burners – high capital cost, high operating cost.
  - Wood burners – high capital cost, low operating cost.
  - Other electric options – low capital cost, high operating cost.
  - Unflued gas heaters – low capital cost, high operating cost and negative health effects.

- 6.26 The ability to afford home heating (whatever option is selected) is a very real concern for some people including the elderly. Factors influencing heating costs are heating method, dwelling size, the amount of insulation and number of storeys. There is no one size fits all. Fuel poverty is an issue that is influenced by many factors.

### **Home Insulation and Building Design**

- 6.27 Philippa Howden-Chapman, Professor of the Housing and Health Research Programme at the University of Otago presented information to an Eco-Design Advisors Workshop in August 2014 which found that occupants in insulated houses use 23% less energy and people's health and wellbeing is improved.

### **Other Matters**

- 6.28 Dr John Hoare<sup>3</sup> attended a Working Party meeting and presented on "*New Zealand Urban Air Quality: Is NESAQ Compliance an Effective Answer to Whatever Ails Us?*" Dr Hoare stated that keeping warm comes first before air pollution. He said that in some towns and cities in New Zealand exceedences currently exceed the standard by a considerable margin. He advocates that Government recognise that New Zealand's standard is unreasonably stringent and compliance is not justified health wise.

## **7. Options**

- 7.1 A number of options were considered by the Working Party including retaining the current Plan provisions, non-regulatory approaches, initiating a Plan change to the Nelson Air Quality Plan or undertaking a Plan review by including the Air provisions within the Nelson Plan. The timeframes for a review of the Nelson Air Quality Plan and rolling the provisions into the Nelson Plan are similar. Central Government has indicated a desire for single integrated plans and this will be achieved by integrating the Air Plan provisions into a single Nelson Plan.

## **8. Assessment of Significance against the Council's Significance Policy**

- 8.1 This decision is not a significant decision in terms of the Council's Significance Policy. Potential social, cultural, environmental and economic impacts can be considered as part of the Nelson Plan process.

## **9. Alignment with relevant Council Policy**

- 9.1 There is money within the budget to commence work on a review of the Nelson Air Quality Plan.

---

<sup>3</sup> Dr John Hoare is a member of the Association for Independent Research (AIR) Inc.

- 9.2 The ongoing management of air quality contributes to Councils outcomes, particularly healthy land, sea, air and water. Air quality management contributes to: Goal 3 of Nelson 2060: Our natural environment – air, land, rivers and sea – are protected and healthy; and Goal 9 of Nelson 2060: Everyone in our community has their essential needs met.
- 9.3 The objectives and policies of the NAQP and Nelson Regional Policy Statement support improvements in ambient air quality and as a minimum compliance with NESAQ Targets.

## **10. Consultation**

- 10.1 There were three key stakeholders involved in the Working Party to provide an iwi perspective, from Tasman District Council and the District Health Board. If Council accepts the recommendation to proceed to review the Nelson Air Quality Plan within the Nelson Plan there would be significant engagement and consultation with interested parties and the community.

## **11. Inclusion of Māori in the decision making process**

- 11.1 If Council agrees to proceed to review the Nelson Air Quality Plan within the Nelson Plan then Maori would be involved in the Plan development process.

## **12. Conclusion**

- 12.1 Nelson City Council is obligated to meet the NESAQ. On the basis of data received by the Working Party Nelson is tracking towards being able to meet NESAQ in our airsheds. Whilst there is the potential for "spare capacity" in Airsheds B2 and C the Working Party accepts monitoring information is limited and emissions from these airsheds impact on other airsheds that do not have capacity. It seems appropriate to consider these issues further as part of the Nelson Plan review which the Working Party consider should also include the Nelson Air Quality Plan. The Working Party consider the impact of cold homes on health is important and understand a separate agenda item will be presented to council on this matter.

Clare Barton

**Group Manager – Strategy and Environment**

### **Attachments**

- Attachment 1: Canterbury District Health Board Position Statement Home Heating [A1272248](#)
- Attachment 2: Airshed Maps [A23847](#)

## CANTERBURY DISTRICT HEALTH BOARD POSITION STATEMENT

### Home Heating and Air Quality

1. The Canterbury District Health Board (CDHB) acknowledges that a warm home is vital for comfort and good health whilst also recognizing that many New Zealand homes tend to be cold with temperatures regularly falling below the World Health Organization's recommendations.<sup>1</sup>
2. The CDHB acknowledges that the direct effects of cold homes on health include excess mortality from cardiovascular and respiratory disease amongst the elderly, increased respiratory problems in children, increased illnesses such as colds, influenza and mental health problems, and the exacerbation of existing conditions such as arthritis.
3. The CDHB recognises that home heating (temperature, humidity and ventilation), energy costs and fuel poverty are key housing issues with implications for health outcomes.
4. The CDHB wishes to emphasize the importance of home heating and energy efficiency, as a health protection measure, due to the significant public health impacts that result when dwellings do not provide a healthy environment for occupants.
5. The CDHB considers the human right to housing to be much more than simply a right to shelter but also the right to have somewhere to live that supports good health outcomes. The CDHB therefore acknowledges the inextricable link between the right to housing and the need for warm and dry, affordable, culturally appropriate and accessible housing that is part of a wider community with easy access to essential services within a healthy environment.
6. The CDHB understands that retrofitting New Zealand homes with insulation and clean heat options has been shown to increase indoor temperatures, decrease relative humidity, reduce energy use and improve the self-reported health of occupants, and consequently encourages actions to retrofit insulation and clean heat options for households.

---

<sup>1</sup> The World Health Organization has recommended a minimum indoor temperature of 18°C and a 2-3°C warmer minimal temperature for the very young and the very old. World Health Organization. 1987. *Health impact of low indoor temperatures: Report on a WHO meeting, Copenhagen, 11-14 November 1985.* Copenhagen: WHO.

7. The CDHB recognises that clean air is a requirement for health and wellbeing and that urban outdoor air pollution is the eighth most common risk factor for death in high income countries.<sup>2</sup>
8. The CDHB acknowledges the considerable international evidence that air pollution causes excess morbidity and mortality particularly through increases in the incidence of respiratory and cardiovascular illness.
9. The CDHB acknowledges that whilst air quality has improved in recent years the most recent best estimate (2005) indicates that air pollution in Christchurch results in 158 premature deaths annually in those aged 30 years and over. The proportion of these deaths associated with smoke, caused by woodburners, was calculated as 78% or 124 of these deaths.
10. The CDHB remains committed to its support of the Christchurch Air Plan, recognising the long term health benefits to Christchurch citizens, whilst acknowledging the ongoing challenge of improving air quality in order to meet the National Environmental Standards for Air Quality by 2016 and 2020.
11. The CDHB recognises the impact of the recent earthquakes on those who have lost their favoured primary heating source, due to the loss of their home, particularly when that appliance cannot be replaced under the Christchurch Air Plan.
12. The CDHB wishes to highlight the risks of unflued gas heaters to human health, due to the high levels of moisture and harmful combustion products which are produced by these appliances and the associated significant reduction in the quality of the indoor environment.
13. The CDHB acknowledges the risks that the affordability and fragility of our electricity system pose to the health of the most vulnerable community members and seeks to work with partner agencies to develop mitigation strategies.

---

<sup>2</sup> World Health Organization. 2009. *Global Health Risks: Mortality and burden of disease attributed to selected major risks*. Geneva: WHO.

## Area

## Rules

### All of Nelson

Open fire use banned *1 January 2008*.

Existing open fires and enclosed burners can be replaced with an authorised enclosed burner. But where there is a ban or phase-out deadline, then your building consent application for the replacement burner must be lodged before that deadline.

New homes, or homes that do not already have an open fireplace or enclosed burner, cannot have a woodburner installed. A gas fire, an authorised ultra-low emission pellet fire, electrical heating or oil (diesel) fired heating can be installed.

### Airshed A & B1

*Including Hospital area  
(Bishopdale, Victory, Toi Toi,  
between the colleges,  
Washington Valley),  
Tahunanui, Tahunanui Hills  
south of The Cliffs*

Enclosed burner phase out dates *1 January*:

**2010** deadline for enclosed burners installed up to and including 1995.

**2012** deadline for enclosed burners installed from 1996 to 1999.

**2013** deadline for enclosed burners installed from 2000 to 2003, except enclosed burners authorised by the Council Air Quality Plan.

'All of Nelson' rules also apply.

### Airshed B2

*Including Stoke, Wakatu  
and Enner Glynn*

Enclosed burner phase out dates *1 January*:

**2010** deadline for enclosed burners installed up to and including 1990.

**2012** deadline for enclosed burners installed from 1991 to 1995.

'All of Nelson' rules also apply.

### Airshed C

*Including Port Hills,  
City Centre, The Brook,  
The Wood and Atawhai*

'All of Nelson' rules apply.

There is no phase out date for existing enclosed burners. These can be replaced with an authorised burner at any stage.

### The Glen

'All of Nelson' rules apply except that authorised enclosed burners may be installed in any house.

### Rural areas

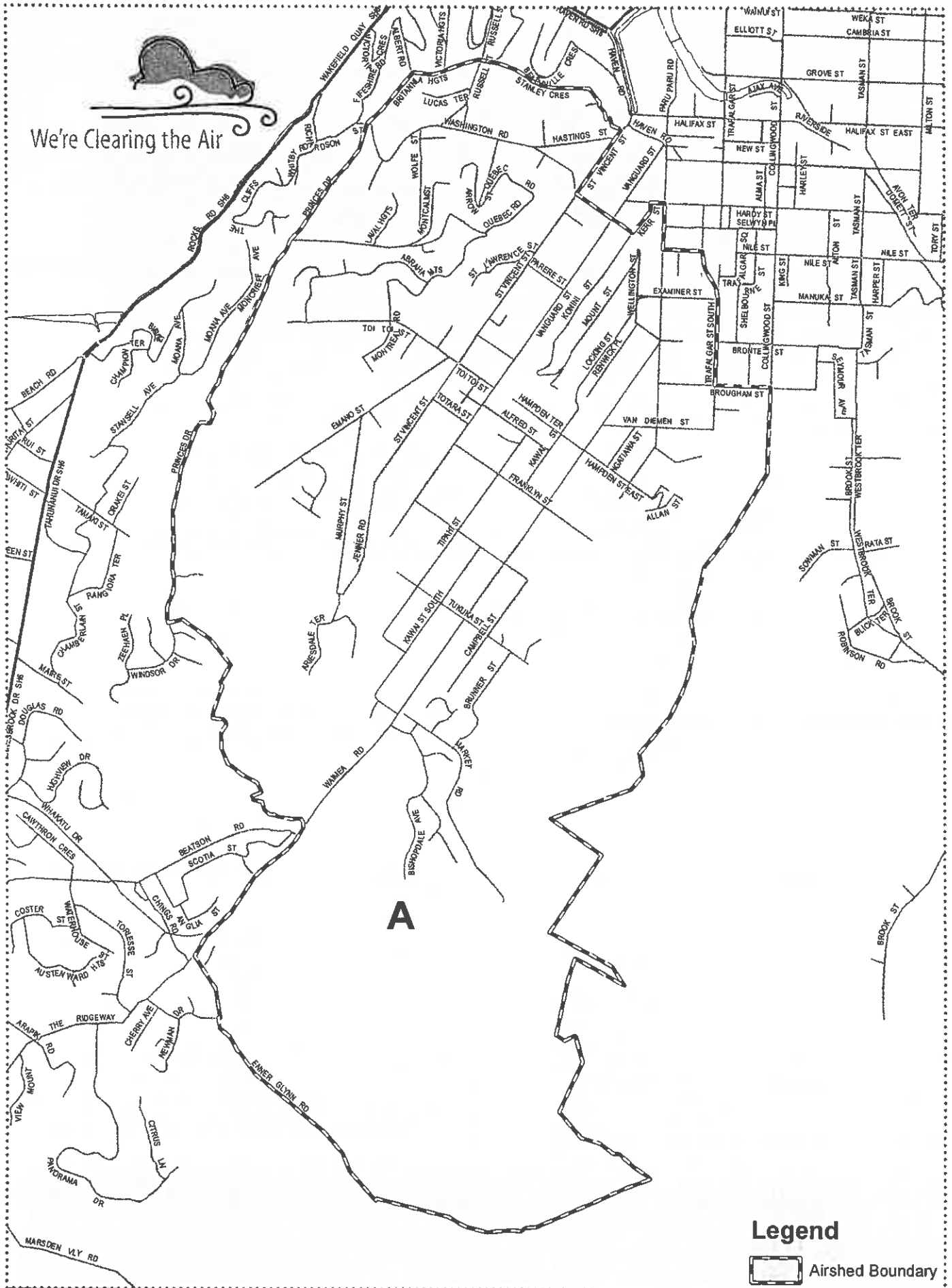
*Including Nelson North*

National Standards apply. Properties less than 2 ha can only install authorised enclosed burners.

Rural areas are excluded from 'All of Nelson' requirements.



We're Clearing the Air



## Legend

 Airshed Boundary

## Airshed A – Nelson South

Note: Refer to Gazetted Map SO356467 for boundary details, available at the NCC office.

NELSON CITY COUNCIL

## Area

## Rules

### All of Nelson

Open fire use banned *1 January 2008*.

Existing open fires and enclosed burners can be replaced with an authorised enclosed burner. But where there is a ban or phase-out deadline, then your building consent application for the replacement burner must be lodged before that deadline.

New homes, or homes that do not already have an open fireplace or enclosed burner, cannot have a woodburner installed. A gas fire, an authorised ultra-low emission pellet fire, electrical heating or oil (diesel) fired heating can be installed.

### Airshed A & B1

*Including Hospital area  
(Bishopdale, Victory, Toi Toi,  
between the colleges,  
Washington Valley),  
Tahunanui, Tahunanui Hills  
south of The Cliffs*

Enclosed burner phase out dates *1 January*:

**2010** deadline for enclosed burners installed up to and including 1995.

**2012** deadline for enclosed burners installed from 1996 to 1999.

**2013** deadline for enclosed burners installed from 2000 to 2003, except enclosed burners authorised by the Council Air Quality Plan.

'All of Nelson' rules also apply.

### Airshed B2

*Including Stoke, Wakatu  
and Enner Glynn*

Enclosed burner phase out dates *1 January*:

**2010** deadline for enclosed burners installed up to and including 1990.

**2012** deadline for enclosed burners installed from 1991 to 1995.

'All of Nelson' rules also apply.

### Airshed C

*Including Port Hills,  
City Centre, The Brook,  
The Wood and Atawhai*

'All of Nelson' rules apply.

There is no phase out date for existing enclosed burners. These can be replaced with an authorised burner at any stage.

### The Glen

'All of Nelson' rules apply except that authorised enclosed burners may be installed in any house.

### Rural areas

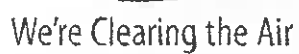
*Including Nelson North*

National Standards apply. Properties less than 2 ha can only install authorised enclosed burners.

Rural areas are excluded from 'All of Nelson' requirements.







*Note: Refer to Gazetted Map SO356471 for boundary details, available at the NCC office.*



## Area

## Rules

### All of Nelson

Open fire use banned *1 January 2008*.

Existing open fires and enclosed burners can be replaced with an authorised enclosed burner. But where there is a ban or phase-out deadline, then your building consent application for the replacement burner must be lodged before that deadline.

New homes, or homes that do not already have an open fireplace or enclosed burner, cannot have a woodburner installed. A gas fire, an authorised ultra-low emission pellet fire, electrical heating or oil (diesel) fired heating can be installed.

### Airshed A & B1

*Including Hospital area  
(Bishopdale, Victory, Toi Toi,  
between the colleges,  
Washington Valley),  
Tahunanui, Tahunanui Hills  
south of The Cliffs*

Enclosed burner phase out dates *1 January*:

**2010** deadline for enclosed burners installed up to and including 1995.

**2012** deadline for enclosed burners installed from 1996 to 1999.

**2013** deadline for enclosed burners installed from 2000 to 2003, except enclosed burners authorised by the Council Air Quality Plan.

'All of Nelson' rules also apply.

### Airshed B2

*Including Stoke, Wakatu  
and Enner Glynn*

Enclosed burner phase out dates *1 January*:

**2010** deadline for enclosed burners installed up to and including 1990.

**2012** deadline for enclosed burners installed from 1991 to 1995.

'All of Nelson' rules also apply.

### Airshed C

*Including Port Hills,  
City Centre, The Brook,  
The Wood and Atawhai*

'All of Nelson' rules apply.

There is no phase out date for existing enclosed burners. These can be replaced with an authorised burner at any stage.

### The Glen

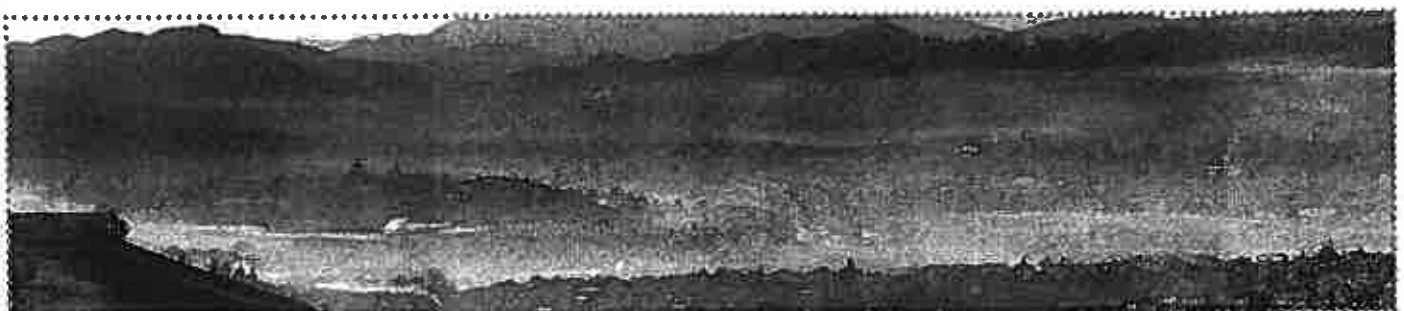
'All of Nelson' rules apply except that authorised enclosed burners may be installed in any house.

### Rural areas

*Including Nelson North*

National Standards apply. Properties less than 2 ha can only **install** authorised enclosed burners.

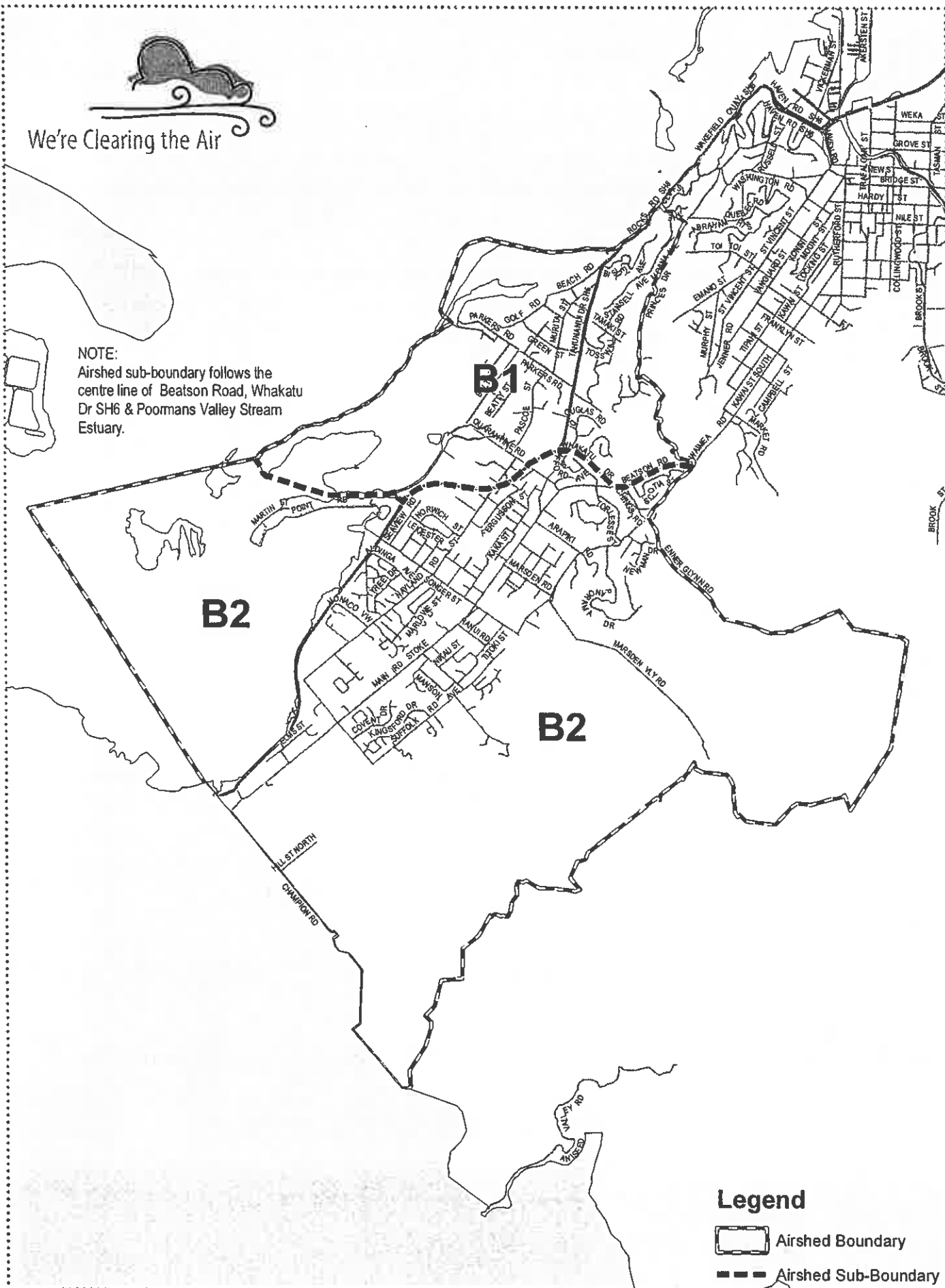
Rural areas are excluded from 'All of Nelson' requirements.



We're Clearing the Air

**NOTE:**

Airshed sub-boundary follows the centre line of Beatson Road, Whakatu Dr SH6 & Poomans Valley Stream Estuary.



**Legend**

- Airshed Boundary
- Airshed Sub-Boundary

## Airshed B – Tahunanui and Stoke

Note: Refer to Gazetted Map SO356468 for boundary details, available at the NCC office.

NELSON CITY COUNCIL

27 November 2014

REPORT A1248604

---

## Insulation and Clean Heating Assistance

---

### 1. Purpose of Report

- 1.1 To consider whether Council should provide assistance to Nelson residents and ratepayers to upgrade insulation and install clean heating devices in homes.

### 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 development or review of policies and strategies relating to areas of responsibility.

### 3. Recommendation

**THAT the report *Insulation and Clean Heating Assistance (A1248604)* and its attachment (A1276842) be received.**

#### Recommendation to Council

**THAT Council allocate \$40,000 this year (2014/2015) to partner with Canterbury Community Trust to jointly apply to EECA to provide additional funding to Nelson City residents for insulation upgrades;**

**AND THAT This sum be funded from unspent 2014/2015 Framing our Future and emission budget in the environmental area;**

**AND THAT Council support the \$100,000 budget line in the draft Long Term Plan for non-regulatory programmes around the Nelson Air Quality Plan for the 2015/2016 year with the view that this money be used to partner with Canterbury Community Trust to support the Warmer Healthier Homes Project programme for 2015/2016;**

***AND THAT at the completion of the 2015/2016 year a report be obtained from the Warmer Healthier Homes Project Steering Group on the outcomes and effectiveness of the scheme, to consider the reconfirmation of funding for subsequent years.***

#### **4. Background**

- 4.1 Generally speaking New Zealand's housing stock is poorly insulated and can be difficult to heat – a widely recognised problem across the country. The fuel and energy costs required to heat houses to acceptable temperatures can be particularly high, and is increasingly difficult for many households to afford<sup>1</sup>.
- 4.2 EECA estimates \$300 million per annum in unnecessary energy costs to the country due to under-insulated homes. Under-insulated houses are uneconomic to heat.<sup>2</sup>
- 4.3 There have been a number of assistance programmes/subsidy schemes provided by both Council and Government agencies over the years to assist homeowners to upgrade insulation and install clean heating devices in homes. Most of those programmes have now finished.
- 4.4 The Woodburner Working Party reviewing the woodburner provisions of the Nelson Air Quality Plan identified gaps in the assistance packages currently available to homeowners grappling with the home heating/cold and unhealthy homes issue, however these issues fall outside the terms of reference of the Woodburner Working Party.
- 4.5 The dearth of financial assistance currently available has left sections of our community unable to improve the performance of their homes unless they fund the total cost themselves. This is beyond the means of some households and leaves them trapped in a hard to heat, high energy cost, cold and damp home conundrum.
- 4.6 Housing is one of the key determinants of health and there is a strong link between asthma, respiratory and contagious illness, the exacerbation of conditions such as arthritis from damp, cold homes. EECA estimates \$400 million per annum in unnecessary health costs could be addressed through insulation alone.
- 4.7 Retrofitting New Zealand homes with insulation and clean heat options has been shown to increase indoor temperatures, decrease relative humidity, reduce energy use and has also been associated with an improvement in the self-reported health of occupants and reduced mortality among older persons.
- 4.8 Other interventions can be undertaken include moisture control, ventilation and behaviour change advice on occupant behaviour.

---

<sup>1</sup> Expert Advisory Group on Solutions to Child Poverty (2012).

<sup>2</sup> EECA presentation November 2014

- 4.9 When funding is limited and all the required interventions cannot be implemented, the question arises as to what should be tackled first, or which will give the biggest improvement/ best value for money?
- 4.10 Based on Beacon Pathway research<sup>3</sup>, installing and upgrading insulation should take priority before installing efficient sustainable heating.
- 4.11 This report gives a snapshot of assistance packages previously provided, assistance currently available, the gaps that currently exist and provides options for consideration to assist in addressing those gaps.

## 5. Discussion

### Previous Assistance Packages

- 5.1 In 2003 Council ran a scheme where 141 fires in the Nelson South area were replaced with heat pumps or flued gas fires. This work was done at no cost to the homeowner.
- 5.2 Council ran a "Clean Heat: Warm Homes" financial assistance scheme from 2004 to June 2012. Under this scheme 1370 Nelson homes had insulation installed/upgraded and 433 open fires and 1546 old burners were replaced with either clean air approved burners or other forms of clean heating. The funding was a mix of Council and Government money.
- 5.3 EECA ran their Warm Up New Zealand: Heat Smart (WUNZ:HS) programme, that part funded insulation and clean heat retrofits for New Zealand homes. It began on 1 July 2009 and finished June 2013.
- 5.4 MOTU<sup>4</sup> analysis of the WUNZ:HS scheme reported a benefit/cost ratio of 3.9:1; that increased to 6:1 for children.
- 5.5 Under WUNZ:HS scheme 2494 Nelson homes had insulation installed and 873 homes also had clean heating devices fitted.
- 5.6 The WUNZ:HS programme finished June 2013 and was replaced with the current Warm Up New Zealand: Healthy Homes scheme, which is discussed below in the Current Assistance packages section.
- 5.7 According to the last census, Nelson had 18,699 private occupied dwellings, of which approximately 14,900 of these houses were built before the year 2000. The WUNZ:HS scheme focuses on these pre 2000 houses.
- 5.8 3,864 of these 14,900 homes have had insulation upgrades through the above previous assistance schemes and 2,907 homes have had assistance to install clean heating devices. There are other houses that have been upgraded by the owners at their own cost, but there are a large number of these pre 2000 houses that still require upgrading.

<sup>3</sup> Beacon Pathway Making your Home Homesmart, a homeowners manual

<sup>4</sup> <http://www.motu.org.nz/news-media/detail/reports-on-warm-up-new-zealand-heat-smart-now-available>

## Current Assistance Packages

- 5.9 The only financial assistance package currently available in Nelson is the EECA Energywise Warm Up New Zealand: Healthy Homes Scheme. Under this scheme EECA provide 60% of the funding, with the other 40% required to be contributed by other organisations, to upgrade ceiling and under-floor insulation in homes.
- 5.10 Home owners or tenants may be eligible if they have a Community Services Card and the house is occupied by someone under 17 years or over 65 years. In Nelson, people are referred to the programme by the health sector if they are at risk from illness linked to cold, damp housing eg a respiratory condition and meet the required conditions.
- 5.11 This financial year \$275,000 (\$165,000 from EECA, \$110,000 from Canterbury Community Trust) has been made available targeting homes across the whole region (Nelson and Tasman districts combined). This money will be enough to insulate approximately 100 homes.
- 5.12 The scheme is being managed by a Warmer Healthier Homes Project Steering Group which includes representatives from Canterbury Community Trust, Nelson Tasman Housing Trust, Nelson Marlborough District Health Board and Absolute Energy. The available funding is currently being targeted for health related referrals via the NMDHB. These initial referrals are based on specific criteria being met.
- 5.13 Once these initial NMDHB referrals have progressed through the programme, referral pathways will be available via GP's, and later these will then be followed by referrals from other non-health organisations, Meeting the criteria at this point however does not confer acceptance to the scheme and there is a risk that all the funding may be fully subscribed by the time of acceptance.
- 5.14 The Canterbury Community Trust has another \$40,000 they are prepared to contribute this financial year (2014/ 2015) subject to EECA or other organisations partnering with them to also contribute funding.
- 5.15 There is an opportunity for Council to partner with Canterbury Community Trust's \$40,000, to jointly apply to EECA to provide further funding to Nelson City residents for insulation upgrades. This would provide \$140,000 of funding for a \$40,000 commitment from NCC.
- 5.16 The advantage of partnering with the Warmer Healthier Homes Project Steering Group is that the systems, processes and service providers are already in place and operational, delivering the desired outcome with minimal input of time or resources required from Council. The steering group have indicated that they would welcome a Council representative to join the steering group.
- 5.17 The Canterbury Community Trust has also committed a further \$25,000 to cover the management of the scheme this year.

- 5.18 For the 2015/ 2016 financial year, the Canterbury Community Trust has committed a further \$150,000 to support the Warmer Healthier Homes Project, however at this stage there is no commitment from EECA to match that.
- 5.19 The Warmer Healthier Homes Project Steering Group plan to target other local supporters to bolster their contribution and therefore leverage the amount that can be accessed for our region under the current 40% local/ 60% EECA funding model.
- 5.20 Council provides the Eco Building Design Advisor home assessment service which provides residents with a range of no cost and low cost practical advice and solutions, as well as identifying other measures that should be undertaken to improve the performance of homes. With very limited financial support packages currently available, some residents will be unable to implement some of the recommended improvements.

### **Gaps in Current Assistance Packages**

- 5.21 As mention above, Nelson has many pre 2000 houses that still have either no insulation or have insulation below recommended levels.
- 5.22 Many of these un-insulated/poorly insulated homes are occupied by low income families, but because they do not meet the current eligibility criteria of the Warmer Healthier Homes Scheme, there is no financial assistance available to assist them in improving the performance of their homes. They do not have the ability to fund the cost of upgrading the insulation themselves, so are trapped in a cold home/high heating cost situation.
- 5.23 The current Warm Up New Zealand: Healthy Homes Scheme only covers insulation. As previously stated upgrading insulation should take priority before upgrading heating, so this stance is understandable. As it stands, there is no assistance for home owners wanting assistance to upgrade to more efficient or cleaner heating devices.
- 5.24 If a decision was made to provide financial assistance to install more efficient or cleaner heating devices, a scheme would have to be designed, implemented and administered, as there is no scheme currently available that council could partner with. There is also no secondary funding or subsidies available to support any contribution that council would make. Setting up and running a heating assistance scheme would involve considerable time and resources, compared to the relative ease of partnering into an existing scheme such as the current Warmer Healthier Homes Project for insulation.
- 5.25 No research has been undertaken as to the likely uptake of such a scheme.



5.26 At this stage staff do not recommend the provision of a financial assistance package to install more efficient or cleaner heating devices due to:

- The likely high cost of implementing and running the scheme;
- The non-availability of any additional funding to bolster councils contribution.
- No certainties of the likely uptake of such a scheme (whether it would achieve adequate uptake to make it economic to run);
- It is recommended that installing insulation should be addressed first before upgrading heating.

## 6. Options

### For the Current Financial Year 2014/ 2015

- 6.1 Council could allocate \$40,000 this year (2014/2015) to partner with Canterbury Community Trust's committed \$40,000 to jointly apply to EECA to provide additional funding to Nelson City residents for insulation upgrades. This would provide \$140,000 of funding for a \$40,000 commitment from NCC and would fund the insulation of approximately 45 homes.
- 6.2 This sum could be funded from unspent 2014/2015 framing our future and emission inventory budget.
- 6.3 This recommendation would help move us towards the Nelson 2060 goals and is also in line with the 2060 sustainability principles (refer to section 8.3 for additional comment on these aspects).
- 6.4 Eligibility criteria would be in accordance the current Warm up New Zealand: Healthy Homes requirements (Attachment 1) which are:
- Your home was built before the year 2000; *and*
  - The home owner or main tenant has a Community Services Card; *and*
  - You have children under 17 years, adults over 65 years or someone with high health needs living in your home; *or*
  - You are a landlord with eligible tenants.
- 6.5 Although insulation will be free for eligible homeowners and tenants, landlords of the eligible tenants will be asked to make a contribution.

### For the Next Financial Year 2015/2016

- 6.6 This section sets out options for consideration of what assistance could be provided in the 2015/2016 financial year and beyond.

- 6.7 Partner with the Canterbury Community Trust plan to support the Warm Up New Zealand: Healthy Homes programme to leverage the amount that can be accessed for our region under the 40% local/ 60% EECA funding model. If the Canterbury Community Trust is successful in bringing other local funding on board this will further bolster the funding available to our region. A combined CCT, NCC, EECA pool of \$500,000 would insulate another 160 homes.
- 6.8 It is recommended that Council support the \$100,000 budget line in the draft LTP for non-regulatory programmes. Some of this money could be used to partner with Canterbury Community Trust to support the Warm up New Zealand: Healthy Homes programme for 2015/2016. The amount available would depend on whether Council decides to implement a behaviour change programme as part of the Nelson Air Quality Plan review.
- 6.9 Some council's have implemented voluntary targeted rates (VTR) schemes to assist property owners with the cost of certain improvements. EECA have been encouraging councils to consider implementing VTR schemes and submitted to our annual plan to that effect.
- 6.9.1 The term "voluntary targeted rate" describes situations where a council funds specific activities (clean heating, insulation upgrades) on behalf of an individual ratepayer because the activity meets council policy objectives as well as benefits the ratepayer.
- 6.9.2 Homeowners who take up the offer repay the financial assistance through the targeted rate (with interest) over a nine or 10 year period.
- 6.9.3 The Clean Heat: Warm Homes and the Solar Saver schemes, that Nelson City Council previously ran were both VTR schemes. The difference between the two was that the Clean Heat: Warm Homes scheme was interest free, where as the Solar Saver scheme included interest and an administration fee.
- 6.9.4 In theory, the cost (interest and administration) of running the VTR scheme is borne by the participant ratepayers, however in practice if uptake is low, the administration costs fall onto the wider general ratepayer base.
- 6.9.5 If the uptake is small, the administration costs to Council outweigh the benefits of running such a scheme. It appears that where there is no financial assistance in the form of subsidies to assist people with the cost of the improvements, uptake is likely to be very small. Based on the current situation, staff do not recommend that Council implement a VTR scheme at this time.
- 6.9.6 If more financial assistance becomes available in the future in the form of government subsidies which makes VTR schemes more attractive, then the situation could be revisited at that time.

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

- 7.1 This decision is not a significant decision in terms of the Council's Significance Policy.

## 8. **Alignment with relevant Council Policy**

- 8.1 There are unspent funds in the 2014/2015 budget that could be used towards achieving these outcomes.
- 8.2 There are funds allocated for this work in the draft 2015-2025 Long Term Plan.

### **Fit with Nelson 2060**

- 8.3 The recommendations in this report move us towards the 2060 goals of:
- Everyone in our community has their essential needs met; and
  - We reduce our consumption so that resources are shared more fairly.
- 8.5 It is also in line with the 2060 sustainability principle:
- We meet human needs fairly and efficiently.
- 8.4 Home retrofits contribute to the 'how we get there' aspects of Nelson 2060.
- 8.5 Insulating homes can provide multiple benefits to our community. These benefits include:
- **Job creation/economic growth:**
    - This is because insulation is a labour-intensive process, and companies tend to employ and up skill local labour to meet demand.
  - **Warmer, drier, healthier homes:**
    - Cold damp homes mean more problems like asthma in children and adults, and so resolving the causes of this problem through insulation and improved heating creates positive health outcomes;
    - Warmer, drier homes can result in fewer hospital admissions;
    - Warmer drier homes can also improve productivity through reduced days off work, and reduced days off school.
  - **Insulation helps to reduce energy bills:**
    - A well-insulated house requires less heating. This can reduce energy costs for the customer.

- **Increased potential for older people to “age in place”**
  - A well-insulated and heated house can allow for older people to live in their homes for longer, and with better health. This reduces hospital and rest homes costs, and also builds more resilient communities.
- **Improved health for homeowners and families:**
  - An independent survey (Motu Report 2011) has demonstrated that the insulation programme shows a cost-benefit ratio of '5.2 to 1' with the majority of the benefits coming from improvements in health and wellbeing.

## **9. Consultation**

- 9.1 Staff have consulted with EECA, Canterbury Community Trust, Nelson Tasman Housing Trust and Public Health Service and Nelson Marlborough DHB over these proposals. The responses are positive/ supportive.

## **10. Inclusion of Māori in the decision making process**

- 10.1 There has been no consultation with Maori to date. There will be opportunity for Maori to be involved during the LTP consultation process.

## **11. Conclusion**

- 11.1 The Woodburner Working Party reviewing the woodburner provisions of the Nelson Air Quality Plan identified gaps in the assistance packages currently available to homeowners grappling with the home heating/cold and unhealthy homes issue.
- 11.2 When funding is limited, upgrading insulation gives the biggest improvement/ best value for money.
- 11.3 Insulation upgrade programmes are the one area that can currently attract additional external funding, compounding the value of council funding.

Richard Popenhagen  
**Eco Building Design Adviser**

## **References**

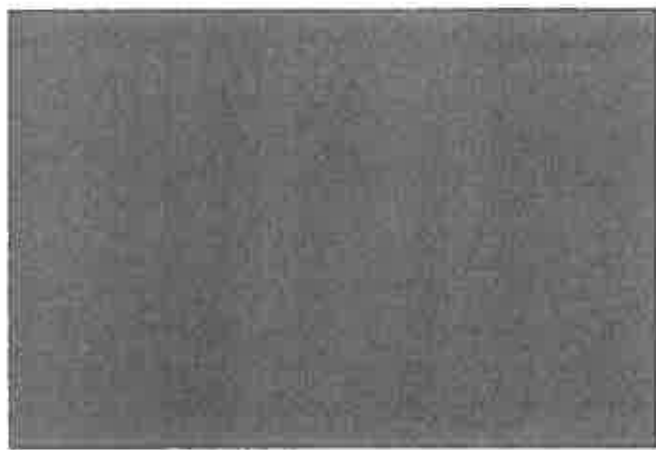
Expert Advisory Group on Solutions to Child Poverty (2012), Solutions to Child Poverty in New Zealand: Evidence for Action.

## **Attachments**

Attachment 1: EECA: Insulate now to keep your family warm & healthy brochure  
[A1276842](#)


## ATTACHMENT ONE

A1276842 Planning and Regulatory Committee 27 November 2014



Insulate now to  
keep your family  
warm & healthy

Warm Up New Zealand:  
Healthy Homes



[www.energywise.govt.nz](http://www.energywise.govt.nz)

ENERGYWISE<sup>®</sup> is brought to you by the Energy Efficiency  
and Conservation Authority (EECA).

Energy Efficiency and Conservation Authority  
PO Box 388, Wellington

November 2013/EEC3031



You may  
qualify for free  
insulation

## Warm up New Zealand: Healthy Homes

Warm Up New Zealand: Healthy Homes is a Government programme offering free insulation.

Many homes are cold and unhealthy because they don't have enough insulation. A warm, dry home with well-installed insulation is healthier and easier to heat.

The Government and other organisations are funding free underfloor and ceiling insulation for households that qualify for the programme.

### Are you eligible for free insulation?

Contact \_\_\_\_\_  
on \_\_\_\_\_ to find out if you are eligible.

You may qualify if:

- your home was built before the year 2000  
and
- the home owner or main tenant has a Community Services Card - if you don't have a card, contact Work and Income to find out if you qualify  
and
- you have children under 17 years, adults over 65 years or someone with high health needs living in your home  
or
- you are a landlord with eligible tenants

### What happens next?

- A service provider will visit your home to make sure you need insulation. The service provider will measure your roof space and under the floor.
- You will need to show your Community Services Card.
- You will need to provide simple information about health issues in your family – for example asthma or heart issues. All information will be kept confidential.
- If everything is approved, arrange a time to have insulation installed.



Warm Up New Zealand:  
Healthy Homes



To find out more about Warm Up New Zealand:  
Healthy Homes visit [www.energywise.govt.nz](http://www.energywise.govt.nz)  
or free phone 0800 749 782

27 November 2014

REPORT A1267611

---

## Draft Urban Environments Bylaw

---

### 1. Purpose of Report

- 1.1 To consider what provisions should be included in the Draft Urban Environments Bylaw.
- 1.2 To approve the Statement of Proposal and Draft Bylaw for public consultation (see Attachments 1 and 2 to this report).

### 2. Delegations

- 2.1 The Planning and Regulatory Committee has delegated authority to approve statements of proposals, and to hear and deliberate on submissions for Special Consultative Procedures falling within its areas of responsibility. These areas include environmental matters and public health and safety, which are both relevant to the draft Urban Environments bylaw.
- 2.2 The draft bylaw also includes provisions related to cemeteries and reserves, which are areas of responsibility of the Community Services Committee. However, on 17 July 2014 Council resolved that the Planning & Regulatory Committee be delegated to oversee consultation and approval of the draft bylaw.

### 3. Recommendation

**THAT the report Draft Urban Environments Bylaw (A1267611) and its attachments (A1267616, A1267618, A1267798, A1269064 and A1274549) be received;**

**AND THAT the Statement of Proposal in document A1267616 be approved and advertised using the Special Consultative Procedure (section 83 of the Local Government Act), with a submission period from 29 November 2014 to 16 February 2015;**

**AND THAT the Planning and Regulatory Committee hear submissions in March 2015;**

***AND THAT the Planning and Regulatory Committee deliberate and make decisions on submissions in April 2015;***

***AND THAT the Planning and Regulatory Committee recommend to Council that an amended bylaw be adopted, reflecting the Committee's decisions on submissions, in mid-2015.***

#### **4. Background**

- 4.1 On 19 June 2014 the Planning and Regulatory Committee resolved to carry out a review and consolidation of the following bylaws in the 2014/15 year:
- Miscellaneous Matters Bylaw 2008 (No. 215);
  - Burial and Cremation Bylaw 2008 (No. 216);
  - Numbering of Buildings Bylaw 2009 (No. 219);
  - Trading in Public Places Bylaw 2007 (No. 213);
  - Control of Drinking in Public Places Bylaw 2009 (No. 206);
  - Advertising of Commercial Sexual Services Bylaw 2011 (No. 208) for which no changes are recommended to the single issue this bylaw addresses;
  - Reserves Bylaw 2014 (No. 222) for which no changes are recommended due to the recent review of these provisions, including completion of a special consultative procedure.
- 4.2 The provisions of each of these bylaws have been incorporated into the draft bylaw shown in Attachment 2 to this report.
- 4.3 A summary of the existing bylaw provisions and proposed changes to them are shown in a table in Attachment 3 to this report.
- 4.4 A review of the bylaw documents have been carried out by both the Council's Senior Legal Adviser and Fletcher Vautier Moore.
- 4.5 The Bylaws Act 1910 outlines in what situations a bylaw could be considered invalid. In summary, a bylaw could be judged to be invalid if it regulated a matter that was beyond the bylaw making powers outlined in sections 145, 146 and 147 of the Local Government Act 2002 (or other legislation), or if it was unreasonable. An unreasonable regulation would be one that was disproportionate to the problem that has been identified and which the bylaw seeks to address.



- 4.6 How reasonable a provision is, is a matter for the Committee to decide. That means aiming to balance the harm that is sought to be addressed through the bylaw, and the control being proposed. However, the response must be proportionate and must not unduly restrict personal freedoms.
- 4.7 Councillors are entitled to base decisions on their own judgment, their local knowledge and their awareness of issues occurring in other parts of the country.
- 4.8 Bylaw provisions can be adopted to address both existing and potential issues.
- 4.9 The recommendations outlined in this report have been made following consideration of other councils' approaches and of the informal feedback provided through direct contact with key stakeholders, 400 survey responses through the People's Panel, and Councillors' feedback on the same survey questions.
- 4.10 The Statement of Proposal includes two general options related to increasing restrictions and reducing restrictions (see clause 5.1 on page 4 of the Statement of Proposal in Attachment 1).
- 4.11 A consultation period from 29 November 2014 to 16 February 2015 is proposed, to give the public ample opportunity to consider the provisions and provide their feedback. This will be followed by a hearing in March 2015, deliberations in April 2015, and adoption of a new bylaw in mid-2015.
- 4.12 People will be able to submit on all aspects of the bylaws, not just the provisions for which changes are proposed. This is made clear in clause 1.5 on page 2 of the Statement of Proposal.

## **5. Discussion – General Issues**

### **Integration of the enforcement of the bylaw**

- 5.1 A consistent approach to administration and enforcement of this bylaw would improve the efficiency and effectiveness of its implementation. Environmental Inspections Ltd have expressed willingness to enter into negotiations with Council to take on enforcement of all aspects of this bylaw. This management issue can be discussed further outside of the bylaw development process.

### **Integration of permits, licences and written authorities**

- 5.2 A wide range of activities included in the existing bylaws require some form of Council permission. Standardising Council's approach to permits, licences and written authorities will benefit applicants by making the process for approvals clearer and as streamlined as possible.

- 5.3 Consistency and integration can also be improved between Council's processes for food permits, road occupation and granting of concessions for activities in reserves.
- 5.4 Time has been allocated for Council officers to carry out this work over the 2014/15 year.

### **Application forms**

- 5.5 Keeping application forms separate from the bylaw itself reduces the size of the bylaw, provides more flexibility to make changes without triggering a review of the whole bylaw, and enables easier website access to forms and approval processes.
- 5.6 New application forms will be developed in time for the adoption of the Urban Environments Bylaw in June 2015.

### **Standards**

- 5.7 The standard for 'Erection of memorials, headstones or other structures' is not currently included as part of the Burial and Cremation Bylaw No. 216, although it is referred to in section 6 of the bylaw.
- 5.8 This separation enables Council to modify the standard to respond to the development of new technologies. It gives Council the ability to permit the use of memorial plaques made out of new materials that have been proven to be strong enough to sustain the weight of a ride on mower without being damaged.
- 5.9 A standard for natural burials has also been developed and is referred to in the draft bylaw.

## **6. Summary of Proposed Changes**

- 6.1 Many of the existing bylaw provisions continue to be relevant and no significant changes are recommended to them. However, clause 1.5 of the Statement of Proposal makes it clear that feedback on all of the provisions in this bylaw is welcome, and will be considered by Council, regardless of whether or not Council is proposing to change that provision.
- 6.2 Other proposed provisions are either new or substantially amended. The proposed changes are included in the draft Urban Environments Bylaw, shown in Attachment 2. They are discussed in detail in section 7 of this report and are also summarised for easy reference in a table (see Attachment 3).
- 6.3 Minor changes have been made throughout the document to improve readability and the consistency of terms used in each of the bylaws.
- 6.4 For a list of all provisions covered in the draft bylaw please see pages 5 – 18 of the Statement of Proposal, in Attachment 1 to this report.

## **7. Options – Keeping of Animals - review of the bylaw provisions where a change is recommended**

### **Poultry**

- 7.1 On 19 June 2014 the Planning and Regulatory Committee decided that a different approach should be taken to the keeping of poultry.
- 7.2 The existing approach in the Miscellaneous Bylaw 2008 (No. 215) is to require noise and odours associated with the animals to be confined within the land or premises concerned. There are no restrictions related to the location of poultry houses.
- 7.3 The new proposed approach is to require poultry houses to be set back five metres from neighbouring dwellings.
- 7.4 Recommendation:
  - 7.4.1 Require a five metre set back of poultry houses from neighbouring dwellings.
- 7.5 Reasons:
  - 7.5.1 To protect the public from nuisance. Based on a survey of household sections in the inner city (Milton Street area), Stoke (Polstead Street area) and Nelson South (Cambelldon Crescent area), a 10 metre set back would exclude most people in the Milton Street and Cambelldon Streets from owning chickens, while it would still be possible for people in Polstead Street, Stoke, to find an area on their property which complied with the set backs.
  - 7.5.2 A five metre set back of poultry houses balances impacts on neighbours and enabling most households to keep chickens if they wish to do so.
- 7.6 Other councils
  - 7.6.1 Other urban councils' bylaws related to the keeping of poultry range from restrictive to silent.
  - 7.6.2 The most restrictive approaches require poultry houses to be 10 metres from any dwelling and from two to five metres away from property boundaries.
  - 7.6.3 The mid-range approaches require poultry houses to be two to three metres from the property boundary, with no restrictions related to proximity to buildings.
  - 7.6.4 The least restrictive approach is to have no location requirements, but to require that poultry not cause a nuisance to neighbours (for example through noise, smell, dust or flies).

- 7.6.5 Tasman District Council permits up to six domestic fowl to be kept on residential properties.
- 7.7 Feedback received during pre-consultation
- 7.7.1 General support for a set back of 5 to 10 metres from neighbours' dwellings. Some felt that a 10 metre set back would mean a lot of people couldn't keep poultry due to section sizes.
- 7.7.2 Some people didn't want any set backs, to avoid constraining the option of keeping poultry for people with small sections. Youth Council felt that a two metre minimum distance from the property's boundaries should also be required.
- 7.7.3 Survey results: Most people supported control on the location of chicken coops, with almost all favouring a five or 10 metre set back of coops from neighbouring houses. There was majority support for reducing the maximum number of hens from 12 to six or less.
- 7.8 Rabbits
- 7.9 The existing approach is to limit households to three adult rabbits, and to require permission from the Council for the keeping of more than three.
- 7.10 Options are:
- continue to restrict rabbit numbers;
  - discontinue this provision;
  - include a provision enabling the Council to limit rabbit numbers (eg. to three) where problems are occurring.
- 7.11 Recommendation:
- 7.11.1 Remove the bylaw provision limiting number of rabbits per household, while retaining the general provision for animals to be confined to owners' properties.
- 7.12 Reasons:
- 7.12.1 To protect the public from nuisance. However, the keeping of pet rabbits has not been causing problems for neighbours or the environment in Nelson, and therefore a bylaw provision is not justified.
- 7.13 Other councils
- 7.13.1 Rabbits are not controlled in the bylaws of other councils.
- 7.14 Feedback received during pre-consultation
- 7.14.1 Council has only received one complaint about rabbits in eight years.

- 7.14.2 General support for removing the restrictions (provided the requirement to contain them on the property remains) but also some support for keeping the current maximum of three rabbits. Potential impacts of escapee rabbits on native vegetation was the main concern.

### **Cats**

- 7.15 The existing approach is to not have any bylaw provisions related to cats.

- 7.16 Options are:

- continue not to set a limit on cat numbers;
- include a provision to limit numbers per property;
- include a provision enabling the Council to limit cat numbers (to three) where problems are occurring.

- 7.17 Recommendation:

- 7.17.1 Follow the Invercargill City Council approach of providing for the Council to impose a limit of three cats where there are: complaints; the number of cats are causing a nuisance; and the owner fails to comply with reasonable requests of an authorised officer to manage or prevent the impact on neighbours.

- 7.18 Reasons:

- 7.18.1 To protect the public from nuisance and maintain public health. This approach enables the Council to take action on a case by case basis where cat numbers are impacting on neighbours, without setting a mandatory limit – which has the potential to cause a lot of concern for existing owners of multiple cats and to create a lot of new work for Environmental Inspections Ltd (and costs for the Council).

- 7.18.2 Council can still raise awareness about the impacts of cats and promote voluntary limits on cat numbers if it wishes to do so.

- 7.19 Other councils

- 7.19.1 Approaches range from setting a limit of three or four cats per household, to limiting cat numbers on a case by case basis where there are environmental health issues.

- 7.20 Feedback received during pre-consultation

- 7.20.1 Pre-consultation with stakeholders identified strong support for setting a maximum number of cats, with two or three the preferred maximum.

- 7.20.2 Survey results: High level of support for a limit on the number of cats.

## Bees

- 7.21 The existing approach is to not have any bylaw provisions related to beehives.
- 7.22 Options are:
- continue not to manage beehives through a bylaw;
  - include a provision providing Council with the ability to require beehives to be moved or removed where problems occur for neighbours;
  - require a permit to be gained before establishing a beehive.
- 7.23 Recommendation
- 7.23.1 Include a provision enabling the moving or limiting of beehive numbers where problems occur for neighbours.
- 7.24 Reasons
- 7.24.1 To protect the public from nuisance and maintain public health and safety. Bees are both very important pollinators and a potential nuisance and risk for neighbours. This approach would enable a case by case assessment to be made.
- 7.25 Other councils
- 7.25.1 Approaches range from managing nuisance and danger on a case by case basis to requiring a permit to keep bees in non-rural areas.
- 7.26 Feedback received during pre-consultation
- 7.26.1 The majority of feedback was in support of including a provision enabling Council to move or remove bees, where issues have arisen.
- 7.26.2 EIL advised that Council receives regular complaints about bee keeping. Risk of stings is less of an issue for most people (although anaphylactic shock is a serious issue for some). The main complaint relates to the fact that bees defecate 25 – 75 metres from their hive, following take off. As they follow the same flight path each time this can have ongoing impacts on neighbours' washing and houses – because the faeces is sticky, yellow and hard to clean off. The number of people with beehives in town is increasing, as businesses now provide hives for urban properties.
- 7.26.3 Survey results: Mixed views on whether there should be a bylaw provision about beehives.

## **Control of Dogs not included in this bylaw**

- 7.27 The Control of Dogs Bylaw 2013 has not been included in the Urban Environments Bylaw. With approximately 4000 dog owners in Nelson, and the high level of interest in issues related to dogs, any future review of the bylaw is likely to attract a lot of submissions.
- 7.28 In addition, reviewing the existing bylaw by 2018 will mean that the next review period will be for 10 years, rather than five.
- 7.29 For these reasons, the Planning and Regulatory Committee decided (at its 19 June 2014 meeting) not to combine the review of the Control of Dogs Bylaw with any other bylaw review.

## **8. Options – Trading in Public Places - review of the bylaw provisions where a change is recommended**

### **Summary of bylaw**

- 8.1 This bylaw regulates trading in public places such as footpaths, public car parks and Council parks and reserves. The bylaw deals with situations where public places are in some way being used for private benefit – whether it is for money, donations or for advertising. 'Private' in this sense includes individuals, businesses and charities.
- 8.2 The provisions in this part of the bylaw require a weighing up two different values:
- enhancing the vibrancy and interest of the city that encourages people to slow down and take in the range of activities occurring on the street;
  - easy navigation around the streets, reduced risk of casual activities on the street causing a nuisance, and avoiding competition for the established retailers in the area.
- 8.3 People often need one permit for trading in public places, and another for selling food, and potentially also require a concession for carrying out the activity in a public reserve. For this reason, integration of permit approval processes will be particularly beneficial for activities related to trading in public places.

### **Specific provisions where a change is proposed**

#### **Begging**

- 8.4 The existing bylaw states that written authority from the Council is required before begging, soliciting of donations or selling raffle tickets in a public space, and that written authority will only be granted to schools and national or local charities.
- 8.5 This bylaw provision effectively prohibits begging, because this activity is carried out for private gain.

## 8.6 Options are:

- status quo (group begging with soliciting of donations, but state that written permission will only be granted for schools and charities);
- more clearly state that begging is not permitted;
- provide for begging, but with conditions.

## 8.7 Recommendation:

8.7.1 Clearly state that begging is prohibited anywhere within the boundaries of the City.

## 8.8 Reasons:

8.8.1 Councils may make bylaws for the purpose of regulating trading in public places, and to protect the public from nuisance. Feedback from the public clearly identifies that they do not want this activity occurring on Nelson streets. This is the approach in the existing bylaw, but it can be stated more clearly.

## 8.9 Other councils

8.9.1 Other councils don't specifically mention begging, but require permission to be granted before soliciting donations/collections or subscriptions. Hamilton City Council has recently introduced a bylaw prohibiting begging and Auckland also introduced a bylaw related to begging in 2014. It bans begging that might intimidate or cause a nuisance.

## 8.10 Feedback received during pre-consultation

8.10.1 The feedback indicates strong support for prohibiting begging on public streets.

8.10.2 Survey results: More than 80% of respondents said begging should not be allowed.

8.10.3 The Council's Senior Legal Advisor provided the following commentary on the begging as it relates to the New Zealand Bill of Rights Act 1990 (NZBORA).

8.10.4 The provisions in NZBORA relating to freedom of expression, freedom of association and freedom of movement do not relate to, or preclude prohibition or restriction on begging and do not extend to the act of "begging". It should also be noted that section 5 of NZBORA provides that *"...the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."* That means NZBORA contemplates that some of the rights may be subject to reasonable limits, so long as those limits are clearly justifiable.



- 8.11 "It comes down to the reasonableness of any provisions in a bylaw. People who "beg" on the streets cannot be prohibited from being on the streets, but the activity of begging by them, can be legitimately controlled or prohibited. Begging can impinge on the freedoms and rights of others going about their day to day activities and business, to be free from the harassment and at times intimidation that goes with begging. It is the activity of begging that will be controlled pursuant to any bylaw, not the freedoms enshrined in NZBORA. Placing restrictions and limitations on begging provide reasonable limits, justifiable in a free and democratic society, to ensure that people can use and walk the public streets of any place unhindered or unimpeded by unrestrained begging.

### **Soliciting Donations**

- 8.12 Written permission is required prior to soliciting donations for schools or charities.
- 8.13 Options are:
- status quo (written permission is required prior to soliciting donations for schools, community groups or charities);
  - only require people to provide the Council with their contact details and get a copy of the rules prior to soliciting donations for schools or charities.
- 8.14 Recommendation:
- 8.14.1 Require a permit.
- 8.15 Reasons:
- 8.15.1 Councils may make bylaws for the purpose of regulating trading in public places, and to protect the public from nuisance. This approach allows Council to continue to ensure only registered charities, schools and community groups carry out this activity, and to co-ordinate these activities to ensure not too many different collections are occurring at any one time.
- 8.16 Feedback received during pre-consultation
- 8.16.1 Survey results: respondents were evenly divided on whether fundraising should require written permission from Council or not. However, 79% supported the option of leaving contact details and picking up a copy of the rules.

### **Busking**

- 8.17 The current approach is that people are required to gain approval from the adjacent business, provide their name and contact details to Council and to obtain a copy of the rules prior to busking. There is a limit of 30 minutes in any two hour period.

## 8.18 Options are:

- status quo (provide contact details to Council, pick up rules, 30 minute limit);
- extend the length of time buskers can perform in any two hour period;
- require buskers to gain written permission from Council before undertaking the activity;
- specify in the bylaw that equipment can be seized following a verbal warning, where there is a lack of compliance with the busking rules.

## 8.19 Recommendation:

8.19.1 Limit busking to one hour at a time in any two hour period.

8.19.2 State that Council has the ability to seize equipment used if the activity conditions or rules are breached (after a verbal warning).

## 8.20 Reasons

8.20.1 Councils may make bylaws for the purpose of regulating trading in public places, and to protect the public from nuisance. This approach allows time for unpacking and packing up musical equipment. It also makes it clear that Council can seize equipment if busking is impacting on the public and surrounding businesses, and the activity does not stop after a verbal warning.

## 8.21 Other councils

8.21.1 Other councils' approaches range from requiring a permit for busking to a general approval to busk subject to conditions about where the activity can occur.

8.21.2 Tasman District Council sets an age limit of 14 (without parent or caregiver consent), and allows buskers to stay in one place for up to 2 hours).

## 8.22 Previous Feedback:

8.22.1 It will be useful to clearly state that Council can give a verbal warning to require an activity to cease, and if that does not resolve an issue, can seize musical instruments being used in the busking activity.

8.22.2 Buskers are required to gain permission from the shop they busk alongside, but the music can also affect nearby shops.

## 8.23 Feedback received during pre-consultation

- 8.23.1 Support for at least a one hour time limit rather than 30 minutes (in any one place). Consider establishing a "busker sign in system" either online or in the customer services centre at Council.
- 8.23.2 Amplified busking should require written permission.
- 8.23.3 Survey results: A slight majority of respondents thought buskers should be allowed to play for longer than 30 minutes.

### **Sandwich boards on footpaths**

- 8.24 Businesses are currently allowed to have one sandwich board each on the street, which must not extend more than 600mm onto the footpath from the shop frontage. Upstairs businesses are allowed to place their sandwich boards adjacent to the kerb.
- 8.25 The definition of sandwich board in the current bylaw "means any signboard or other advertising device, whether rigid or flexible, including 'floppy' signs, flags, banners, 'A' frame boards and the like whether designed to be free standing or to be affixed to a building, and which are designed and used for the purpose of advertising any commercial operation or service or product provided by any commercial operation and which stand on any footpath or protrude onto or project over any footpath in a position less than 2.2 metres above such footpath."
- 8.26 Options are:
  - current approach;
  - require all sandwich boards to be adjacent to shop frontages;
  - require all sandwich boards to be adjacent to the kerb;
  - require businesses to apply for a permit to have a sandwich board display;
  - apply the sandwich board rule to all zones, rather than in designated commercial areas only (which means those areas of the City which are zoned "Inner City Centre;" or zoned "Suburban Commercial" at Victory Square, Tahunanui, or Stoke, under the Nelson Resource Management Plan).
- 8.27 Recommendations
  - 8.27.1 Separate out sandwich boards and flags and set limits on the size to 1m<sup>2</sup> for sandwich boards and a maximum height of 2.2m for flags.
  - 8.27.2 Require all sandwich boards and flags to be placed adjacent to a shop frontage.
  - 8.27.3 Apply the limit of one sandwich board or flag per shop frontage to all shops, not just those in a Designated Commercial Area.

- 8.27.4 Do not limit dairies to one sandwich board or flag, but do require all of these to be against the shop frontage.
- 8.28 Reasons:
  - 8.28.1 Councils may make bylaws for the purpose of regulating trading in public places, to protect the public from nuisance and maintain public safety. The purpose of the proposed approach is to provide a more consistent, clear pathway, particularly for people who are blind or partially sighted, or wheelchair users.
  - 8.28.2 Placing all sandwich boards on the kerb would damage vehicles (especially on windy days) and obstruct access from cars to the footpath.
  - 8.28.3 Shops outside of designated commercial areas tend to have a lot of sandwich boards all over the footpath.
- 8.29 Other councils
  - 8.29.1 Councils' approaches range from requiring a licence to have a sandwich board to no limits on the numbers of signs. Some councils specify a size limit for sandwich boards.
- 8.30 Early feedback
  - 8.30.1 Concern from Blind Citizens New Zealand about signs not allowing a clear and direct route along the footpaths. Flags are particularly an issue. Brian Say, also from Blind Citizens NZ, advised that sandwich boards on the kerb are better for blind people.
  - 8.30.2 Commerce Nelson representatives noted that if there were too many sandwich boards on the kerb line it could make it difficult to get in and out of cars. And if the rules on sandwich boards were too strict they could end up all the same, and therefore not be effective as eye catching advertising.
- 8.31 Feedback during pre-consultation:
  - 8.31.1 Blind Citizens NZ has requested than no sandwich boards (or other retail advertising) be allowed on the streets. There are 300-400 members of the Blind Foundation in the Nelson and Richmond area, and it is estimated that there are more than 1000 people with sight impairment.
  - 8.31.2 The Blind Foundation has requested that sandwich boards only be placed on the kerb side adjacent to the premises and in line with other obstructions.
  - 8.31.3 EIL noted the approach to sandwich boards should be standardised so that it applies to all commercial premises, including those not in a commercial zone.

- 8.31.4 Survey results: Most people supported limiting sandwich boards to one item. There was a 50:50 response to all sandwich boards being on the kerb or adjacent to shop frontages.

### **Vehicle washing in public places**

- 8.32 There are currently no restrictions on washing, or offering to wash, vehicles in public places.
- 8.33 Options:
- current approach;
  - do not permit this activity where it may impact on safety or cause a nuisance.
- 8.34 Recommendation:
- 8.34.1 Include the following provision: "A person must not use a public place to wash, or offer to wash, a vehicle or any part thereof, in a manner that may be unsafe or intimidate or cause a nuisance to any person, or cause an obstruction to traffic."
- 8.35 Reasons:
- 8.35.1 Councils may make bylaws for the purpose of regulating trading in public places, to protect the public from nuisance and to maintain public safety. This provision will avoid the potential for intimidation of drivers and impacts on traffic safety. It will still allow for sports and other groups to carry out fundraising at organised car wash events, as this is done off road in car park areas.
- 8.36 Feedback during pre-consultation:
- 8.36.1 Council officers requested a bylaw provision controlling the washing of vehicles. They advised that offering to wash vehicles at intersections is not illegal (and cannot be refused permission) unless it is banned by Council; and that the Police support a ban on this activity for safety and intimidation reasons.
- 8.36.2 Other councils (including Auckland) have a bylaw provision controlling this activity.

## **9. Options – Control of Alcohol - review of the bylaw provisions where a change is recommended**

- 9.1 Drinking alcohol is currently prohibited 24 hours/7 days a week in the following places:
- the central city and the area west of the central city bounded by Kerr, Gloucester and Halifax streets;

- the central islands of Haven Road between its intersections with Halifax Street and Queen Elizabeth II Drive;
- Pioneers, Anzac and Rutherford parks and Queens Gardens;
- Maitai River walkway and reserves everywhere downstream from Nile Street;
- Stoke Commercial Centre;
- Lions Playground in Tahunanui Reserve.

**9.2** Areas where alcohol is prohibited overnight (9pm-7am during daylight saving and 7pm-7am for the rest of the year) are:

- Maitai walkway and reserves upstream of Nile Street Bridge to the Golf Course;
- Tahunanui Reserve (excluding the Lions Playground)
- Miyazu and Broadgreen gardens;
- Fairfield, Trafalgar, Isel and Neale/Guppy parks;
- Saxton Field, Marsden, Botanics, Victory Square and the Railway reserves;
- Paddy's Knob, Green Meadows, Abel Tasman Statue Car Park;
- QEII Walkway/Cycleway and surrounds (Trafalgar Street to the eastern end of Neale Park).

**9.3** In addition, the new Local Government (Alcohol Reform) Amendment Act 2012 requires the Council to consider whether there is any privately owned land (such as a car park) for which there are good reasons to restrict the drinking of alcohol.

**9.4** The Regional Alcohol Accord was asked to provide recommendations on any new areas in which there should be alcohol bans. The Accord is a partnership between NZ Police, ACC, the Nelson Marlborough District Health Board, and the Tasman and Nelson councils, licensed premises operators and managers. All licensed premises in the Nelson-Tasman region, including bars, clubs and taverns, restaurants, bottle stores, supermarkets and event organisers are encouraged to participate in this Accord.

**9.5** A map of the proposed new areas is shown in Appendix 4 and is also shown in Schedule A of the Draft Bylaw in Appendix 2.

**9.6** Recommendations

**9.6.1** Include the new areas in the draft bylaw.

- 9.6.2 Provide the ability to apply for a Council permit for a low risk activity that would otherwise breach the alcohol bylaw provisions.
- 9.7 Reasons:
  - 9.7.1 Council has the power to make bylaws for alcohol control purposes under section 147 of the Local Government Act 2002. This approach gives the public the opportunity to provide feedback on the proposal to ban alcohol in new areas before a decision is made. It also enables Council to include privately owned areas, as provided for by the Local Government (Alcohol Reform) Amendment Act 2012. The proposed approach is consistent with that taken in other areas of the city.
- 9.8 Other councils
  - 9.8.1 Marlborough District Council keeps the list of places where alcohol is prohibited separate from the actual bylaw. Instead, the bylaw sets out the process for declaring a public place an alcohol prohibited area.
- 9.9 Feedback during pre-consultation process
  - 9.9.1 Strong support for a 24/7 liquor ban in Victory Reserve and for an alcohol ban in the Fresh Choice car parks (including by the owner of the Fresh Choice supermarket).

### **Low impact events involving alcohol**

- 9.10 There is no provision in the existing bylaw to provide for approval to be granted for low impact events involving alcohol.
- 9.11 Options:
  - 9.12 Status quo
  - 9.13 Add provision providing for low impact events involving alcohol.
  - 9.14 Recommendations
    - 9.14.1 Follow Tasman District Council's approach of providing for low impact events involving alcohol.
- 9.15 Reasons:
  - 9.15.1 Council has the power to make bylaws for alcohol control purposes under section 147 of the Local Government Act. This provision will make it possible for people to gain approval for low impact events such as a few drinks for guests as part of a wedding in the Queens Gardens.

9.16 Other councils

- 9.16.1 Tasman District Council includes an ability to apply for prior written permission to consume liquor in a public place for a 'low risk' activity that would otherwise breach the liquor ban.

**10. Options – Burial and Cremations - review of the bylaw provisions where a change is recommended**

10.1 Exclusive Right of Burial

- 10.2 This provision provides for purchase of a burial area, and if someone cannot afford to pay for a site, it enables a relative to purchase the exclusive right to a site within a specific period of time.

10.3 Options are:

- current approach;
- add a provision to enable Council to buy back an exclusive right of burial, at the price paid for it, to allow a plot that is no longer wanted to be sold to someone else.

10.4 Recommendation

- 10.5 Add ability for Council to buy back a pre-purchased exclusive right of burial if a plot is no longer wanted.

10.6 Reasons

- 10.7 Councils may make bylaws for the purpose of managing cemeteries. The proposed approach provides flexibility for purchasers, and enhances efficient use of cemetery land.

10.8 Other councils

- 10.8.1 Other councils have similar bylaw provisions.

10.9 Feedback during pre-consultation:

- 10.9.1 Support for the ability to buy back plots which are no longer required by the purchaser.

10.10 Conditions on headstones and monuments

- 10.10.1 Monuments need to meet the conditions outlined in the standards for the erection of memorials, headstones or other structures. There are no references to conditions for natural burial areas in the existing bylaw.



#### 10.11 Options are:

- explicitly reference the standards in the bylaw, so that they are accessible to the public (but retain ability to change them);  
add standards for natural burial areas, because different conditions apply;
- provide for the standards to be changed by Council resolution.

#### 10.12 Recommendations:

10.12.1 Include a reference to standards for natural burial areas in the bylaw, with the ability to change them by resolution. Include a definition for natural burial in the bylaw.

#### 10.13 Reasons

10.13.1 Councils may make bylaws for the purpose of managing cemeteries. The proposed change provides clarity for the public on the standards that apply for both traditional and natural burial areas. It also provides flexibility for the Council to make changes to the standards where necessary.

10.13.2 Plant lists, as recommended by the Nelmac Cemeteries team, can be provided outside of the bylaw.

#### 10.14 Other councils

10.14.1 Other councils have similar bylaw provisions.

#### 10.15 Feedback received during pre-consultation:

10.15.1 The Nelmac Cemeteries Team suggested providing a list of native plants for families to choose from, for natural burials.

10.15.2 Nelson City Council's Community Facilities Supervisor advised that the definition for natural burials should include specific reference to what can be planted, which is natives. Signage is not permitted as the idea is to create a natural landscape. GPS is used to identify the location of the lots.

### **Animals in Cemeteries**

10.16 Animals are not allowed to be taken into the cemetery, apart from dogs on leads and stock which Council has permitted to be grazed on any part of the cemetery.

#### 10.17 Options:

- retain this provision;

- delete this provision, recognising that dogs are managed under the Control of Dogs Bylaw 2013, and that other animals have not proved to be an issue in cemeteries.

10.18 Recommendation

10.19 Remove the provision about animals in cemeteries from the bylaw.

10.20 Reasons

10.21 Councils may make bylaws for the purpose of managing cemeteries and controlling dogs. However, dogs are managed under the Control of Dogs Bylaw 2013, and other animals have not proved to be an issue in cemeteries.

10.22 Other councils

10.22.1 Other councils' bylaws surveyed don't refer to animals in cemeteries.

## **11. Assessment of Significance against the Council's Significance Policy**

11.1 The focus of the bylaw is primarily on managing potential nuisances and any other impacts from day to day activities such as the keeping of animals, as well as managing activities on the inner city streets, and whether Nelson's public places are pleasant environments to visit.

11.2 They relate to small-scale issues rather than significant impacts on the current and future social, cultural, economic or environmental wellbeing of the city. For this reason, the decision to approve the Statement of Proposal and draft bylaw for public consultation is not a significant decision in terms of the Council's Significance Policy.

## **12. Consultation**

12.1 Informal consultation has been carried out with a number of affected or interested persons to gain understanding of the range of opinions on proposed changes. In addition, 400 people responded to a People's Panel survey on the bylaw issues.

12.2 A special consultative procedure will be carried out because although these issues are relatively small scale in their effects, they are of interest to the public, as shown by the number of responses to the People's Panel survey. Options are:

- one month consultation period (from 29 November 2014 to mid January 2015);
- a longer consultation period (from 29 November 2014 to 16 February 2015).

**12.3** The longer consultation period is recommended in recognition of the size of this bylaw and the time of year, to ensure people have adequate time to consider it and provide their feedback.

**12.4** A summary of the Statement of Proposal (see Attachment 5) will also be available, to promote awareness of the topics covered in the draft bylaw and to encourage public feedback.

### **13. Alignment with relevant Council Policy**

**13.1** This consolidated bylaw is aligned with a number of strategic documents, as outlined below.

**13.2** The Nelson Resource Management Plan includes objectives related to residential and inner city amenity, and rules regarding signs and outdoor advertising in Appendix 20. Inner City rule ICr.46 sets closing times for premises which sell alcohol, which is relevant to Council decisions on areas where drinking alcohol in public places is prohibited.

**13.3** The Heart of Nelson Inner City Strategy promotes inner city vibrancy, which is relevant to the trading in public places bylaw provisions. The strategy has a vision that the central city will look and feel great, and it has a key goal of being a place people want to be, which needs to be considered when making decisions on the bylaw provisions.

**13.4** Nelson's Reserve Management Plans (including the Tahunanui Reserve Management Plan) are relevant to trading in public places provisions because they set out policies on types of concessions for commercial activities that can be carried out in reserves.

**13.5** The Community Facilities Activity Management Plan 2012-22 has a performance measure regarding provision of natural burial areas. It also notes that the main issues related to operation of cemeteries are:

- mowing/trimming;
- damage to plaques and plots;
- timing of funerals;
- restrictions on plaque design;
- increasing demand for natural burials.

**13.6** Almost all of these matters relate to the burial and cremation bylaw provisions. Restrictions on plaque design are in the standards, and their purpose is to ensure mowing of the lawn cemetery can occur without damaging plaques. The increasing demand for natural burials is reflected in the proposed bylaw provisions and the natural burials standard.

**13.7** The only recommendations in this report that is not consistent with other previous Council decisions is the recommendation to delete the numbering of buildings bylaw provision. This is inconsistent with the Heart of Nelson Strategy's support for the active enforcement of the numbering of buildings bylaw provisions, to assist with legibility of the city. The reason for this proposed change is outlined in clause 8.4.1 of this report.

**13.8** Council officer time has been allocated for the development of an integrated permit system in the 2014/15 year. Improving the integration and systems related to provision of Council permission for activities in this draft bylaw will reduce time spent on managing approval processes in future.

**13.9** The recommendations in this report are well aligned with Nelson 2060, particularly:

- Goal 4 – We produce more of our own food (poultry, bees);
- Goal 7 – Our economy thrives and contributes to a vibrant and sustainable Nelson (trading in public places);
- Goal 9 – Everyone in our community has their essential needs met (keeping of animals, urban amenity, trading in public places, control of alcohol, and burials and cremation).

## **14. Inclusion of Māori in the decision making process**

**14.1** The views of iwi representatives were sought as part of the informal pre-consultation process. Matt Hippolite, of Ngati Koata Trust, requested that a similar catch all clause (as is in the Reserves Bylaw 2014) is included to cover the recognised Iwi Deed of Settlement rights. "Nothing in this bylaw shall prevent Iwi from carrying out activities, which are provided for in their individual deeds of settlement. This is reflected in clause 1.4 of the draft bylaw (in Attachment 2).

**14.2** There will be a further opportunity for Māori to contribute to the decision making process by making submissions on the proposal during the Special Consultative Procedure.

## **15. Conclusion**

**15.1** The draft provisions support Nelson's urban environment being a safe, attractive and harmonious place for both households and businesses.

**15.2** The proposed changes reflect feedback from Council officers, iwi, and the community on what bylaw provisions will enhance the Council's ability to manage present and future circumstances.

- 15.3** Consolidation of the seven bylaws will enable all of these bylaw provisions to be reviewed at the same time, under one Special Consultative Procedure. It also enables the integration of permit processes.

Matt Heale  
**Planning Manager**

**Attachments**

- Attachment 1: Statement of Proposal – [A1267616](#)  
Attachment 2: Draft Urban Environments Bylaw – [A1267618](#)  
Attachment 3: Table – summary of existing bylaw provisions and proposed changes – [A1267798](#)  
Attachment 4: Map of the new areas where alcohol bans are proposed – [A1269064](#)  
Attachment 5: Summary of the Statement of Proposal – [A1274549](#)

**ATTACHMENT 1**



**Statement of Proposal to Adopt an Urban  
Environments Bylaw (No. 225)**

**November 2014**

**This document constitutes the Statement of Proposal for the purposes of  
Section 83(1)(a) of the Local Government Act 2002.**

1. **Introduction**

- 1.1 Nelson City Council proposes to consolidate a number of bylaws which are related to Nelson's urban environments.
- 1.2 The purpose of the consolidation is to reduce the number of bylaws and the number of different review periods. This will result in a more efficient process for revising, consulting and adopting bylaws.
- 1.3 Combining the content of seven bylaws also provides an opportunity for better integration of processes for managing the activities included in these bylaws.
- 1.4 The draft Urban Environments Bylaw is attached to this Statement of Proposal. It incorporates provisions currently included in the following bylaws:
- Miscellaneous Matters Bylaw 2008 (No. 215);
  - Numbering of Buildings Bylaw 2009 (No. 219);
  - Trading in Public Places Bylaw 2007 (No. 213);
  - Advertising of Commercial Sexual Services Bylaw 2011 (No. 208);
  - Control of Drinking in Public Places Bylaw 2009 (No. 206);
  - Reserves Bylaw 2014 (No. 222);
  - Burial and Cremation Bylaw 2008 (No. 216).
- 1.5 All the provisions in the draft bylaw can be changed as a result of the consultation process. Submissions on all or any of the provisions in the bylaw are invited, and will be considered by the Council, including where the Council is proposing a change or a continuation of an existing provision.

2. **Proposal**

- 2.1 Council proposes to adopt a new Nelson City Council Urban Environments Bylaw in 2015 (Bylaw No. 225).
- 2.2 In accordance with section 86(2) of the Local Government Act 2002, when adopting a bylaw the Council is required to include the following in the Statement of Proposal:
- a) A draft of the bylaw as proposed to be made or amended
  - b) The reasons for the proposal
  - c) A report of any relevant determinations by Council under section 155 of the Local Government Act 2002.

3. **Reasons for the proposal to adopt an Urban Environments Bylaw**

- 3.1 Adopting an Urban Environments Bylaw enables the Council to manage activities that have potential to impact on other people's amenity and experience of places to which the public has access, and that are not managed through resource management plans or through legislation.

- 3.2 The following activities have potential to impact on the experience of living and visiting urban environments in Nelson:
- Keeping of animals
  - Disposal of household rubbish in public rubbish bins
  - Advertising in public places, including advertising of commercial sexual services
  - The placement of sandwich boards and flags on public streets
  - Begging, busking, soliciting of donations and lottery ticket sales
  - Drinking alcohol on streets and in reserves, as well as on privately owned land which is accessible to the public (such as supermarket car parks)
  - Driving vehicles, playing golf, and other activities in reserves
  - Management of burials, cremations and cemeteries.
- 3.3 These types of activities are most effectively addressed through bylaw provisions because they give the Council (and in some cases the Police) the ability to stop people from impacting unreasonably on others. In some cases, instant fines apply, and more serious breaches of the bylaw can result in offenders being taken to court.
- 3.4 The draft bylaw states which activities are not permitted in any circumstances. It also includes a number of activities which require a permit before they can occur. This enables the Council to co-ordinate activities, for example not allowing too many people to busk or solicit donations in the same area at the same time.
- 3.5 It also enables the Council to charge a fee for some activities, to recover administration costs and the cost of managing the effects of the activity.
- 3.6 Bringing the provisions of seven bylaws together into one bylaw will enable the Council to develop a more streamlined permit system, making the approval process simpler and more efficient.
- 3.7 Another proposed change is to remove application forms from the bylaws. Instead, any relevant application forms will be available at the Customer Service Centre and on the Council website ([www.nelson.govt.nz](http://www.nelson.govt.nz)). This would provide flexibility to update the forms without the need to go through a change to the bylaw.

#### 4. **Issues and options to address them – general approach**

- 4.1 In developing a draft Urban Environments Bylaw, the Council considered how best to address the issues identified in section 3 of this Statement of Proposal.

##### **Option A**

- 4.2 Council's preferred option is to adopt a new Urban Environments Bylaw which is based on the provisions of the seven bylaws listed in clause 1.4 of this proposal. The new bylaw removes provisions which are no longer considered necessary, and addresses new issues related to the keeping of animals, washing of vehicles



in public places, and the ability to prohibit the drinking of alcohol on privately owned land which is accessible by the public, such as supermarket car parks. (The control of alcohol bylaw provisions do not apply to private residential properties.) The draft bylaw is attached to this Statement of Proposal.

- 4.3 Proposed changes to the existing bylaw provisions are discussed in more detail in section 5 of this proposal.

**Option B**

- 4.4 Council considered the status quo option of continuing to have seven separate bylaws.

- 4.5 The advantages of this option are:

- a shorter, specific bylaw for the Police to refer to when enforcing the drinking in public places provisions
- A shorter, specific bylaw in respect of the process for the management of burials, cremations and cemeteries.

- 4.6 The disadvantages of this option are:

- the requirement to review each bylaw separately, and carry out seven special consultative procedures;
- a more gradual process to align the permitting processes required under each of the individual bylaws, as each bylaw is reviewed.

**Option C**

- 4.7 Council considered the option of consolidating only some of the seven listed bylaws, for example keeping the control of alcohol, reserves, or the burials and cremations bylaws separate.

- 4.8 The advantages of this option are:

- a shorter, specific bylaw for the Police to refer to when enforcing the drinking in public places provisions
- a shorter, specific bylaw in respect of the process for the management of burials, cremations and cemeteries
- avoids the need to review the Reserves Bylaw until 2019.

- 4.9 The disadvantages of this option are:

- the requirement to review more bylaws separately, and the cost of carrying out more special consultative procedures;
- a more gradual process to align the permitting processes required under each of the individual bylaws, as each bylaw is reviewed.

**5. General options**

- 5.1 In order to enable the Council to respond to a wide range of submissions, the options to be considered for all issues include:

- increasing restrictions;
- reducing restrictions.

Options	Advantages	Disadvantages
Increase restrictions	More protection of other people's amenity and experiences of public places	<ul style="list-style-type: none"> <li>• More bylaw administration (eg permit system) and more monitoring and enforcement;</li> <li>• Less freedom of choice.</li> </ul>
Reduce restrictions	More freedom of choice.	<ul style="list-style-type: none"> <li>• More likelihood of conflicts between neighbours and users of public places;</li> <li>• More complaints for Council to respond to on a case by case basis, with less ability to resolve issues through enforcement of bylaw provisions.</li> </ul>

#### Specific topics, options and proposed approaches

##### 5.2 Keeping of animals in urban zones

Topic	Options	Proposed approach
Poultry (change proposed)	<ul style="list-style-type: none"> <li>• Status quo: retain existing provisions, with no set backs required for poultry houses;</li> <li>• Set back of poultry houses from neighbours' dwellings;</li> <li>• Set back of poultry houses from property boundaries;</li> <li>• Reduce the number of hens that can be kept (eg from 12 to six).</li> </ul>	<p>Set back of 5 metres for poultry houses from neighbours' dwellings.</p> <p><u>Reasons:</u> To protect the public from nuisance. Strikes a balance between enabling ownership of poultry and managing the effects on neighbours.</p>
Cats (change proposed)	<ul style="list-style-type: none"> <li>• Status quo – no bylaw provisions;</li> <li>• Include a maximum number of cats per property;</li> <li>• Include the ability to reduce numbers (to a maximum of three) where the number of cats is impacting on neighbours.</li> </ul>	<p>Include ability to reduce the number of cats (to a maximum of three) where the number of cats is impacting on neighbours.</p> <p><u>Reasons:</u> To protect the public from nuisance. Strikes a balance between enabling ownership of cats and managing the effects on</p>

Topic	Options	Proposed approach
		neighbours.
Rabbits (change proposed)	<ul style="list-style-type: none"> <li>• Status quo: a limit of three adult rabbits per property;</li> <li>• Provide for the ability for rabbits to be moved or removed where problems occur for neighbours;</li> <li>• include a provision enabling the Council to limit rabbit numbers (to three) where problems are occurring;</li> <li>• No bylaw provision setting a limit on rabbit numbers.</li> </ul>	<p>No bylaw provision setting a limit on rabbit numbers.</p> <p><u>Reasons:</u> To protect the public from nuisance, and maintain public health. The Council has received one complaint in eight years regarding rabbits. Rabbits are not a significant issue for neighbours, however they do have the potential to impact on vegetation if they are not confined to a property. The general provision regarding confinement of animals to the owner's property still applies.</p>
Bees (change proposed)	<ul style="list-style-type: none"> <li>• Status quo – no bylaw provisions;</li> <li>• Provide for the ability for beehives to be moved or numbers limited where problems occur for neighbours;</li> <li>• Require a permit to be gained before establishing a beehive.</li> </ul>	<p>Include a provision enabling the moving or limiting of the number of beehives where problems occur for neighbours.</p> <p><u>Reasons:</u> To protect the public from nuisance, and maintain public health and safety. Potential nuisance and risk for neighbours. This approach would enable a case by case assessment to be made.</p>
Stock (includes horses, cattle, sheep, pigs and goats) (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo – no stock allowed to be kept in urban areas, except with Council permit;</li> <li>• Allow up to two 'stock' animals of any species to be kept as pets in the urban area;</li> <li>• Delete this provision.</li> </ul>	<p>No stock allowed to be kept in urban areas, except with Council permit.</p> <p><u>Reasons:</u> To protect the public from nuisance, and maintain public health and safety. Stock animals are sometimes kept as pets but they can be unsuitable for urban areas. This approach allows a Council permit to be given to keep stock in urban areas on a case by case basis.</p>

### 5.3 Urban amenity

Topic	Options	Proposed approach
Caravans (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Permit required to use a caravan as part of a residential unit, except where conditions are met for its use as a temporary sleeping place.</li> <li>• Remove condition related to 50 day limit.</li> <li>• Add condition related to location of caravans.</li> <li>• Delete this provision.</li> </ul>	<p>Retain existing provision.</p> <p>Reasons: To protect the public from nuisance, maintain public health, and maintain amenity.</p>
Barbed wire (change proposed)	<ul style="list-style-type: none"> <li>• Status quo: barbed wire fences not allowed for urban properties where they are adjacent to streets, reserves or other public places;</li> <li>• Add electric fences to this provision;</li> <li>• Delete provision.</li> </ul>	<p>Barbed wire and electric fences not allowed for urban properties where they are adjacent to streets, reserves or other public places.</p> <p>Reasons: To maintain public safety and amenity.</p>
Slaughter of animals (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: slaughtering not permitted where it is visible from any public place or neighbouring property;</li> <li>• Delete provision.</li> </ul>	<p>Slaughtering not permitted where it is visible from any public place or neighbouring property</p> <p>Reasons: To maintain public safety and amenity.</p>
Storage of carcasses (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: animal carcasses not to be stored where they are visible from any public place or neighbouring property;</li> <li>• Delete this provision.</li> </ul>	<p>Animal carcasses not to be stored where they are visible from any public place or neighbouring property.</p> <p>Reasons: To protect the public from nuisance, and to maintain public health and amenity.</p>

Topic	Options	Proposed approach
Public rubbish bins (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: household and trade refuse, and hazardous waste, not allowed to be deposited in any public rubbish bins;</li> <li>• Delete this provision.</li> </ul>	Household and trade refuse, and hazardous waste, not allowed to be deposited in any public rubbish bins. <u>Reasons:</u> To protect the public from nuisance, and to maintain public health and amenity.
Building numbers (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: requires building owners/occupiers to display a building's street number so that it is visible from the road;</li> <li>• Delete provision.</li> </ul>	Status quo. <u>Reason:</u> Building numbers help people find places in Nelson. Section 22AB (x) of the Land Transport Act 1998 enables the Council, as a road controlling authority, to make a bylaw requiring the owner or occupier of any area of land for which a number has been allocated under section 319B of the Local Government Act 1974, to display that number in a position visible from the road.

#### 5.4 Trading in Public Places

Topic	Options	Proposed approach
Itinerant traders and mobile shops (no change proposed, other than to replace the term 'hawkers' with 'itinerant traders')	<ul style="list-style-type: none"> <li>• Status quo: Permit required, with conditions on where and how these traders and shops can operate (not allowed within designated commercial areas, limits on how long allowed to stay in one place);</li> <li>• Reduce restrictions on itinerant traders and mobile shops.</li> </ul>	Status quo. <u>Reasons:</u> Councils may make bylaws for the purpose of regulating trading in public places. The current provision enables Council to avoid potential conflicts between commercial operators.

Topic	Options	Proposed approach
Commercial services (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Permit required to provide a commercial service in a public place;</li> <li>• Reduce restrictions on commercial service providers.</li> </ul>	<p>Status quo.</p> <p><u>Reasons:</u> Councils may make bylaws for the purpose of regulating trading in public places. The current provision enables Council to avoid potential conflicts between commercial operators.</p>
Soliciting of donations (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Written authority from the Council required for soliciting of donations and other contributions in a public place. Limited to local schools, community groups, and local or nationally recognised charities;</li> <li>• Reduce restrictions on this activity.</li> </ul>	<p>Status quo.</p> <p><u>Reasons:</u> Councils may make bylaws for the purpose of regulating trading in public places. The current provision addresses the potential issues of too many collectors in one place at any time. It also enables Council to verify the purpose for the collections.</p>
Selling lottery tickets (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Written authority from the Council required for selling lottery tickets in a public place. Limited to local schools, community groups, and local or nationally recognised charities;</li> <li>• Reduce restrictions on this activity.</li> </ul>	<p>Status quo.</p> <p><u>Reasons:</u> Councils may make bylaws for the purpose of regulating trading in public places. The current provision addresses the potential issues of too many lottery ticket sales at one time. It also enables Council to verify the purpose for the sale of the lottery tickets.</p>

Topic	Options	Proposed approach
Begging (change proposed)	<ul style="list-style-type: none"> <li>• Status quo: begging and soliciting of donations are not clearly distinguished, but begging is effectively prohibited</li> <li>• Explicitly state that begging is not permitted. Include provision providing for Council or Police officers to seize equipment used if this activity is occurring (after a verbal warning);</li> <li>• Requirement to provide name and contact details to the Council, and obtain a copy of the rules related to this activity, which include time limits. Include ability for Council or Police to require someone to stop the activity where it causes a nuisance;</li> <li>• Permit begging but limit the amount of time that a person can carry out this activity (eg three days a month, or five days a year). Council non-regulatory response could be to approach the person and find out how they can assist/support them through other agencies.</li> </ul>	<p>Explicitly state that begging is prohibited. Include provision stating that Enforcement or Police officers can seize equipment used if this activity is occurring (after a verbal warning).</p> <p><u>Reasons:</u> Councils may make bylaws for the purpose of protecting the public from nuisance. The proposed change makes the existing provision clearer.</p>

Topic	Options	Proposed approach
Busking (change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Buskers are required to provide name and contact details to Council and obtain a copy of the rules, which include a 30 minute time limit within any two hour period. Buskers are also required to gain the consent of the owner or manager of the adjacent premises;</li> <li>• Limit busking to one hour within any two hour period;</li> <li>• Require buskers to apply for a permit to carry out this activity.</li> </ul>	<p>Limit busking to one hour within any two hour period.</p> <p>Refer in the bylaw to the ability to seize equipment used if the rules are breached (after a verbal warning), as provided for under the Local Government Act.</p> <p><u>Reasons:</u> Councils may make bylaws for the purpose of regulating trading in public places. Busking equipment takes some time to set up so a one hour time limit is more realistic. Stating that after a verbal warning equipment may be seized makes the enforcement procedure more transparent.</p>
Sandwich boards on footpaths (proposed changes)	<ul style="list-style-type: none"> <li>• Status quo: Limited to one sandwich board per business, which must not extend more than 600mm onto the footpath from the shop frontage. Upstairs businesses allowed sandwich boards adjacent to the kerb. There is a maximum height of 2.2m but no size limit for sandwich boards;</li> <li>• Apply the limit of one sandwich board per shop frontage to all shops, not just those in a Designated Commercial Area.</li> <li>• Require all sandwich boards to be adjacent to the kerb;</li> <li>• Require all sandwich boards to be adjacent to a shop frontage;</li> <li>• Permit required to have a sandwich board. Do not</li> </ul>	<ul style="list-style-type: none"> <li>• Separate out sandwich boards and flags and set limits on the size to 1m<sup>2</sup> for sandwich boards and a maximum height of 2.2m for flags;</li> <li>• Require all sandwich boards and flags to be placed adjacent to a shop frontage;</li> <li>• Apply the limit of one sandwich board or flag per shop frontage to all shops, not just those in a Designated Commercial Area;</li> <li>• Do not limit dairies to one sandwich board or flag (but do require them to be against the shop frontage).</li> </ul> <p><u>Reasons:</u> Councils may make bylaws for the purpose of regulating trading in public</p>



	<p>limit dairies to one sandwich board;</p> <ul style="list-style-type: none"> <li>• Separate out sandwich boards and flags and set limits on the size to 1m<sup>2</sup> for sandwich boards and a maximum height of 2.2m height for flags.</li> </ul>	<p>places. To provide a more consistent, clear pathway, particularly for people who are blind or partially sighted, or wheelchair users.</p> <p>Placing all sandwich boards on the kerb would damage vehicles (especially on windy days) and obstruct access from cars to footpaths.</p> <p>Shops outside designated commercial areas tend to have a lot of sandwich boards all over the footpath.</p>
Retail displays on footpaths (change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Generally not permitted, except as part of any general promotion or event within the Designated Commercial Area. Limits on extent of display to avoid hazard to pedestrians;</li> <li>• Remove exception for general promotions and events;</li> <li>• Reduce limits on retail displays.</li> </ul>	<p>Remove exception for general promotions and events.</p> <p><u>Reasons:</u> Councils may make bylaws for the purpose of regulating trading in public places and for public safety. "General promotions and events" is too broad to be enforceable. Requiring a permit for any retail display ensures they can be considered on a case by case basis.</p>
Advertising (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: written authority required before placing advertisements in public places, except on dedicated "poster towers";</li> <li>• Provide more options for advertising/writing on pavements in public places.</li> </ul>	<p>Status quo.</p> <p><u>Reasons:</u> Councils may make bylaws for the purpose of regulating trading in public places. The current provision addresses the potential issues.</p>

Topic	Options	Proposed approach
Washing of vehicles in public places	<ul style="list-style-type: none"> <li>• Status quo: no bylaw provision controlling washing of vehicles in public places;</li> <li>• Bylaw provision controlling washing of vehicles in public places (which would cover window washing at intersections).</li> </ul>	<p>Bylaw provision controlling washing of vehicles in public places (which would cover window washing at intersections).</p> <p><u>Reasons:</u> Councils may make bylaws for the purpose of regulating trading in public places, for public safety and to protect the public from nuisance. To avoid the potential for intimidation of drivers and impacts on traffic safety.</p>
Advertising of Commercial Sexual Services (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Any signs visible from any public place or residential property which are considered likely to cause a nuisance or serious offence are not permitted;</li> <li>• Do not include this provision.</li> </ul>	<p>Status quo.</p> <p><u>Reasons:</u> Councils may make bylaws for the purpose of controlling signage advertising commercial sexual services (under section 12 of the Prostitution Reform Act). The current provision addresses the potential issues.</p>

## 5.5 Alcohol in Public Places

Topic	Options	Proposed approach
Low impact events involving alcohol in areas where alcohol is banned	<ul style="list-style-type: none"> <li>• No provision regarding these events</li> <li>• Provide the ability to gain a permit for low risk activities involving limited amounts of alcohol in areas where alcohol is banned</li> </ul>	<p>Provide the ability to gain a permit for low risk activities involving limited amounts of alcohol in areas where alcohol is banned.</p> <p><u>Reasons:</u> Council has the power to make bylaws for alcohol control purposes under section 147 of the Local Government Act. This provision will make it possible for people to gain approval for low impact events such as a few drinks for guests as part of a wedding in the Queens Gardens.</p>

Topic	Options	Proposed approach
Schedule A (change proposed)	<ul style="list-style-type: none"> <li>• Retain existing list of areas and make future changes by resolution of Council;</li> <li>• Add other areas and consult on them as part of this bylaw development process.</li> </ul>	<p>Add new public and privately owned places to the list of alcohol prohibited areas (the areas where changes are proposed are shown in underlining in Schedule A of the Draft Bylaw).</p> <p><u>Reasons:</u> Council has the power to make bylaws for alcohol control purposes under section 147 of the Local Government Act. This approach provides an opportunity for public feedback on the areas where alcohol bans are proposed, rather than these areas being added through Council resolution only. It also enables Council to consider including privately owned areas, as provided for by the Local Government (Alcohol Reform) Amendment Act 2012.</p>

## 5.6 Reserves

Topic	Options	Proposed approach
Reserves Bylaw 2014 covers: motor vehicle use, hazard or damage, golf, activities requiring a permit, respect for other reserve users, public access to reserves, and exemptions. (no changes proposed)	<ul style="list-style-type: none"> <li>• Status quo: do not make changes to the Reserves Bylaw provisions;</li> <li>• Make changes to the Reserves Bylaw provisions.</li> </ul>	<p>Status quo - retain existing provisions.</p> <p><u>Reasons:</u> Councils may make bylaws for the purpose of managing reserves. The Reserves Bylaw 2014 was adopted recently following a Special Consultative Procedure.</p>

## 5.7 Burial and Cremation

Topic	Options	Proposed approach
Exclusive right of burial (change proposed)	<ul style="list-style-type: none"> <li>• Retain existing provisions;</li> <li>• Add in ability for Council to buy back an exclusive right of burial, at the price paid for it, to allow a plot no longer wanted to be sold to someone else.</li> </ul>	<p>Add in ability to buy back plots which are no longer required.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. This provides flexibility for Council and purchasers, and enhances efficient use of cemetery land.</p>
Interment warrant (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Do not allow any bodies/ashes to be buried/placed in a cemetery without obtaining an Interment Warrant from the Council;</li> <li>• Do not require Interment Warrant prior to burial or placement of ashes in a cemetery.</li> </ul>	<p>Status quo.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. The current provision addresses the potential issues.</p>
Conditions on cremations (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Set conditions on cremations;</li> <li>• Do not set conditions on cremations.</li> </ul>	<p>Status quo.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. The current provision addresses the potential issues.</p>
Natural burial areas (change proposed)	<ul style="list-style-type: none"> <li>• Status quo: no references to natural burials;</li> <li>• Add a new section related to 'standards for natural burial areas' because this activity has different requirements. Add a definition for natural burial.</li> </ul>	<p>Add a new section related to 'standards for natural burial areas' because this activity has different requirements. Add a definition for natural burial.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. Natural burial areas are now established at Marsden and Wakapuaka cemeteries, and natural burials have different requirements.</p>

Topic	Options	Proposed approach
Headstones and monuments (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Refer to the standards, but do not include them within the bylaw;</li> <li>• Include the standards in the bylaw.</li> </ul>	<p>Status quo: Refer to the standards, but do not include them within the bylaw.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. This provision retains Council's ability to change the standards outside of the bylaw review, so that new technologies for headstones can be incorporated as they are developed and proven to be durable enough to be used within a lawn cemetery (won't be damaged during mowing).</p>
Undertaking work (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Requires people to limit the amount of time that tools or materials are left in the cemetery, and does not allow the mixing of cement or mortar on footpaths or roadways.</li> <li>• Do not include this provision.</li> </ul>	<p>Retain existing provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. The current provision addresses the potential issues.</p>
Controls on planting and damage to trees (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: No trees can be planted in the cemetery without permission. Shrubs can be planted but may be trimmed, removed or cut down by cemetery staff at any time;</li> <li>• Do not include this provision.</li> </ul>	<p>Retain existing provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. The current provision addresses the potential issues.</p>

Topic	Options	Proposed approach
Leaving of tributes (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Two week limit for leaving of wreaths, unless permission granted for a longer period;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain existing provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. The current provision addresses the potential issues.</p>
Planting on graves (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Nothing may be planted on plots without Council permission;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain existing provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. The current provision addresses the potential issues.</p>
Tributes (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: No person shall place more than two tributes (in the approved receptacles);</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain existing provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. The current provision addresses the potential issues.</p>
Damaged receptacles and dead flowers (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Sexton able to remove damaged receptacles and dead flowers;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain existing provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. The current provision addresses the potential issues.</p>
Cemetery opening hours (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: No person shall enter or remain in any cemetery between the hours of sunset and sunrise;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain this provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. This provision is to avoid risk of vandalism, or inappropriate use of the cemetery (such as camping overnight) and/or disrespect of sensitive areas.</p>

Topic	Options	Proposed approach
Vehicles (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Vehicles not allowed on cemetery grounds, except on the roads;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain this provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. This provision manages the potential for damage and disrespect of sensitive areas.</p>
Removal and damage of headstones (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Vases, wreaths, plants, flowers, kerb, headstones and monuments not to be removed without permission of Council or the holder of the exclusive right of burial;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain this provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. This provision manages the potential for damage and disrespect of sensitive areas.</p>
Interruptions to funerals (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Funerals not to be prevented, interrupted or delayed by any violent or improper behaviour;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain this provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. This provision manages the potential for disrespect of funeral proceedings.</p>
Writing/marks (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Writing and marks on monuments, tombstones, memorials and other structures is not permitted;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain this provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. This provision manages the potential for damage and disrespect of sensitive areas.</p>
Damage to monuments (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Not permitted to impact on any structures of any kind in any cemetery;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain this provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. This provision manages the potential for damage and disrespect of sensitive areas.</p>

Topic	Options	Proposed approach
Vegetation (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Not permitted to remove or disturb any vegetation without Council permission;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain this provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. This current provision addresses the potential issues.</p>
Commercial operations (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: No advertising or soliciting for any kind of work in connection with cemeteries, in any cemetery, without the consent of the Council;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain this provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. This current provision addresses the potential issues.</p>
Photography (no change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Commercial photographers not permitted to attend any funeral to take photos without the permission of the family;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Retain this provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. This current provision addresses the potential issues.</p>
Animals (change proposed)	<ul style="list-style-type: none"> <li>• Status quo: Not allowed to take horses or other animals into cemeteries without Council's permission, with exceptions for dogs on a lead, and stock which the Council permits to graze any part of the cemetery;</li> <li>• Do not include this provision within the bylaw.</li> </ul>	<p>Do not include this provision.</p> <p><u>Reasons:</u> Council may make bylaws for the purpose of managing cemeteries. Animals in cemeteries has not proven to be an issue, and is also a duplication of provisions in the Control of Dogs Bylaw.</p>



## **6. Ability to make bylaws**

- 6.1 Section 145 of the Local Government Act 2002 gives territorial authorities general bylaw-making powers. It states that a territorial authority may make bylaws for its district for one or more of the following purposes:
- protecting the public from nuisance;
  - protecting, promoting and maintaining public health and safety;
  - minimising the potential for offensive behaviour in public places.
- 6.2 Section 146 of the Local Government Act 2002 provides for a territorial authority to make bylaws for its district for specific purposes. Sections 146(a), 146(b) and 147 of the Local Government Act 2002 are relevant to the Urban Environments Bylaw.
- 6.3 Section 146(a) states that a territorial authority may make bylaws for its district for the purposes of regulating:
- solid wastes;
  - keeping of animals, bees and poultry;
  - trading in public places.
- 6.4 Section 146(b) states that a territorial authority may make bylaws for its district for the purposes of managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with:
- cemeteries;
  - reserves, recreation grounds, or other land under the control of the territorial authority.
- 6.5 Section 147 enables territorial authorities to make bylaws for its district for the purpose of prohibiting or otherwise regulating or controlling, either generally or for one or more specified periods, any or all of the following:
- the consumption of alcohol in public places;
  - the bringing of alcohol into public places;
  - the possession of alcohol in public places.
- 6.6 Section 147A states that before a territorial authority makes a bylaw under section 147, it:
- must be satisfied that it can be justified as a reasonable limitation on people's rights and freedoms; and
  - except in the case of a bylaw that will apply temporarily for a large scale event, must also be satisfied that –
    - (i) there is evidence that the area to which the bylaw is intended to apply has experienced a high level of crime or disorder that can be

shown to have been caused or made worse by alcohol consumption in the area; and

- (ii) the bylaw is appropriate and proportionate in the light of that crime or disorder.

7. **Section 155 of the Local Government Act 2002**

- 7.1 Section 155 (1) of the Local Government Act 2002 requires a local authority to determine whether a bylaw is the most appropriate way of addressing a perceived problem.
- 7.2 It is not a legal requirement to have a bylaw covering the matters listed in clause 3.2 of this proposal. However, as outlined in section 3 of this proposal, there are a number of activities occurring in urban environments which are most appropriately addressed through a bylaw.
- 7.3 The bylaw regulates activities which pose a risk to people's enjoyment of the urban environment. Managing these activities helps the Council to meet the community's expectations of a pleasant and attractive urban environment, including residential living, shopping centres and recreational areas.
- 7.4 Section 155 (2) states that if a local authority has determined that a bylaw is the most appropriate way of addressing the perceived problem, it must, before making the bylaw, determine whether the proposed bylaw –
- Is the most appropriate form of bylaw; and
  - Gives rise to any implications under the New Zealand Bill of Rights.
- 7.5 The draft Urban Environments Bylaw 2014 is the most appropriate form of bylaw because it meets the following tests:
- it is authorised by statutory authority under sections 145, 146 and 147 of the Local Government Act 2002;
  - it is not repugnant to the general laws of New Zealand;
  - the bylaw is certain and provides clear direction;
  - the bylaw is reasonable;
  - the bylaw is not overly restrictive, onerous on any person, or impractical.

8. **Does the Proposed Bylaw give rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA)?**

- 8.1 Part 2 of the NZBORA sets out 20 rights that are affirmed and protected under the NZBORA, subject to "such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society" (section 5 of the NZBORA).
- 8.2 Section 14 (freedom of expression) states that everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.

- 8.3 Section 18 (freedom of movement) of the NZBORA states that everyone lawfully in New Zealand has the right to freedom of movement and residence in New Zealand.
- 8.4 Section 19 (freedom from discrimination) states that everyone has the right to freedom from discrimination.
- 8.5 Section 21 (unreasonable search and seizure) states that everyone has the right to be secure against unreasonable search or seizure, whether of the person, property, or correspondence or otherwise.
- 8.6 The Council does not consider that the restrictions imposed by the Urban Environments Bylaw infringe the freedoms that are protected under NZBORA and that such restrictions that are imposed are reasonable limits for the purposes of allowing reasonable use of the Nelson urban environment.

## 9. Submissions

- 9.1 Any person or organisation is welcome to make a submission on this Statement of Proposal to adopt a Nelson City Council Urban Environments Bylaw (Bylaw No. 225). Council will be taking account of all submissions made when it decides on the final content of the Urban Environments Bylaw.
- 9.2 Submissions must be received by Council no later than 4.00pm on Monday, 16 February 2015.
- 9.3 A submission form is available on the Nelson Council website [www.nelson.govt.nz](http://www.nelson.govt.nz) or can be obtained from Nelson City Council.
- 9.4 Submissions can also be sent in letter or email form and should be:

Posted to: Urban Environments Bylaw Consultation  
Nelson City Council  
PO Box 645  
Nelson 7040

Or emailed to: [submissions@ncc.govt.nz](mailto:submissions@ncc.govt.nz)

Please state in your submission whether or not you wish to speak at a hearing in support of your submission.

- 9.5 All submissions (including the names and contact details of submitters) are public information and will be available to the public and media in various reports and formats including the Nelson City Council website. Personal information will also be used for administration relating to the subject matter of the submissions. Submitters have the right to access and correct any personal information included in any reports, information or submissions.
- 9.6 Council will contact all submitters (who wish to be heard) in writing to advise the confirmed time, date and venue of the hearing.
- 9.7 All enquiries should be directed to Jane Loughnan, Planning Administrator, on telephone (03) 546 0257 or by email to [jane.loughnan@ncc.govt.nz](mailto:jane.loughnan@ncc.govt.nz).

10. **Related Documents**

- 10.1 The Nelson City Council Draft Urban Environments Bylaw (Bylaw No. 225) is attached to this Statement of Proposal. Additional copies are available to view or download from the Nelson City Council website [www.nelson.govt.nz](http://www.nelson.govt.nz) (search phrase = draft urban environments bylaw).
- 10.2 Copies of the Nelson City Council Draft Urban Environments Bylaw (Bylaw No.225) are available free of charge from the customer service centre at Civic House (110 Trafalgar Street, Nelson), or on request from Jane Loughnan (phone 546 0257 or email [jane.loughnan@ncc.govt.nz](mailto:jane.loughnan@ncc.govt.nz)).
- 10.3 Copies of the existing bylaws are also available for comparison with the draft Urban Environments Bylaw. These are free of charge and can be accessed on the Council website, or emailed or posted on request.

**ATTACHMENT 2**



**Draft Urban Environments Bylaw (No. 225)**

**November 2014**

## **CONTENTS**

<b>1. Introduction.....</b>	<b>3</b>
<b>2. Definitions .....</b>	<b>6</b>
<b>3. Keeping of Animals.....</b>	<b>11</b>
<b>4. Urban Amenity .....</b>	<b>13</b>
<b>5. Trading in Public Places.....</b>	<b>15</b>
<b>6. Control of Alcohol in Publicly and Privately Owned Places .....</b>	<b>20</b>
<b>7. Reserves .....</b>	<b>24</b>
<b>8. Burial and Cremation.....</b>	<b>26</b>
 <b>Schedule A – Prohibition of Alcohol in Publicly and Privately Owned Places.....</b>	 <b>30</b>
<b>Schedule B – Permits, Written Authorities and Licences.....</b>	<b>32</b>
<b>Schedule C – Standards.....</b>	<b>33</b>

## **1. PART ONE - INTRODUCTION**

### **Title**

- 1.1 The title of this bylaw is the 'Urban Environments Bylaw 2015'.

### **Commencement and Review Date**

- 1.2 The bylaw came into effect on [day and date] and will be reviewed by June 2020.

### **Purpose**

- 1.3 This bylaw has one or more of the following purposes:
- (i) To protect, promote and maintain public health and safety in Nelson's urban environments
  - (ii) To maintain and enhance the amenity of Nelson's urban environments and to protect the public from activities that may constitute, or have the potential to constitute, a nuisance, including the keeping of animals, bees and poultry
  - (iii) To minimise the potential for disorder or offensive behaviour within Nelson's urban environments, including controlling the bringing of alcohol into specified public places and the consumption and possession of alcohol in those public places
  - (iv) To regulate trading in public places, including soliciting donations, busking and begging
  - (v) To manage activities within Nelson's parks and reserves, including Nelson's cemeteries
  - (vi) To promote the display of street numbers on buildings
  - (vii) To regulate the use of public rubbish bins.

### **Exemption**

- 1.4 Nothing in this bylaw shall prevent or restrict Iwi from carrying out activities which are provided for in the legislation enacting their individual Deeds of Settlement.

### **Breach of Bylaw**

- 1.5 Any person who breaches this Bylaw must, on verbal or written request by an Enforcement Officer, immediately stop the activity.
- 1.6 Any person failing to promptly comply with a request under clause 1.5 commits a further offence against this Bylaw.

### **Penalties and Powers**

- 1.7 Under section 242 of the Local Government Act 2002, any person who breaches this Bylaw, commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- 1.8 Under section 163 of the Local Government Act 2002 the Council or an authorised officer may remove or alter any work or thing that is or has been constructed in breach of this Bylaw and may recover the costs of doing so from the person who committed the breach. This does not affect that person's liability for the breach.

- 1.9 Under section 162 of the Local Government Act 2002 the Council may apply to the District Court for an injunction restraining a person from committing a breach of this Bylaw.
- 1.10 The Council or an authorised officer may seize and impound property materially involved in committing an offence, under sections 164 and 165 of the Local Government Act 2002.
- 1.11 The Council will return or may dispose of property seized and impounded in accordance with sections 167 and 168 of the Local Government Act 2002.
- 1.12 Under s 176 of the Local Government Act 2002 any person who has been convicted of an offence under this bylaw is liable to pay the Council the costs of remedying any damage caused in the course of committing the offence.

#### **Fees and Charges**

- 1.13 Council may at any time by resolution (after consultation as part of the Long Term Plan or the Annual Plan) prescribe fees that may be charged in respect of any licence, certificate, authority, approval, consent given, inspection made or service given by Council under the provisions of the Local Government Act 2002 or any other enactment where that enactment contains a provision for authorising Council to charge a fee.

#### **Revoked Bylaws**

- 1.14 On the coming into effect of this bylaw, the following Nelson City Council bylaws are revoked:
- Miscellaneous Matters Bylaw 2008 (No. 215);
  - Numbering of Buildings Bylaw 2009 (No. 219);
  - Trading in Public Places Bylaw 2007 (No. 213);
  - Advertising of Commercial Sexual Services Bylaw 2011 (No. 208);
  - Control of Drinking in Public Places Bylaw 2009 (No. 206);
  - Reserves Bylaw 2014 (No. 222);
  - Burial and Cremation Bylaw (No.216).
- 1.15 All bylaws revoked shall remain in full force and effect so far as they relate to anything done or any offence committed, penalty incurred, prosecution or proceeding commenced, right or liability accrued, licence issued, notice given, or order made, under or against any of the provisions of that bylaw before the coming into force of this bylaw.
- 1.16 All licences issued under any revoked bylaw shall, after the coming into force of this bylaw, be deemed to have been issued under this bylaw and be subject to the provisions of this bylaw.
- 1.17 All Inspectors and other officers appointed by the Council under or for the purpose of any revoked Bylaw, and holding office at the time of the coming into operation of this bylaw, shall be deemed to have been appointed under this bylaw.



- 1.18 All fees and charges fixed by resolution of Council in regard to any goods, services, inspections or licences provided for in any revoked bylaw shall apply under the corresponding provisions of this bylaw until altered by further resolution of Council.

## 2. PART TWO - DEFINITIONS

- **Advertisement** means any banner, placard, poster, or other material bearing any writing or pictorial representation which advertises a product or service, disseminates news or any other information, or is a decoration or personal promotion;
- **Alcohol** has the meaning given to it in the Sale and Supply of Alcohol Act 2012;
- **Authorised officer** means any member of the staff of the Council, a Police Officer or any other person appointed by the Council to act on its behalf and within its authority;
- **Begging** means soliciting donations or goods of any kind for private benefit;
- **Busker** means any itinerant musician, actor, entertainer or other person who performs in an outdoor setting for the benefit of the public generally, whether such performance is free, for a fixed payment, or for contributions from the audience;
- **Caravan** means a wheeled vehicle or device, whether self-propelled or not, which has the purpose of providing sleeping accommodation, and includes any vehicle commonly described as a campervan, or mobile or motor home;
- **Chief Executive** means the person for the time being exercising the functions of the Chief Executive of the Council;
- **City** means the territory contained within the City of Nelson as defined in Schedule 2 to the Local Government Act 2002;
- **Commercial Services** means the soliciting of patronage for, or provision of, any service which is offered or provided, on payment of a fee, charge or other valuable consideration, including an invitation to make a gratuitous contribution, either on a casual basis to passers-by or door to door, and includes the taking and selling of photographs, the production and sale of personal portraits, the telling of fortunes, the soliciting of commercial sexual services, and any other service of any kind whatsoever;
- **Commercial Sexual Services** means sexual services that:
  - involve physical participation by a person in sexual acts with, and for the gratification of, another person; and
  - are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person).
- **Council** means Nelson City Council;
- **Council** (as the term applies to the **Burial and Cremation** bylaw provisions) means Nelson City Council or any person or officer delegated the authority to exercise any powers pursuant to this bylaw;

- **Dairy** means a small grocery shop;
- **Designated Commercial Area** means those areas of the City which are zoned "Inner City Centre;" or zoned "Suburban Commercial" at Victory Square, Tahunanui, or Stoke, under the Nelson Resource Management Plan (NRMP), or any other resource management plans which replace the NRMP after this bylaw is adopted;
- **Enforcement Officer** means a person appointed by the Council pursuant to Section 177 of the Local Government Act 2002 to exercise the powers of an Enforcement Officer in relation to offences against these bylaws;
- **Flag** (as the term applies to the **Trading in Public Places** bylaw provisions) means a piece of material attached to a pole which is designed and used for the purpose of advertising any commercial operation or service or product provided by any commercial operation;
- **Footpath** means so much of any street as is laid out or constructed by authority of the Council primarily for pedestrians, and includes the edging, kerbing and channelling thereof, and includes any area of land owned or controlled by the Council which is set aside for the convenience of pedestrians generally, as a square, place, plaza or public accessway;
- **Grave** means an occupied plot;
- **Holder** means the purchaser of the exclusive right of burial and any person to whom such right might be transferred under this bylaw, and in respect of any grave includes the personal representative or family of the deceased;
- **Hours of Darkness** means any period of time between half an hour after sunset on one day and half an hour before sunrise on the next day;
- **Household Refuse** means ashes, sweepings, dust, bones, waste, food, cans, cartons, or other food containers or any other rubbish or refuse arising or resulting from domestic housekeeping activities or operations;
- **Itinerant Trader** means any person who carries or takes about any goods, wares or merchandise for speculative sale to any person, whether or not that sale is intended to be conducted on public or private property, but excluding the following:
  - ◊ Any person who in response to an invitation by the owner or occupier of any private property to call, conducts a sale of any goods, wares or merchandise on private property;
  - ◊ Any person who operates a mobile shop.
- **Low risk activity** (as the term applies to the **Control of Alcohol** provisions in this bylaw) means consumption of alcohol where it is ancillary to a wedding, funeral or other function.
- **Mobile Shop** means a vehicle, whether self propelled or not, from which goods, wares or merchandise (including food) are offered or exposed for sale, or from which such goods, wares, merchandise may be ordered;

while such vehicle is in any public place;

BUT does not include any vehicle used for the purpose of transporting and delivering goods, wares or merchandise pursuant to a prior order placed for the delivery of such goods, wares or merchandise;

- **Motor vehicle** has the same meaning as in the Land Transport Act 1998;
- **Natural burial** means chemical free interment (without embalming and using rapidly biodegradable caskets) in a separate area which is subsequently planted to form a native bush or forest area and does not have a traditional headstone or memorial on the grave. Burial sites are recorded digitally;
- **Network utility** has the same meaning as in the Resource Management Act 1991;
- **Offence** (as the term applies to the **Control of Alcohol** provisions in this bylaw) means an offence under sections 147, 239A, 242, 245, or 246 of the Local Government Act 2002 that is a breach of this bylaw;
- **Pet Animals** means animals normally kept as domestic pets, and includes aviary birds, poultry, aquarium specimens, guinea pigs, and all the animals specified in the Fifth Schedule to the Wildlife Act 1953;
- **Plot** means an area of land within a cemetery set aside for the future burial of the holder of the exclusive right of burial or anybody permitted by the holder to be buried in such plot;
- **Poster Tower** means any structure, wall or other erection set aside by the Council specifically for use by the public for the display of posters or other advertisements giving notice of coming events;
- **Poultry** includes turkeys, geese, ducks, and domestic fowls of all descriptions;
- **Public Place** (as the term applies to the **Keeping of Animals** and **Urban Amenity** provisions in this bylaw) means all streets, footpaths, pedestrian precincts, and public car parks within the City owned or controlled by the Council, and all parks and gardens and reserves within the City;
- **Public Place** (as the term applies to the **Trading in Public Places** provisions in this bylaw) means all streets and public carparks within the City owned or controlled by the Council, and all parks and gardens and reserves within the City;
- **Public Place** (as the term applies to the **Control of Alcohol** provisions in this bylaw, and as defined in section 147 of the Local Government Act 2002)
  - a) means a place that is open or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it; but

b) does not include licensed premises.

- **Public Place** (as the term applies to the **Advertising of Commercial Sexual Services** provisions in this bylaw) means a place that is open to, or being used by, the public, whether admission is free or on payment of a charge and whether any owner or occupier of the place is lawfully entitled to exclude or eject a person from that place; and includes any aircraft, hovercraft, ship, ferry, or other vessel, train, or vehicle carrying or available to carry passengers for reward;
- **Reserve** means any land which is owned by or under the control of the Council and which is set aside for public enjoyment as a reserve, park, garden or open space. It does not include road reserve;
- **Residential Property** (as the term applies to the **Advertising of Commercial Sexual Services** provisions in this bylaw) means any land zoned Residential within the Nelson Resource Management Plan, which is used or able to be used for residential activity;
- **Residential Unit** means the self-contained residence of a single household;
- **Sandwich Board** means any signboard or other advertising device, whether rigid or flexible, including "floppy" signs, banners, "A" frame boards and the like whether designed to be free standing or to be affixed to a building, and which are designed and used for the purpose of advertising any commercial operation or service or product provided by any commercial operation;
- The term "sandwich board" does not include any advertising board or flyer or poster holder which is fastened to or otherwise set against and displayed parallel to, the front wall of the business concerned;
- **Schedule A Public Place** means a public place described in Schedule A of this bylaw;
- **Sign** (as the term applies to the **Advertising of Commercial Sexual Services** provisions in this bylaw) means any structure, board or other thing which has as its purpose the disseminating of a message, providing directions to or attracting the attention of passers-by to a site, building, forthcoming event, or available goods and or services; or any combination thereof, and includes any advertising leaflet or flyer;
- **Stock** includes any horse, cattle, deer, ass, mule, sheep, pig, or goat of any description;
- **Street** means the whole of any land which has been laid out by or vested in the Council for the purposes of a road, footpath or street, every accessway or service lane under the control of the Council and every square or place intended for use by vehicles;
- **Street Stall** means any vehicle, table, or other construction or erection which pursuant to a licence to occupy issued by the Council is authorised to occupy a dedicated site within the City, and includes an outdoor dining

area established with the authority of the Council on any footpath or other public place;

- **Trade Refuse** means any scrap or waste material resulting from the carrying on of any business manufacture, process, trade, market or other undertaking;
- **Urban Zone** means any area of the City carrying a "Residential", "Inner City", "Suburban Commercial" or "Industrial" zoning in the Nelson Resource Management Plan (NRMP), or any other resource management plans which replace the NRMP after this bylaw is adopted;

### **3. PART THREE - KEEPING OF ANIMALS**

#### **Scope**

- 3.1 This part of the bylaw regulates the keeping of animals in the City.

#### **Keeping of animals**

- 3.2 Every person keeping or having control of any stock, poultry or pet animals on any land or premises within the City shall ensure that any building or other structure or yard in which they are kept is maintained in a clean and sanitary condition to the satisfaction of the Council, and that noise or odours associated with the animal(s) is as far as practicable confined within the land or premises concerned.

#### **Poultry and roosters**

- 3.3 No person shall keep or allow to be kept or to remain on any land within the City, any poultry except in a poultry house or otherwise confined within the owner's property.
- 3.4 No person shall keep more than 12 poultry except with the written permission of the Council and subject to such conditions as the Council may impose.
- 3.5 Poultry houses must be at least five metres from dwellings on neighbouring properties. This excludes garages, and other buildings used for storage.
- 3.6 No person shall keep, or allow to be kept, a rooster on any land or premises within an urban zone of the City.

#### **Cats**

- 3.7 The Council may impose a limit of a maximum of three cats on a private property, where:
- The Council has received a complaint about the number of cats kept on the private land; and
  - The number of cats is creating a nuisance or is likely to create a nuisance; and
  - The person keeping those cats fails to comply with any reasonable request by an Enforcement Officer to abate or prevent the nuisance.

#### **Bees**

- 3.8 The Council may impose any conditions it thinks fit for the keeping of bees in the City including limiting the number of hives kept and prescribing the location of such hives on a private property.

**Stock**

- 3.9 No person shall keep stock on any properties within an urban zone of the City, except pursuant to a Council permit and subject to such conditions as the Council may see fit to impose.
- 3.10 Every person keeping any stock anywhere in the City shall ensure such stock is effectively confined on that property on which the stock is kept, except at such time when it is under the direct and continual control of the owner.
- 3.11 All fencing used to confine stock must meet the requirements of the Fencing Act 1978.



4. **PART FOUR - URBAN AMENITY**

**Scope**

- 4.1 This part of the bylaw regulates a range of activities that have the potential to affect the amenity of residential and inner city environments, and public health and safety.

**Caravans for residential purposes**

- 4.2 No person being the owner or occupier of land within the City shall use, or permit to be used, any caravan for the time being located on such land for the purposes of a separate or part of an existing residential unit without a Council permit.

- 4.3 Exception: On any property containing a residential unit a registered caravan having a current warrant of fitness may be occupied by any member or members of the family, of the owner or occupier of the property as a temporary sleeping place if:

- The occupants of such caravan use the toilet and cooking facilities of the residential unit exclusively for those purposes; and
- The caravan is not parked in the front yard of the site as defined in the Nelson Resource Management plan in relation to accessory buildings; and
- No part of the caravan is nearer than 1.5 metres to any boundary of the site;
- The caravan is not used for such purpose for more than 50 days in any calendar year without the specific consent of the Council and then only in accordance with any conditions which might be imposed on such consent.

- 4.4 Note: This bylaw provision does not apply to any caravan located within a campground subject to a current certificate of registration under the Camping Ground Regulations 1985, and which is utilised as a "temporary living place" pursuant to those regulations.

**Barbed Wire and Electric Fences**

- 4.5 Neither electric fences nor barbed wire on fences are permitted near or on the boundary of land which is adjacent to any street, reserve or other public place, where the fence is in a position or at a height to be accessible to the public.

**Slaughter of animals**

- 4.6 No person shall slaughter any stock or poultry on any property where such is visible from any public place or neighbouring property, and stock may only be slaughtered on farmland used for grazing purposes (except in such case as may be necessary arising out of accident or any other urgent reason).

**Storage of carcasses**

- 4.7 No person shall hang or otherwise store any animal carcass in such a position as to be visible from any public place or neighbouring property.

**Public rubbish bins**

- 4.8 No person shall deposit or cause or permit to be deposited in any rubbish bin located within any public place:
- any explosive, hot ashes, or other burning material;
  - any highly flammable material or acid or other corrosive material;
  - any Household Refuse;
  - any Trade Refuse.

**Numbering of buildings**

- 4.9 Where the Council has allocated a number to any area of land on which a building is located, or to any building or separately occupied part of any building within the City, the owner or occupier shall display the number allocated in a position whereby such is visible from the road.
- 4.10 Where any person fails to display the allocated street number, and continues this failure after being advised by the Council of the requirements of this bylaw, the Council may take such steps as it deems appropriate and necessary to cause the number to be displayed and shall recover any costs incurred in doing so as a debt from the owner or occupier of the property concerned

5. **PART FIVE - TRADING IN PUBLIC PLACES**

**Scope**

- 5.1 This part of the bylaw regulates use of public places within the City for trading and ancillary activities.

**Itinerant Traders and Mobile Shops**

- 5.2 No person shall carry on business in Nelson as an itinerant trader, or as an operator of a mobile shop, without a Council permit, except in the case of an itinerant trader or a mobile shop participating in a Council approved street market or street stall.

**Permit conditions**

- 5.2.1 Permits are issued for a maximum period of 12 months, and failure to comply with any of the permit conditions is an offence against this bylaw. Applications to renew permits may be made prior to the expiry of a permit. Approval will be subject to the applicant's compliance with the permit conditions and payment of the permit fee.
- 5.2.2 Permits are not transferable and do not authorise any person other than the person named in the permit to carry on the trade or business of mobile salesperson or operator of a mobile shop.
- 5.2.3 Every permit holder shall make the permit available to any Police or Enforcement Officer who requests it. The operator of a mobile shop shall ensure his or her permit is prominently displayed at all times when the mobile shop is being used or operated.
- 5.2.4 Every itinerant trader or operator of a mobile shop shall move from a public place to any other public place, if requested to do so by any Police or Enforcement Officer. Any person who fails to comply with any such request commits an offence against this bylaw.
- 5.2.5 No itinerant trader, or operator of a mobile shop, shall stand or remain stationary in any public place within the City, for any period longer than 15 minutes in the case of an itinerant trader and one hour in the case of any mobile shop.
- 5.2.6 No itinerant trader or operator of a mobile shop shall carry out their commercial activity on any footpath or other public place within the Designated Commercial Areas.
- 5.2.7 The Council may require any itinerant trader or operator of a mobile shop to discontinue the use of any vehicle used in carrying out their business.
- 5.2.8 The Council may suspend or revoke any permit issued to any itinerant trader or operator of a mobile shop where it is satisfied that there has been a breach of the permit conditions, or in any case where the permit holder has been convicted of an offence related to the business for which the permit was granted. This action shall be in addition to and not in substitution for any other enforcement action provided for in this bylaw.

**Additional restrictions**

- 5.2.9 In addition to the restrictions listed above for itinerant traders and operators of mobile shops, the Council may by resolution:
- prohibit these businesses from operating in any specified public place within the City;
  - limit or restrict the classes or types of goods that these businesses may offer for sale;
  - limit the hours or days during which such businesses may operate.

**Commercial Services**

- 5.3 No person shall use any public place for the purpose of providing a commercial service, without a Council permit.
- 5.4 Permits are not transferable and do not authorise any person other than the person named in the permit to carry on the commercial service.
- 5.5 Every permit holder shall make the permit available to any Police or Enforcement Officer who requests it.
- 5.6 The Council or the Police may at any time withdraw a permit for reasons of public health or safety. They may also require that the services cease in a particular public place for such period as the Council or Police deem necessary.

**Soliciting of Donations and Selling Lottery Tickets**

- 5.7 No person shall occupy any public place for the purpose of soliciting donations, or other contributions, without a Council permit.
- 5.8 No person shall occupy any public place for the purpose of selling tickets in any lottery (as defined within the Gambling Act 2003) without a Council permit.
- 5.9 Authority to undertake the soliciting of donations or selling of lottery tickets may be granted by way of permit where the Council is satisfied that the activity is by or on behalf of a local school, community group, or a local or nationally recognised and registered charity.
- 5.10 Every person engaged in these activities shall hold a copy of the permit, and make it available to any Police or Enforcement Officer who requests it.

**Begging**

- 5.11 Begging is prohibited anywhere within the boundaries of the City.
- 5.12 A Police or Enforcement Officer may require any person to cease begging and may seize equipment used for this activity (after a verbal warning).

**Busking**

- 5.13 No person shall perform as a busker in any public place without having first provided their name and contact details to the Council and having obtained a copy of the rules related to this activity, outlined below.
- 5.14 A Police or Enforcement Officers may seize equipment used in this activity if the activity continues (after a verbal warning).

### **Busking Rules**

- 5.14.1 No person shall while performing as a busker in any public place;
- Occupy any footpath adjacent to any retail or other commercial premises without the consent of the owner or Manager of such premises.
  - Occupy any footpath or pedestrian way in such a way as to obstruct or impede the free movement of pedestrians along the footpath, or way or through the public place.
  - Allow the persons forming the audience to obstruct or impede the free movement of pedestrians along the footpath or way or through the public place.
  - Use language or behaviour which is abusive, insulting, threatening or offensive.
  - Undertake or perform any busking activity which generates any noise which in the opinion of any Police or Enforcement Officer unreasonably interferes with the peace, comfort and/or convenience of any person or persons.
  - Continue to occupy any place or site on a footpath or in any public place for longer than one hour in any two hour period, or after being requested by any Police or Enforcement Officer, to move to another place or site.
- 5.14.2 A Police or Enforcement Officer may require any busker to cease busking who has not advised the Council of their intention to busk, or who is not complying with the rules outlined in this bylaw, or who is otherwise causing a nuisance or obstructing the free passage of pedestrians by the busking, and/or spectators.

### **Additional restrictions**

- 5.14.4 The Council may, by resolution, specify particular types of busking activities which will require a Council permit, and may determine, as part of that resolution, the terms and conditions of that permit.
- 5.14.5 Where any specific busking activity has been resolved by the Council to require a permit is an offence against this bylaw for any person to carry on any such busking activity without first obtaining and holding a valid permit.

### **Sandwich Boards and Flags on Footpaths**

- 5.15 Only one sandwich board or one flag promoting products and services specific to the adjacent business may be displayed on the footpath. However, where a business has frontage to more than one street or public place, one sandwich board or flag may be displayed at each frontage.
- 5.15.1 Exception: No limit applies to the number of sandwich boards or flags permitted outside a Dairy.
- 5.16 The maximum allowable size for sandwich boards is 1m<sup>2</sup> and the maximum height for a flag is 2.2 metres.

- 5.17 Sandwich boards and flags are not permitted if their design or location on the footpath is a hazard for pedestrians or if it reduces the width of the footpath available to pedestrians to less than two metres.
- 5.18 The sandwich board or flag must be located immediately adjacent to the store frontage outside the business to which they relate. It must not extend further than 600mm onto the footpath from the store frontage.
- 5.19 Where the business is situated on other than the ground floor, or is situated within a lane or Mall in such a way that the frontage to the footpath consists of no more than an entrance or doorway, the sandwich board or flag may be sited adjacent to the nearest shop frontage and extend no more than 600mm onto the footpath from the kerb.

#### **Retail Displays on Footpaths**

- 5.20 No operator of a business within a Designated Commercial Area, shall place, erect, or establish any display on the footpath adjacent to their business without a Council permit.
- 5.21 A permit will not be granted for retail displays if their design or location on the footpath is a hazard for pedestrians or if it reduces the width of the footpath available to pedestrians to less than 1.5 metres.

#### **Advertising**

- 5.22 No person shall place an advertisement on any street or any other public place, or any tree or structure which is under the control of the Council other than a dedicated "poster tower" without a Council permit which specifically authorises such advertising.
- 5.23 No person may write, paint, chalk, spray or etch on, or otherwise mark, any street, footpath, or any tree or structure which is under the control of the Council, without a Council permit.
- 5.24 A permit will only be granted where the Council is satisfied that the advertisement is for an identifiable public or community purpose, will cause no detracton from the amenities of the City, will not inhibit or interfere with the use of the immediate area by the public, and will not cause harm to or otherwise damage the thing on which the advertisement is to be fixed or made.

#### **Advertising of Commercial Sexual Services**

- 5.25 No person may use a sign which is visible from any public place or residential property to advertise any Commercial Sexual Service, if the sign could be deemed to be likely to cause a nuisance or serious offence to any ordinary member of the public, or be incompatible with the existing character of the area.
- 5.26 The decision as to whether any sign is permissible under Clause 5.24 will be made by a panel of the Mayor and two other elected representatives whose decision shall be final.

**Washing of vehicles**

- 5.27 A person must not use a public place to wash, or offer to wash, a vehicle or any part thereof, in a manner that may be unsafe or intimidate or cause a nuisance to any person, or cause an obstruction to traffic.

6. **PART SIX - CONTROL OF ALCOHOL IN PUBLICLY AND PRIVATELY OWNED PLACES**

**Scope**

- 6.1 This part of the bylaw controls the bringing of alcohol into specified public places and controls the consumption and possession of alcohol in those public places.
- 6.2 The Local Government (Alcohol Reform) Amendment Act 2012 defines a public place as a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it, but does not include any licensed premises.
- 6.3 This definition enables the Council to consider whether there is any privately owned land which is accessed by the public (such as a car park) for which there are good reasons to restrict the drinking of alcohol. The control of alcohol bylaw provisions do not apply to private residential properties.

**Prohibited Activities**

- 6.4 No person shall:
- bring alcohol into;
  - possess alcohol in; or
  - consume alcohol
- in any place listed in Schedule A during the period specified for that place.

**Addition or deletion of places where alcohol is prohibited**



- 6.5 The Council may from time to time pass a resolution to amend the places listed in Schedule A to which this bylaw applies, or amend the period during which drinking alcohol is prohibited in a specified place.
- 6.6 Every resolution made to change Schedule A shall be publicly notified at least 14 days before it shall take effect.

**Exceptions**

**Transport of Alcohol**

- 6.7 The bylaw does not prohibit, in the case of alcohol in an unopened bottle or other unopened container:
- The transport of that alcohol from premises that adjoin a public place during any period when, under the Sale and Supply of Alcohol Act 2012, it is lawful to sell alcohol on those premises for consumption off the premises, provided the alcohol is promptly removed from the public place.
  - The transport of that alcohol from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of alcohol under the Sale and Supply of Alcohol Act 2012.
  - The transport of alcohol from outside a public place to premises that adjoin a public place:



-  by, or for delivery to, a resident of those premises or by his or her visitors; or
-  from those premises to a place outside the public place by a resident of those premises, provided the alcohol is promptly removed from the public place.

### **Licensed Premises**

- 6.8 The bylaw does not prohibit the possession of, or consumption of, alcohol in any public place, or part of a public place, where this is authorised by a licence issued under the Sale and Supply of Alcohol Act 2012, or where BYO alcohol is permitted by the organiser of any Council-approved function or event making use of the public place.

### **Council Permission**

- 6.10 Any person may apply to the Council for a permit for any low risk activity involving a limited amount of alcohol that would be in breach of any prohibition under section 6.4 of this Bylaw.
- 6.11 A Council permit for this activity may be granted by Council, the Chief Executive of Council, the Group Manager Infrastructure or any Licensing Inspector appointed under section 197(1) of the Sale and Supply of Alcohol Act 2012.
- 6.12 A permit granted in accordance with this section of the Bylaw may include conditions related to:
- (i) the date and time the exemption applies
  - (ii) the person or number of persons that are required for running the activity during the period the exemption applies
  - (iii) the nature of the activity associated with the exemption
  - (iv) the numbers of persons that may attend the event while the exemption applies
  - (v) what controls may be required to ensure anyone under the age of 18 will not have access to alcohol at the activity
  - (vi) how much alcohol will be available
  - (vii) what host responsibility provisions will apply, including provision of food, low or non-alcoholic drinks, and alternative transport options.

## **Powers of arrest, search and seizure**

### **Powers of the Police**

- 6.13 Where a prohibition on the possession or consumption of alcohol is in effect in respect of any public place, pursuant to the foregoing provisions, a member of the police may, without warrant:
- for the purpose of ascertaining whether alcohol is present, search
    - a container (for example, a parcel, package, bag, or case) in the possession of a person who is in, or entering, the public place;
    - a vehicle that is in, or is entering, the public place;
  - seize and remove alcohol and its container if the liquor is in the public place in breach of that prohibition;
  - arrest a person whom the member of the police finds committing an offence against that prohibition;
  - arrest a person who has refused to comply with a request by a member of the police:
    - to leave the public place; or
    - to surrender to a member of the police the alcohol that, in breach of that prohibition, is in that person's possession.

### **Warning by the Police**

- 6.14 Before exercising the power of search in relation to a container or a vehicle, a member of the police must:
- inform the person in possession of the container or the vehicle, as the case may be, that he or she has the opportunity of removing the container or the vehicle from the public place; and
  - provide the person with a reasonable opportunity to remove the alcohol or the vehicle, as the case may be, from the public place.

### **Specific events**

- 6.15 Where the Council considers it appropriate for the safe and effectual holding in any public place or part of a public place of any public event, function or gathering, it may make a publicly notified resolution no less than 14 days before the event to:
- Prohibit the consumption of alcohol in the specified public place during that period or periods, the bringing of alcohol into the specified public place during that period or periods, and the possession of alcohol in the specified public place during that period or periods;
  - Prohibit the presence or use of any vehicle in that public place at that time.

**Powers of search, confiscation and arrest**

- 6.16 Where the Council has resolved to prohibit vehicles and/or the consumption or possession of alcohol in any specified public place on the occasion of the holding of any public event, function or gathering, any member of the Police may:
- immediately and without further notice, for the purpose of ascertaining whether alcohol is present, search any container (for example parcel, bag or case) in the possession of any person who is in or entering the specified public place or search any vehicle that is in or entering the specified public place;
  - Seize and remove liquor and its container if the alcohol is in the public place in breach of this prohibition;
  - Arrest a person whom the member of the police finds committing an offence against this prohibition;
  - Arrest a person who has refused to comply with a request by a member of the police:
    - to leave the public place; or
    - to surrender to a member of the police the alcohol that, in breach of this prohibition, is in that person's possession.

**Power to request name and address**

- 6.17 If an Enforcement Officer or member of the Police believes on reasonable grounds that a person is committing or has committed an offence against this bylaw, either of them may direct the person to give:
- his or her name and address; and
  - the name and address and whereabouts of any other person connected in any way with the alleged offence.

**Obstruction of Enforcement Officer**

- 6.18 Every person who intentionally refuses to give their name and address when requested to do so by an Enforcement Officer or member of the Police, or knowingly misstates or provides false information, commits an offence against this bylaw and is liable on summary conviction to a fine not exceeding \$1,000.

**Breach of alcohol-related bylaw provisions and penalty**

- 6.19 Any person who acts in breach of any provision within this chapter of the Urban Environments Bylaw commits an offence against this bylaw and is liable on summary conviction to a fine not exceeding \$1,000.

7. **PART SEVEN - RESERVES**

**Scope**

7.1 This part of the bylaw manages activities within Nelson's parks and reserves.

**Motor vehicle use**

7.2 No person shall, without the prior written permission of an authorised officer, drive a motor vehicle in excess of 20km/h in a reserve.

7.3 No person shall drive, ride or park any motor vehicle on any area of any reserve except:

- on those areas developed and/or set aside specifically for that purpose, or
- where signs or markings indicate that motor vehicles are permitted, or
- at the direction or with the permission of any authorised officer.

**Hazard of damage**

7.4 No person is permitted to undertake any activity in any reserve which causes, or is likely to cause, a hazard to users of the reserve or damage to any part of the reserve or any structure on a reserve.

**Golf**

7.5 No person shall practice or play golf on any area of any reserve other than on the Waahi Taakaro Golf Course and the designated area in Neale Park.

**Activities requiring permission**

7.6 Permission to undertake the following activities in reserves can be granted, but they do require a Council permit:

- use of chainsaws or other tree felling implements;
- taking of rocks, minerals and sand;
- possession of firearms of any kind or the killing of any animals, including shooting of game birds and control of animal pests. This includes the use of traps and toxins;
- planting, spraying or removal of vegetation;
- grazing of livestock;
- landing of recreational motorised aircraft;
- placing or erection of memorials including plaques.

7.7 Any permission given under this Bylaw may be subject to such terms and conditions as Council sees fit, and may be revoked at any time where those terms and conditions are not complied with.

**Respect for other reserve users**

7.8 No user of any reserve shall impact on the safety and legitimate enjoyment of the reserve by others.

**Public access to reserves**

- 7.9 No person shall enter or remain in any reserve during any time that the Council has determined that the reserve should be closed to the public. Reasons for access restrictions include fire risk, health and safety, and ecological restoration.

**Exemptions**

- 7.10 Nothing in this bylaw chapter shall prevent authorised officers from carrying out activities in reserves.
- 7.11 Nothing in this bylaw chapter shall prevent Iwi from carrying out activities in reserves which are provided for in any legislation enacting Deeds of Settlement between Iwi and the Crown.
- 7.12 Nothing in this bylaw chapter shall prevent the operation, maintenance, development, and upgrading of network utilities where this is otherwise permitted or approved by the Council or other legislation.
- 7.13 Ambulances and other emergency services are exempt from the motor vehicle provisions in this bylaw chapter.

8. **PART EIGHT - BURIAL AND CREMATION**

**Scope**

- 8.1 This part of the bylaw manages activities within Nelson's cemeteries, including burial and cremation.

**Purchase of exclusive right of burial**

- 8.2 Any person making application on the appropriate form and paying the requisite fee may at any time purchase the exclusive right of burial in any available plot on the terms and conditions from time to time set by the Council.
- 8.3 Where no prior purchase of an exclusive right of burial has been made by or on behalf of the deceased at the time an application is made for an Interment Warrant, the exclusive right of burial shall be purchased at the same time as the Interment Warrant.
- 8.4 Where any person of insufficient means has been interred in any cemetery any friend or relative of such person may, within such time as the Council might allow, purchase the exclusive right of burial in relation to the grave subject to the terms and conditions applying in respect of the purchase of such right.

**Re-purchase of Exclusive Right of Burial**

- 8.5 Any exclusive right no longer required by the owner thereof (or the owner's heirs, executors or assigns), on production of conclusive evidence of the acquisition and ownership of the Exclusive Right of Burial, may be surrendered to the Council and the fee paid previously to the Council at the time of purchase will be refunded.

**Burials**

- 8.6 No person shall undertake any burial, including the burial of ashes, in any cemetery within the City without first obtaining an Interment Warrant from the Council.
- 8.7 Applications for an Interment Warrant shall be made on the appropriate form and be accompanied by the fee set by the Council for the warrant.
- 8.8 Any application for an Interment Warrant in respect of a deceased person of insufficient means shall be accompanied by a certificate duly signed by the applicant certifying that the deceased has not left sufficient funds to meet the cost of either or both, the Interment Warrant or the exclusive right of burial, and that there are no friends or family willing or able to meet these charges.
- 8.9 All burials shall be undertaken in accordance with the conditions from time to time set by the Council and as outlined on the Interment Warrant.

**Cremations**

- 8.10 No cremation shall take place in any crematorium provided by the Council unless the provisions of the applicable regulations have been complied with and the requisite fees have been paid.

- 8.11 All necessary applications, certificates and approvals shall be made or obtained or deposited with the Council as the case might require prior to the cremation taking place.

**Headstones and monuments**

- 8.12 No person shall erect any headstone, plaque, fence or other structure on or about any plot or grave unless they hold the exclusive right of burial in respect of that plot or grave and have obtained a permit from the Council for the work.
- 8.13 No person shall erect any headstone, plaque, fence or other structure on or about any plot or grave in any cemetery except in accordance with the Council standards relating to the erection of memorials, headstones or other structures.
- 8.14 The Council may from time to time by resolution add to or amend the standards relating to the erection of memorials, headstones or other structures.

**Natural Burials – standards**

- 8.15 No person shall erect any marker on a burial plot in a Natural Burial Area except as provided for in the Nelson City Council Standards for Natural Burial Areas.
- 8.16 The Council may from time to time by resolution add to or amend the Nelson City Council Standards for Natural Burial Areas.

**Undertaking work**

- 8.17 No person erecting or repairing any headstone, monument, fence or other work in, on, or around any plot or grave in any cemetery, shall make use of any footpath or other part of the cemetery for placing or depositing thereon any tools or material in connection with the work for a longer time than is reasonably necessary for the purpose of completing such work.
- 8.18 Any person who, after service upon them of a notice in writing from the Council requesting the removal of any tools or materials within a time specified in such notice, shall neglect or refuse to remove any such tools or material from the cemetery, shall commit an offence against this Bylaw.
- 8.19 No person shall make use of any footpath or roadway in the cemetery for the purpose of mixing cement or mortar otherwise than upon a proper mixing board or in other approved manner.

**Wreaths, flowers and vegetation**

- 8.20 No tree shall be planted in any cemetery by any person without permission first being obtained from the Council. Shrubs planted in any portion of the cemetery may at any time be trimmed, removed, or cut down by the Council. Reasonable attempts will be made to contact the person who undertook the planting or their representative prior to such work being undertaken so as to enable such plantings to be removed.
- 8.21 No person shall plant anything on any plot or grave, in other than a natural burial cemetery. During a period of two (2) weeks following interment, or such longer time as may be agreed with the family of the deceased, a wreath or wreathes or other tributes may be placed on a grave, but shall be removed at the expiration of the agreed period.

- 8.22 After the two week period referred to in clause 8.21 has expired no person shall place on any grave more than two tributes being either flowers and foliage placed in receptacles of an approved type inset into the base on which the memorial is placed, or other appropriate items.
- 8.23 In the case of any lawn cemetery two receptacles may be installed adjoining and at the same level as any tablet or plaque.
- 8.24 The Sexton of the Cemetery may at any time remove damaged receptacles or dead flowers or foliage, or inappropriate tributes, and at the expiration of the 2 week period or of any other period agreed with the family in accordance with Clause 8.21, may remove any tributes not removed within the period permitted under Clause 8.21.

**Hours of opening**

- 8.25 No person shall enter or remain in any cemetery between the hours of sunset and sunrise.

**Vehicles**

- 8.26 No person shall drive any vehicle on any part of any cemetery except the roads open for vehicular traffic.
- 8.27 No person shall drive or park any vehicle in any cemetery other than in accordance with the traffic signs or markings therein.

**Removal of kerbs, headstones or monuments**

- 8.28 No person shall, without the authority of the Council, or the holder of the exclusive right of burial in respect of any grave, remove or take from such grave, any vase, wreath, plant, flower, or any kerb, headstone or monument or any other thing. The Council may cause to be removed any neglected or broken material of this nature subject to reasonable attempts being made to contact the holder of the exclusive right or their representative prior to such removal.

**Misconduct**

- 8.29 No person shall, in any part of any cemetery, by any disruptive, noisy, violent or improper behaviour, prevent, interrupt, or delay any funeral service.
- 8.30 No person shall on any monument, tombstone, memorial or any other structure whatsoever, place or allow to be placed any epitaph, inscription, writing or lettering or any words, marks or characters or any picture or thing or object which is offensive or objectionable.

**Damage to monuments**

- 8.31 No person shall interfere with, disturb, remove, displace, deface, disfigure, damage, injure or destroy any building, monument, tombstone, plaque, memorial, fence, sign, noticeboard or any fitting or implement of any kind within or enclosing the whole or any portion of any cemetery.
- 8.32 No person shall, without authority from the Council, take, deposit, remove or disturb any soil or uproot any plant, or injure any shrub, tree, hedge, or other growth within any cemetery.



**Commercial operations**

- 8.33 No person shall advertise or solicit any order or custom for any work whatsoever in any cemetery without a Council permit.
- 8.34 No commercial photographer shall, without the consent of the family concerned, attend any funeral at a cemetery for the purpose of taking photographs.

**Fees**

- 8.35 Council may from time to time by resolution publicly notified, amend the fees or charges payable by any person in respect of any permission, certificate or service provided by the Council.

**Change of conditions**

- 8.36 The Council may from time to time by resolution add to or amend any forms to be used or any condition to be complied with pursuant to this bylaw.

**Offences and penalties**

- 8.37 Any person who acts contrary to any provision of this bylaw or to any direction given by any Sexton or Officer of the Council in relation to the use of any cemetery, commits an offence against this bylaw and on summary conviction is liable to a fine not exceeding \$500, and where the offence is a continuing one to an additional fine not exceeding \$50 for every day or part of a day during which the 'offence' continues.

## **SCHEDULE A – PROHIBITION OF ALCOHOL IN PUBLICLY AND PRIVATELY OWNED PLACES**

1. In the following areas the period of prohibition is 24 hours 7 days a week.
  - (i) Any public place, and publicly accessible place (e.g. private car parks) within the following areas:
    - a. Central Business District - area bounded by and including Halifax Street, Collingwood Street, Nile Street, Trafalgar Square (Church Hill) and Rutherford Street
    - b. Central Business District northern extension - area bounded by Paru Paru Road, Halifax Street, Collingwood Street and the South Bank of the Maitai River
    - c. Central Business District eastern extension - area bounded by Collingwood Street, Hardy Street, Tasman Street and the South Bank of the Maitai River
    - d. Central Business District western extension - area bounded by Kerr Street, Gloucester Street, Pioneers Park, ANZAC Park, and Halifax Street
  - (ii) Pioneers Park
  - (iii) Anzac Park
  - (iv) The Maitai River walkways and reserves from Queen Elizabeth II Drive to Nile Street
  - (v) Queens Gardens
  - (vi) Rutherford Park (excluding the Trafalgar Centre)
  - (vii) The central islands of Haven Road between its intersections with Halifax Street and Queen Elizabeth II Drive
  - (viii) The Lions Playground - Tahunanui Reserve
  - (ix) That area of Stoke Commercial Centre bounded by and including Main Road Stoke, Songer Street, Neale Avenue and Poorman Valley Stream.
  - (x) Extension of the Nelson Business District westwards to include the area bounded by Kerr Street, Gloucester Street, Pioneers Park, ANZAC Park, and Halifax Street
  - (xi) Wigzell Park
  - (xii) Victory
    - Both sides of the street in the square around Victory Reserve
    - The shops and private car parks behind shops on Emano Street and St Vincent Street
    - Victory Reserve
2. In the following areas the period of Prohibition is from 9.00 pm on any day to 7.00 am on the day following during the period of daylight saving and from 7.00 pm on any day to 7.00 am on the day following for the rest of the year:

- (i) The Maitai Walkway and reserves (including Branford Park) from the Nile Street Bridge to the western boundary of the Waahi Takaaro Golf Course;
- (ii) Tahunanui Reserve (excluding the Lions Playground);
- (iii) Miyazu Gardens;
- (iv) Fairfield Park;
- (v) Trafalgar Park (excluding the Trafalgar Pavillion);
- (vi) Saxton Field Reserve;
- (vii) Isel Park;
- (viii) Broadgreen Gardens;
- (ix) Marsden Reserve;
- (x) The Botanics Reserve;
- (xi) Paddy's Knob;
- (xii) Green Meadows;
- (xiii) Abel Tasman Statue Car park;
- (xiv) Neale Park/Guppy Park;
- (xv) Railway Reserve (Tahunanui Drive to Saxton Road);
- (xvi) QEII Walkway/Cycleway and surrounds (Trafalgar Street to the eastern end of Neale Park).

## **SCHEDULE B – PERMITS, WRITTEN AUTHORITIES AND LICENCES**

Information about the application process and the conditions that apply to permits, written authorities and fees related to this bylaw are available on the Council website, at the Customer Service Centre, and on request.

### **Keeping of animals**

Poultry (permit required for more than 12)

### **Commercial Activities in Public Places**

Itinerant traders and mobile shops (permit required)

Commercial services (permit required)

Soliciting of donations (permit required)

Selling lottery tickets (permit required)

Busking (permit sometimes required)

Advertising in public places (permit required, if not on a dedicated poster tower)

### **Control of Alcohol in Publicly and Privately Owned Places**

Low risk activity involving a limited amount of alcohol that would be in breach of section 2 of the Control of Alcohol bylaw provisions (permit required).

### **Reserves**

Written authority required for these activities:

- Use of chainsaws or other tree felling implements;
- Taking of rocks, minerals and sand;
- Possession of firearms of any kind or the killing of any animals, including shooting of game birds and control of animal pests. This includes the use of traps and toxins;
- Planting, spraying or removal of vegetation;
- Grazing of livestock;
- Landing of recreational motorised aircraft;
- Placing or erection of memorials including plaques.

### **Burials and Cremations**

Exclusive right of burial in a plot (purchase required)

Interment warrant (purchase required)

Cremations (cremation fee required)

Headstones and monuments (permit required)

Plantings in cemeteries (permission from Council required)

Commercial operations in cemeteries (Council permit required)

## **SCHEDULE C – STANDARDS**

The following standards are available on the Council website, and on request from the Customer Service Centre:

### **Burial and Cremation**

- Council standards for the erection of memorials, headstones or other structures;
- Council standards for natural burial areas.

## Workshop Table/Attachment 3 - Summary of existing bylaw provisions and proposed changes

### Keeping of animals in urban zones

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
✓	Poultry	Noise and odours to be confined to property	High level of support for a set back from neighbouring dwelling, opinions divided between 5m and 10m.	5 metre set back of poultry houses from neighbouring dwellings.	To protect the public from nuisance. Strikes a balance between enabling chicken ownership and managing effects on neighbours.
✓	Rabbits	Maximum of three adults	One complaint in eight years.	No bylaw provision setting a limit on rabbit numbers.	To protect the public from nuisance. One complaint in eight years shows this is not an issue in Nelson, and therefore the bylaw provision is not justified.
✓	Cats	No bylaw provisions	High level of support for a two or three cat limit.	Include a bylaw provision providing for the ability to reduce numbers (to a maximum of three) where the numbers are impacting on neighbours.	To protect the public from nuisance, and maintain public health. This approach enables the Council to take action on a case by case basis where cat numbers are impacting on neighbours, without setting a mandatory limit – which has the potential to cause a lot of concern for existing owners of multiple cats and to create a lot of new work for Environmental Inspections Ltd (and costs for the Council).

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
✓	Bees	No bylaw provisions	EIL receives frequent complaints, mainly due to nuisance impacts on neighbours. Beekeeping in urban areas is increasing. Mixed views on whether bylaw should control beehives.	Ability to move or remove hives on a case by case basis, if they are causing a nuisance or a danger to health.	To protect the public from nuisance, and maintain public health and safety. This approach enables the Council to take action on a case by case basis by requiring beehives to be moved or removed. The frequency of complaints, and the increase in urban beekeeping, show this is an issue (and could be more of an issue in future).
—	Stock (includes horses, cattle, sheep, pigs and goats)	No stock allowed to be kept in urban areas, except with Council permit.	EIL: Stock animals are sometimes kept as pets but they can be unsuitable for urban areas.	Retain existing provision.	To protect the public from nuisance and maintain public health and safety. This approach allows a Council permit to be given to keep stock in urban areas on a case by case basis.

## Urban Amenity

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
—	Caravans	Permit required to use a caravan as part of a residential unit, except where conditions are met for its use as a temporary sleeping place.	Mixed views on whether there should be rules related to sleeping in caravans.	Retain existing provision.	To protect the public from nuisance, maintain public health, and maintain amenity.
✓	Barbed wire	Barbed wire fences not allowed for urban properties where they are adjacent to streets, reserves or other public places.	Add electric fences to this provision.	Barbed wire and electric fences not allowed for urban properties where they are adjacent to streets, reserves or other public places.	To maintain public safety and amenity.
—	Slaughter of animals	Slaughtering not permitted where it is visible from any public place or neighbouring property.	Support for continuing this provision.	Retain existing provision.	To maintain public safety and amenity
—	Storage of carcasses	Animal carcasses not to be stored where they are visible from any public place or neighbouring property.	Support for continuing this provision.	Retain existing provision.	To protect the public from nuisance, and to maintain public health and amenity.
—	Public rubbish bins	Household and trade refuse, and hazardous waste, not allowed to be deposited in any public rubbish bins.	Support for continuing this provision.	Retain existing provision.	To protect the public from nuisance, and to maintain public safety and amenity.



Change	Issue	Current approach	Feedback	Recommended approach	Reasons
—	Building numbers	Building owners/occupiers are required to display a building's street number so that it is visible from the road.	Support for continuing this provision.	Retain existing provision.	Building numbers help people find places in Nelson. Section 22AB (x) of the Land Transport Act 1998 enables the Council, as a road controlling authority, to make a bylaw requiring the owner or occupier of any area of land for which a number has been allocated under section 319B of the Local Government Act 1974, to display that number in a position visible from the road.

### Trading in Public Places

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
—	Itinerant traders and mobile shops	Permit required, with conditions on where and how these traders and shops can operate (not allowed within designated commercial areas, limits on how long allowed to stay in one place).	No change required.	No change proposed, other than to replace the term 'hawkers' with 'itinerant traders'.	Councils may make bylaws for the purpose of regulating trading in public places. Current provision enables Council to avoid potential conflicts between commercial operators.

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
1	Commercial services	Permit required to provide a commercial service in a public place.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of regulating trading in public places. Current provision enables Council to avoid potential conflicts between commercial operators.

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
—	Soliciting of donations and selling lottery tickets	Written authority from the Council required for soliciting of donations and other contributions in a public place. Limited to local schools, community groups, and local or nationally recognised charities.	People's Panel respondents evenly divided on whether permission should be required or not. 79% support for requirement to leave contact details and pick up a copy of the rules.	Retain existing provision.	Councils may make bylaws for the purpose of regulating trading in public places. Current provision addresses the potential issues of too many collectors in one place at any time. It also enables Council to verify the purpose for the collections.  Setting up an electronic booking system will be more efficient for both the Council and people applying for permission.
—	Begging	Written authority required, and only able to be gained by registered charities, community groups or schools.	Strong support for not allowing begging.	Retain provision but more clearly state that begging is not permitted anywhere within the boundaries of the City.	Councils may make bylaws for the purpose of regulating trading in public places. Feedback from the public clearly identifies that they do not want this activity occurring on Nelson streets.  This is the existing bylaw provision, but it can be stated more clearly.

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
✓	Busking	Buskers are required to provide name and contact details to Council and obtain a copy of the rules, which include a 30 minute time limit within any two hour period. Buskers are also required to gain the consent of the owner or manager of the adjacent premises.	61% think buskers should be allowed to play for longer than 30 minutes. Five councillors think 30 minutes is long enough for performances and one councillor thinks they should be able to perform for longer.	Limit busking to one hour at a time in any two hour period. Ability to seize equipment used if the activity conditions or rules are breached (after a verbal warning). This is provided for under section 164 of the Local Government Act. Require buskers to provide name and contact details to Council and gain consent from owner or manager of adjacent premises.	Councils may make bylaws for the purpose of regulating trading in public places. This approach allows time for unpacking and packing up musical equipment. It also makes it clear that Council can seize equipment if busking is impacting on the public and surrounding businesses, and the activity does not stop after a verbal warning.

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
✓	Sandwich boards	Limited to one sandwich board per business, and must not extend more than 600mm onto the footpath from the shop frontage. Upstairs businesses allowed sandwich boards adjacent to the kerb. There is a maximum height of 2.2m but no size limit for sandwich boards.	Apply the sandwich board bylaw provision to all commercial premises. Limit sandwich boards to one per commercial premises. Require all sandwich boards to be on the kerbside or street frontage.	<p>*Separate out sandwich boards and flags and set limits on the size to 1m<sup>2</sup> for sandwich boards and a maximum height of 2.2m height for flags.</p> <p>* Require all sandwich boards and flags to be placed adjacent to shop frontages.</p> <p>*Apply the limit of one sandwich board or flag per shop frontage to all shops, not just those in a Designated Commercial Area.</p> <p>* Do not limit dairies to one sandwich board or flag (but do require them to be against the shop frontage).</p>	<p>Councils may make bylaws for the purpose of regulating trading in public places .</p> <p>Strikes a balance between the needs of retailers and the needs of blind and partially sighted people and wheelchair users.</p> <p>Shops outside of designated commercial areas have a lot of sandwich boards, which can be a hazard for blind and partially sighted people, and for people in wheelchairs.</p>

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
✓	Retail displays on footpaths	Generally not permitted, except as part of any general promotion or event within the Designated Commercial Area. Limits on extent of display to avoid hazard to pedestrians.	"General promotion or event" is too broad a term, and could result in ongoing retail displays on footpaths.	Remove exception for general promotions and events.	Councils may make bylaws for the purpose of regulating trading in public places. "General promotions and events" is too broad to be enforceable. Requiring a permit for any retail display ensures they can be considered on a case by case basis.
—	Advertising	Written authority required before placing advertisements in public places, except on dedicated "poster towers".	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of regulating trading in public places. Current provision addresses the potential issues.
NEW	Washing vehicles	No bylaw provision	Feedback from the Team Leader Roading and the Police that offering to wash vehicles at intersections is not illegal (and cannot be refused permission) unless it is banned by Council.	Do not permit the washing of vehicles (or the offer to wash vehicles) in public places where it may be unsafe, intimidate or cause a nuisance to any person, or cause an obstruction to traffic.	Councils may make bylaws for the purpose of regulating trading in public places. The Team Leader and the Police support a ban on this activity for safety and intimidation reasons.
Change	Issue	Current approach	Feedback	Recommended	Reasons

				approach	
1	Advertising of Commercial Sexual Services	Any signs visible from any public place or residential property which are considered likely to cause a nuisance or serious offence are not permitted.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of controlling signage advertising commercial sexual services (under section 12, Prostitution Reform Act). The current provision addresses the potential issues.

#### Alcohol in Public Places

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
—	Alcohol bylaw provisions	Alcohol not permitted in areas listed in Schedule A of the Bylaw. Police have powers of arrest, search and seizure.	<p>The existing bylaw provisions work extremely well, and the Police see it as an effective tool.</p> <p>Update the bylaw to reflect the Sale and Supply of Alcohol Act 2012 and the Local Government (Alcohol Reform) Amendment Act 2012.</p>	Retain existing provisions, but include references Sale and Supply of Alcohol Act 2012 and the Local Government (Alcohol Reform) Amendment Act 2012.	Council has the power to make bylaws for alcohol control purposes under section 147 of the Local Government Act. Current bylaw provisions work well. New legislation has been adopted in 2012, and should be reflected in the bylaw.
Change	Issue	Current approach	Feedback	Recommended approach	Reasons

NEW	Low impact events involving alcohol	No bylaw provision	Provide the ability to apply for a Council permit for a low risk activity that would otherwise breach the alcohol bylaw provisions.	Provide the ability to apply for a Council permit for a low risk activity that would otherwise breach the alcohol bylaw provisions.	<p>Council has the power to make bylaws for alcohol control purposes under section 147 of the Local Government Act.</p> <p>This provision will make it simpler for people to gain approval for low impact events such as a few drinks for guests as part of a wedding in the Queens Gardens.</p>
-----	-------------------------------------	--------------------	---	---	--



Change	Issue	Current approach	Feedback	Recommended approach	Reasons
✓	Alcohol in public places	10 areas are alcohol prohibited all the time, and 17 areas are alcohol prohibited overnight	74% support for a liquor ban in Victory Reserve, and 95% support for a liquor ban in the Fresh Choice car park. (Other areas not yet consulted on.)	Add extra public and privately owned areas – the areas where changes are proposed are shown in underlining in Schedule A of the Draft Bylaw.	<p>Council has the power to make bylaws for alcohol control purposes under section 147 of the Local Government Act.</p> <p>This approach gives the public the opportunity to provide feedback on the proposal to ban alcohol in new areas before a decision is made. It also enables Council to include privately owned areas, as provided for by the Local Government (Alcohol Reform) Amendment Act 2012.</p>

## Reserves

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
—	Reserves Bylaw	Reserves Bylaw 2014 covers: motor vehicle use, hazard or damage, golf, activities requiring a permit, respect for other reserve users, public access to reserves, and exemptions.	Recent feedback on the draft Reserves Bylaw as part of the Special Consultative Procedure carried out earlier in 2014.	Retain provisions adopted in June 2014.	Councils may make bylaws for the purpose of managing reserves. The Reserves Bylaw 2014 was adopted recently following a Special Consultative Procedure.

## Burial and Cremation

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
✓	Exclusive right of burial	Enables purchase of a plot before or after a person's death	Retain, with ability to buy back pre-purchased plots.	Add ability for Council to buy back a pre-purchased exclusive right of burial if a plot is no longer wanted.	Councils may make bylaws for the purpose of managing cemeteries. This provides flexibility for Council and purchasers, and enhances efficient use of cemetery land.

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
—	Interment warrant	Do not allow any bodies/ashes to be buried/placed in a cemetery without obtaining an Interment Warrant from the Council	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.
—	Conditions on cremations	Conditions on cremations.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.
✓	Natural burials	No reference to natural burials.	Technical advice provided by Council officers and Nelmac Cemeteries Team regarding choice of plants, content for the standard and definition.	Add a definition and reference to the standard for natural burials and the ability to change the standard by Council resolution.	Councils may make bylaws for the purpose of managing cemeteries.  This provides clarity for the public on the standards that apply for both traditional and natural burial areas. It also provides flexibility for the council to make changes to the standards where necessary.

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
—	Headstones and monuments	Refer to the standards, but do not include them within the bylaw.	No change required.	Retain existing provision.	<p>Councils may make bylaws for the purpose of managing cemeteries.</p> <p>Retains ability to change the standards outside of the bylaw review, so that new technologies for headstones can be incorporated as they are developed and proven to be durable enough to be used within a lawn cemetery (won't be damaged during mowing).</p>
—	Undertaking work	Requires people to limit the amount of time that tools or materials are left in the cemetery, and does not allow the mixing of cement or mortar on footpaths or roadways.	No change required.	Retain existing provision.	<p>Councils may make bylaws for the purpose of managing cemeteries.</p> <p>Current provision addresses the potential issues.</p>

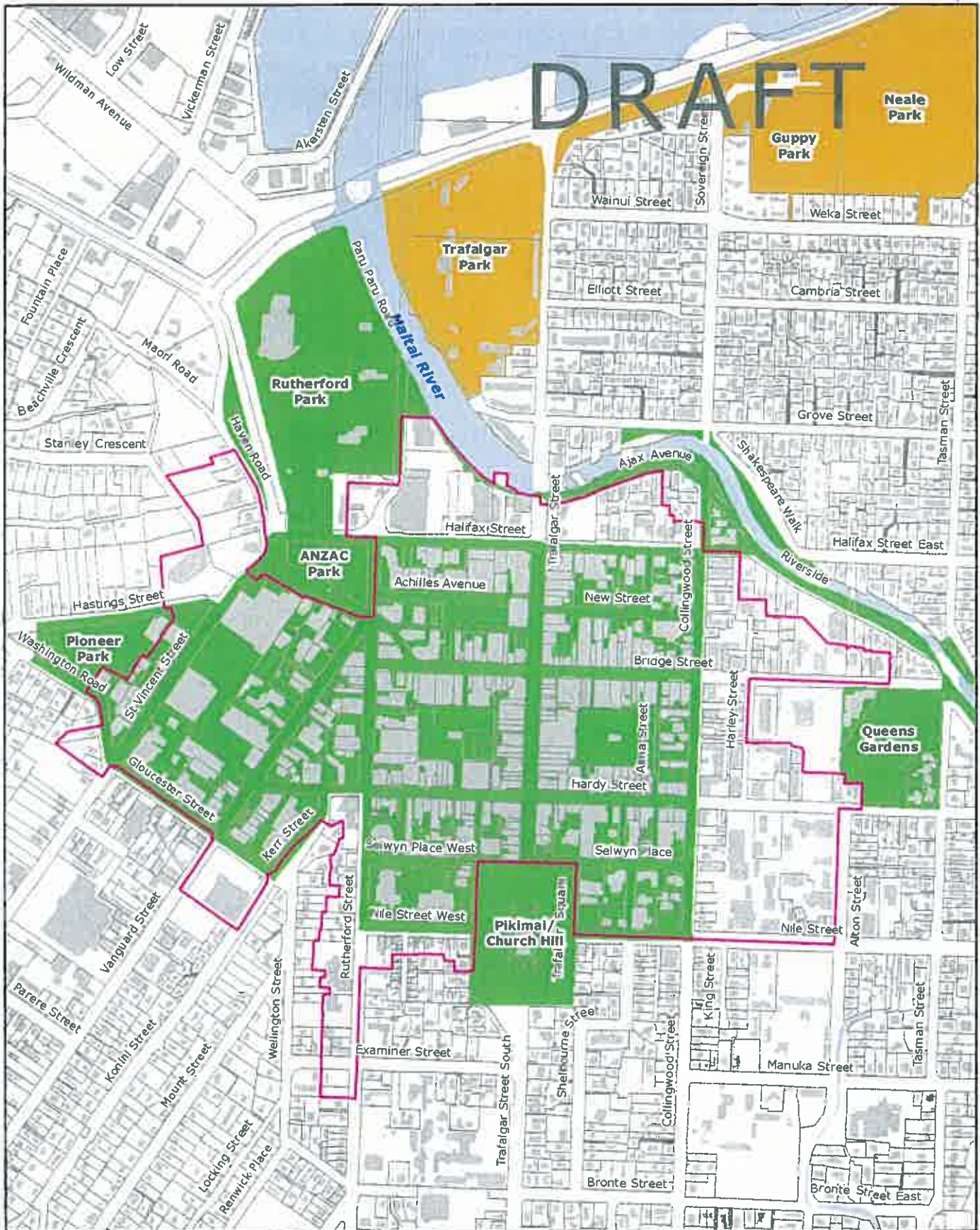
Change	Issue	Current approach	Feedback	Recommended approach	Reasons
—	Controls on planting and damage to trees	No trees can be planted in the cemetery without permission. Shrubs can be planted but may be trimmed, removed or cut down by cemetery staff at any time.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.
—	Leaving of tributes	Two week limit for leaving of wreaths, unless permission granted for a longer period.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.
—	Tributes	No person shall place more than two tributes (in the approved receptacles).	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.
—	Damaged receptacles and dead flowers	Sexton able to remove damaged receptacles and dead flowers.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.
Change	Issue	Current approach	Feedback	Recommended approach	Reasons
—	Cemetery opening	No person shall enter or remain in any	No change required.	Retain existing	Councils may make bylaws for the purpose

	hours	cemetery between the hours of sunset and sunrise.		provision.	of managing cemeteries.  Current provision addresses the potential issues.
—	Vehicles	Vehicles not allowed on cemetery grounds, except on the roads.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.
—	Removal and damage of headstones	Vases, wreaths, plants, flowers, kerb, headstones and monuments not to be removed without permission of Council or the holder of the exclusive right of burial.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.
—	Interruptions to funerals	Funerals not to be prevented, interrupted or delayed by any violent or improper behaviour.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
—	Writing/marks	Writing and marks on monuments, tombstones, memorials and other structures is not permitted.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.
—	Damage to monuments	Not permitted to impact on any structures of any kind in any cemetery.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.
—	Vegetation	Not permitted to remove or disturb any vegetation without Council permission.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.
—	Commercial operations	No advertising or soliciting for any kind of work in connection with cemeteries, in any cemetery, without the consent of the Council.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.

Change	Issue	Current approach	Feedback	Recommended approach	Reasons
—	Photography	Commercial photographers not permitted to attend any funeral to take photos without the permission of the family.	No change required.	Retain existing provision.	Councils may make bylaws for the purpose of managing cemeteries.  Current provision addresses the potential issues.
✓	Animals in cemeteries	Not permitted, except for dogs on leads, and grazing which Council has permitted	No feedback requested	Remove this provision from the bylaw	Councils may make bylaws for the purpose of managing cemeteries.  This has not proven to be an issue, and is also a double up with the Control of Dogs Bylaw.





## EXISTING LOCAL ALCOHOL BYLAW AREAS

### INNER CITY ZONE

No Alcohol 24-7
  No Alcohol 9PM -7AM
  Inner City Zone



0 100 200 300 400  
m  
Scale 1:8,000

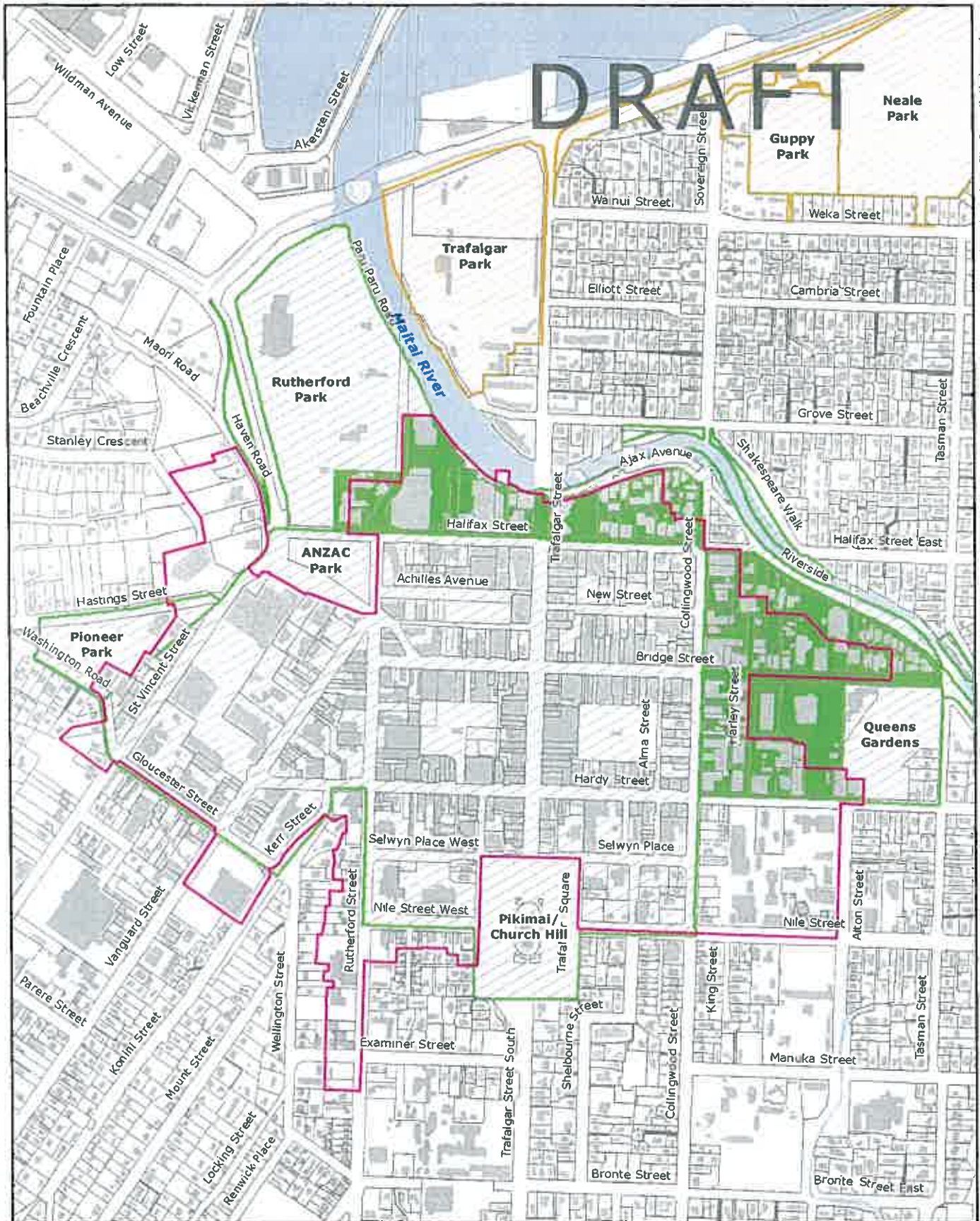


November 2014

The map is an approximate representation only and must not be used to determine the location or size of items shown, or to identify legal boundaries. To the extent permitted by law, the Nelson City Council, their employees, agents and contractors will not be liable for any costs, damages or loss suffered as a result of the data or plan, and no warranty of any kind is given as to the accuracy or completeness of the information represented. Nelson City Council information is licensed under a Creative Commons Attribution-NonCommercial 3.0 New Zealand License. Nelson City Council data must not be sold without prior written consent. For more information please contact us. Cadastral information derived from the Land Information New Zealand. CROWN COPYRIGHT RESERVED.

File Ref: A1269064  
DT. Original map size A4.





## PROPOSED EXTENSION - LOCAL ALCOHOL BYLAW AREAS

### INNER CITY ZONE

- |   |                            |   |                                 |
|---|----------------------------|---|---------------------------------|
|  | No Alcohol 24-7 (Existing) |  | No Alcohol 9PM - 7AM (Existing) |
|  | No Alcohol 24-7 (Proposed) |  | Inner City Zone                 |

 **Nelson City Council**  
te kaurimera o whakatū

0 100 200 300 400  
m  
Scale 1:8,000

N  
  
November 2014

The map is an approximate representation only and must not be used to determine the location or size of items shown, or to identify legal boundaries. To the extent permitted by law, the Nelson City Council, their employees, agents and contractors will not be liable for any costs, damages or loss suffered as a result of any kind as given as to the accuracy or completeness of the information represented. Nelson City Council information is licensed under a Creative Commons Attribution-NonCommercial 3.0 New Zealand License. Nelson City Council data must not be sold without prior written consent. For more information please contact us. Cadastral information derived from the Land Information New Zealand. CROWN COPYRIGHT RESERVED.

File Ref: A1269064  
UT: Original map size A4.

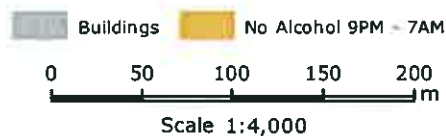




The map is an approximate representation only and must not be used to determine the location or size of items shown, or to identify legal boundaries. To the extent permitted by law, the Nelson City Council, their employees, agents and contractors will not be liable for any costs, damages or loss suffered as a result of the data or plan, and no warranty of any kind is given as to the accuracy or completeness of the information represented. Nelson City Council information is licensed under a Creative Commons Attribution-NonCommercial 3.0 New Zealand License. Nelson City Council data must not be sold without prior written consent. For more information please contact us. Cadastral information derived from the Land Information New Zealand. CROWN COPYRIGHT RESERVED.

## EXISTING LOCAL ALCOHOL BYLAW AREAS

VICTORY SQUARE & WIGZELL PARK



November 2014

File Ref: A1269064  
UT. Original map size A4.





## PROPOSED EXTENSION - LOCAL ALCOHOL BYLAW AREAS

VICTORY SQUARE & WIGZELL PARK

Buildings No Alcohol 9PM - 7AM (Existing) No Alcohol 24-7 (Proposed)

**Nelson City Council**  
te kaunimera o whakatū

0 50 100 150 200 m  
Scale 1:4,000



November 2014

The map is an approximate representation only and must not be used to determine the location or size of items shown, or to identify legal boundaries. To the extent permitted by law, the Nelson City Council, their employees, agents and contractors will not be liable for any costs, damages or loss suffered as a result of the data or plan, and no warranty of any kind is given as to the accuracy or completeness of the information represented. Nelson City Council information is licensed under a Creative Commons Attribution-NonCommercial 3.0 New Zealand License. Nelson City Council data not be sold without prior written consent. For more information please contact us. Cadastral information derived from the Land Information New Zealand. CROWN COPYRIGHT RESERVED.

File Ref: A1269064  
JIT: Original map size A4.

## **Summary of Statement of Proposal**

### **DRAFT URBAN ENVIRONMENTS BYLAW – NOVEMBER 2014**

This statement is made for the purposes of sections 83 and 83AA of the Local Government Act 2002. That means it needs to be a fair representation of the major matters in the statement of proposal to adopt an Urban Environments Bylaw 2015, explains how to access the full Statement of Proposal, and provides details of the period during which the Council will accept submissions on the proposal.

#### **Consolidation of seven bylaws**

Nelson City Council proposes to consolidate seven of its bylaws. The draft Urban Environments Bylaw incorporates provisions currently included in the following bylaws:

- *Miscellaneous Matters Bylaw 2008 (No. 215);*
- *Numbering of Buildings Bylaw 2009 (No. 219);*
- *Trading in Public Places Bylaw 2007 (No. 213);*
- *Advertising of Commercial Sexual Services Bylaw 2011 (No. 208);*
- *Control of Drinking in Public Places Bylaw 2009 (No. 206);*
- *Reserves Bylaw 2014 (No. 222);*
- *Burial and Cremation Bylaw 2008 (No. 216).*

All the provisions in the draft bylaw can be changed as a result of the consultation process. Feedback on all of the provisions in the bylaw are welcome, and will be considered by the Council, regardless of whether or not the Council is proposing a change or a continuation of an existing provision. The most significant changes to the existing bylaw provisions are outlined below.

#### **Most significant changes in the proposal**

Council proposes to:

- Regulate location of poultry houses
- Provide the ability to reduce cat numbers to three where the number of cats is impacting on neighbours
- Provide the ability to move or limit the number of beehives where problems occur for neighbours
- Make it clearer than begging is prohibited

- Extend the time for which busking can occur from 30 minutes to one hour within any two hour period
- Require all sandwich boards and flags to be against shop frontages, and set a limit of 1m<sup>2</sup> for sandwich boards
- Require a permit for all retail displays on footpaths, including for general promotions and events
- Prohibit washing of vehicles in public places where it might cause a nuisance or cause an obstruction to traffic
- Provide the ability to gain a permit for low risk activities involving limited amounts of alcohol in areas where alcohol is banned (for example after a wedding in Queens Gardens)
- Increase the areas in which alcohol bans apply (see Schedule A of the draft bylaw, and the map attached to this summary)
- Refer to natural burial areas in Nelson cemeteries, and the different conditions that apply to them.

### **For more information**

The Statement of Proposal (including the draft bylaw) is available to view or download from the Nelson City Council website [www.nelson.govt.nz](http://www.nelson.govt.nz) (search phrase = draft urban environments bylaw). Paper copies of the Statement of Proposal are also available free of charge from the customer service centre at Civic House, and on request.

### **Submissions**

Any person or organisation is welcome to make a submission on the Statement of Proposal to adopt a Nelson City Council Urban Environments Bylaw (Bylaw No. 225). Council will be taking account of all submissions made when it decides on the final content of the Urban Environments Bylaw. Submissions must be received by Council no later than **4.00pm on Monday, 16 February 2015.**

Submissions can also be sent in letter or email form and should be:

Posted to:                      Urban Environments Bylaw Consultation  
Nelson City Council  
PO Box 645  
Nelson 7040

Or emailed to:                [submissions@ncc.govt.nz](mailto:submissions@ncc.govt.nz)

Please state in your submission whether or not you wish to speak at a hearing in support of your submission.

All submissions (including the names and contact details of submitters) are public information and will be available to the public and media in various reports and formats including the Nelson City Council website. Personal information will also be used for administration relating to the subject matter of the submissions. Submitters have the right to access and correct any personal information included in any reports, information or submissions.

Council will contact all submitters (who wish to be heard) in writing to advise the confirmed time, date and venue of the hearing.

All enquiries should be directed to Jane Loughnan, on telephone 546 0257 or by email to [jane.loughnan@ncc.govt.nz](mailto:jane.loughnan@ncc.govt.nz).

27 November 2014

REPORT A1271384

---

## Nelson Plan Update November 2014

---

### 1. Purpose of Report

- 1.1 To update the Committee, as part of officers regular reporting, on the progress of the Nelson Plan.

### 2. Delegations

- 2.1 The Planning and Regulatory Committee are delegated responsibility to review and make amendments to Nelson's Resource Management Plans. These functions and delegations are outlined in the Nelson City Council Delegations Register (section 6.3).

### 3. Recommendation

***THAT the report Nelson Plan Update November 2014 (A1271384) and attachment (A1273726) be received;***

***AND THAT future updates relating to the Nelson Plan are provided in the Strategy and Environment Quarterly Report.***

### 4. Background

- 4.1 A paper went to the Planning and Regulatory Committee on 18 September 2014 confirming the Strategic Resource Management outcomes and the Community Engagement Process to be followed for the Nelson Plan. A number of amendments were sought by Councillors to the strategic outcomes and these have been added and are attached in Attachment 1.
- 4.2 The 18 September 2014 report indicated that regular updates to the Planning and Regulatory Committee will be made by the Programme Sponsor and Manager on:
- programme progress;
  - results of community engagement; and
  - relevant technical reports.

Nelson Plan Update November 2014



- 4.3 This report provides an update to the Committee. Further updates are planned and in future will be given as part of the Strategy and Environment Quarterly Report.

## **5. Discussion**

### **Programme Progress**

- 5.1 As noted, the Planning and Regulatory Committee has approved the Nelson Plan Strategic Outcomes (based around City Development and Natural Resources themes) and an engagement process has now commenced.
- 5.2 A programme plan for the Nelson Plan has been developed. An update on community engagement is provided below. The programme plan establishes a number of workstreams that closely link to the Strategic Outcomes (e.g.) Hazards, Coastal, Landscape, Biodiversity etc).
- 5.3 The overall aim in the programme plan is to have a Draft Nelson Plan notified within this term of Council. Stakeholder engagement will occur between November 2014 and April 2015. Council workshops are planned for May/June 2015 to consider feedback ahead of citywide consultation later in 2015/2016 financial year. Plan Drafting and a RMA Section 32 cost benefit analysis will occur in parallel to, and build on, community engagement.
- 5.4 The Woodburner Working Party has been considering air quality issues in parallel to Nelson Plan development. A report on the findings of this work is due to be reported to the 27 November 2014 Planning and Regulatory meeting. The recommendation made in this report may have implications for the Nelson Plan programme of work.

### **Engagement**

- 5.5 Key Stakeholder engagement has now commenced. The initial focus has been on seeking feedback from key stakeholders with an interest in the Natural Resource area. While some discussions are underway on city development issues such as Wakapuaka, Stoke, and the Central City it is envisaged that these discussions will ramp up at the beginning of the 2015 calendar year. The team have had to stage the engagement work in order to be able to deliver with the available resource.
- 5.6 A number of queries from individual landowners are also being fielded by Council officers and meetings are being set up with interested parties as matters arise. The majority of one on ones with landowners will occur next year.
- 5.7 To date Council officers have met with the Biodiversity Forum and members of the local branch of the New Zealand Institute of Landscape Architects. To date, the focus has been to provide an overview of the Nelson Plan Strategic Outcomes, outlining the Natural Resource outcomes, and seeking feedback on how they would like to be engaged.

Overall feedback has been positive although there is interest to engage at a topic based level, (e.g. landscape, biodiversity, water etc rather than natural resources generally), both individually (e.g. Federated Farmers, Forest and Bird) as well as at a forum/group level. The need to understand Councils policy position was also highlighted. Meetings are now being arranged as requested.

## Technical Reports

- 5.8 In the 18 September 2014 Nelson Plan Strategic Outcomes report it was highlighted that a range of key work was underway to achieve the strategic outcomes.
- 5.9 To date the Draft Environment Activity Management Plan (AMP), that seeks to align Councils non-regulatory programme with the Nelson Plan, has been developed. The Environment AMP also identifies the inter-relationships with a range of projects such as an enhanced biodiversity programme, the 30 Year Infrastructure Strategy, and the Development Contributions Policy that are currently being developed.
- 5.10 A range of further technical work is also underway. This technical work will inform discussions with key stakeholders. The technical information however, is only a tool and by no means sets out what end regulatory framework will look like in the Nelson Plan. Some of these reports have not yet been presented to Council as the context and application of the information needs to be informed by engagement with key stakeholders. These are not yet available for public release until consideration is given to how they might be used.

## Freshwater

### Stoke Deep Moutere Gravel Groundwater Management Guidelines (June 2014)

- 5.11 Research into the Stoke Deep Moutere Aquifer has recently been completed. This work was primarily undertaken as a consequence of resource consent applications that have been received for substantial water takes from the aquifer. The purpose of the research was to provide baseline data on the location and size of the aquifer, its recharge rate, recommended abstraction levels to ensure protection against salt water intrusion and potential consent conditions.

### Nelson's Groundwater Resources

- 5.12 Work is currently underway to establish the extent of Nelson's groundwater resources. As part of this work a report has recently been completed that identifies Nelson's groundwater potential based on geological maps and related information.

### Native Fish Survey

- 5.13 A review of existing native fish records for the region has recently been completed that indicates fish distribution (species richness and extent of

surveys), location of native fish spawning areas and critical habitats and priorities for protection and enhancement (instream channel and riparian); location of significant fish passage barriers and priorities for remediation; and recommended monitoring to address significant information gaps. A similar exercise for trout and game fish is also being undertaken by Fish and Game.

- 5.14 This work will be used to inform engagement around establishing community freshwater values as required by the National Policy Statement Freshwater Management.

#### Gravel Extraction

- 5.15 Work is currently underway to provide a broad scale assessment of gravel and fine sediment sources and transfers in the Maitai River catchment. NIWA has been commissioned to undertake this work. The report will look at future gravel movement taking into account hazard response and the geomorphic/hydraulic processes associated with current issues relating to gravel deposition. It will also consider recreational and culturally significant areas, native fish spawning, and brown trout.
- 5.16 The outcome of the report will be a Maitai-specific gravel management strategy that promotes instream health, but also addresses engineering imperatives. It will also make recommendations on managing gravel, its regulation, and the establishment of a monitoring programme.

### **Hazards**

#### Tahunanui Liquefaction Assessment Stage 2 – Assessment of Eastern Margin

- 5.17 The Tahunanui Liquefaction Assessment Stage 2 - Eastern Margin has recently been completed (September 2014). The purpose of the assessment was to further assess the liquefaction potential of sediments in the north eastern part of the Tahunanui Area. Previous investigation indicated the presence of surficial gravel deposits of a reduced thickness of sediments, indicating lower liquefaction potential.
- 5.18 The findings of the assessment generally supported the Stage 1 assessment. Analysis of the gravels, based on current groundwater levels indicated that there is likely to be minor localised sand boils and little to no damage to structures due to liquefaction in a Ultimate Limits State seismic event (1/500 AEP).
- 5.19 The results of this work will be used to finalise the LIM statements relating to these properties in the short term and will inform the approach taken in the Nelson Plan.

### **Landscape/Coastal**

- 5.20 Four key studies were recently completed in July 2014.

## Landscape

- 5.21 The first of the two landscape studies 'Landscape Character Assessment' separates Nelson into individual character areas. This is a necessary first step to understand what the landscape consists of prior to moving onto evaluating the landscape in terms of assigning values.
- 5.22 The second landscape study 'Preliminary Landscape Evaluation' is the initial step towards assigning values to the landscape. Public consultation is an essential next step to add to this preliminary expert opinion as it is not possible to assign final values to the landscape without this community involvement.
- 5.23 In addition to assigning potential values the study identifies potential issues and options for management of the landscape and identifies potential sensitivities and threats in the character areas. The study also maps potential outstanding natural features and landscapes.

## Coastal Natural Character

- 5.24 A 'Natural Character Assessment' as well as a review of the extent of the coastal environment was also commissioned in order to have the information necessary to fulfil Councils RMA and New Zealand Coastal Policy Statement functions and responsibilities.
- 5.25 This is a first step in an evaluative process that will require incorporating experiential values of the community, as well as a considered response from Council to the threats and pressures facing outstanding natural character areas. Such a response will need to consider Councils other potentially competing resource management responsibilities (i.e biodiversity, heritage, infrastructure provision, control of subdivision and development).
- 5.26 The 'Pressures and Threats' report identifies some of the matters that will need to be considered in terms of effects on natural character in the development of the Nelson Plan. Stakeholder and public consultation will identify further pressures and threats that will need to be considered by Council. Identification of methods through which to manage both landscape values of the Nelson Region and the natural character of the coastal environment is work that is yet to be developed as part of the Nelson Plan.
- 5.27 Preliminary feedback is being sought from the local branch of the New Zealand Institute of Landscape Architects to inform Council's approach to landscape and natural character.

## **Growth**

### Wakapuaka

- 5.28 The 2006 flood model for the Wakapuaka sandflats was updated to better understand sea level rise issues for existing and future development. Additional technical work is planned so that the impacts of

different land use scenarios can be tested and a better understanding of timing of changes is required to respond to sea level rise and flooding risk can be gained.

#### Demand and Supply for Future Development

- 5.29 Council officers are participating in the Richmond Density Housing Forum which is exploring how and where to enable intensification in and around the Richmond town centre and potential cross boundary issues for Nelson.
- 5.30 Council has also commissioned further work to better understand market demand and capacity for residential, industrial, and commercial development in greenfields and brownfields areas across Nelson. This work will be available in early December 2014.

### **6. Options**

- 6.1 The options for the Nelson Plan will be considered following community engagement and will be guided by the Resource Management Act.

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

- 7.1 This issue is not considered to be significant in terms of Council's significance policy.

### **8. Alignment with relevant Council Policy**

- 8.1 Development of the Nelson Plan contributes to the Natural Environment and Community Hub Council priorities and to the following Council Outcomes:

- Healthy land, sea, air and water;
- People-friendly places;
- A strong economy.

- 8.2 Nelson's Resource Management Plans are a key implementation tool for Nelson 2060 vision and goals. Plan provisions help shape how we live, work and play in a way that sustains the things that Nelson values. Therefore the Nelson Plan will be key in ensuring we meet the Nelson 2060 vision themes:

- Theme one – A sustainable city of beauty and connectivity;
- Theme two – Outstanding lifestyles immersed in nature and strong communities;
- Theme three – A strong economy built on knowledge and understanding.

- 8.3 How we work with the community to develop the Nelson Plan will determine whether we achieve theme four – successful partnerships providing good leadership.
- 8.4 Integrated planning provisions will be essential to achieving Goal 3 of Nelson 2060: Our natural environment – air, land, rivers and sea – are protected and healthy.

## **9. Consultation**

- 9.1 Consultation on the Nelson Plan has commenced as outlined in the engagement section of this report (refer paragraph 5.5).

## **10. Inclusion of Māori in the decision making process**

- 10.1 Te Tau Ihu Iwi partners will be involved in the development of the Nelson Plan. To date officers have met with iwi at the operational level. A report is planned for the 12 December 2014 Kotahitanga relating to Iwi partner involvement and seeking feedback on the Nelson Plan Strategic Outcomes.

## **11. Conclusion**

- 11.1 Council has confirmed Nelson's significant resource management issues. This report outlines resource management outcomes which seek to address those issues and provides an update on the Nelson Plan programme and initial community engagement. It is recommended that future updates are provided as part of the Strategy and Environment Quarterly Report.

Matt Heale  
**Manager Planning**

### **Attachments**

Attachment 1: Nelson Plan – Strategic Outcomes [A1273726](#)

## City Development

**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

- Recognise and confirm Nelson City as the premier urban centre for the top of the South;
- Support business, *including the marine sector*;
- Explore land based aquaculture options;
- Promote efficient landuse through:
  - Enabling *a wide range of* housing choice;
  - Prioritising urban intensification over expansion;
  - Encouraging higher density clusters around key centres such as the Central City, Victory, Tahunanui, and Stoke;
  - Encouraging quality urban design;
  - Considering the implications of satellite town development;
  - Considering the needs of rural communities.

### CO-ORDINATES GROWTH AND INFRASTRUCTURE

- Considers demand for improvements in infrastructure assets and prioritise supply based on the achievement of strategic outcomes;
- Recognises and provides for key regional infrastructure (Port, Airport, water infrastructure, quarries, and landfills).

### CONNECTS COMMUNITIES

- Strategically links transport networks to provide for ease of access across the city and to the central city.

### ADAPTS TO OUR HAZARDS

- Achieves an acceptable level of natural hazard risk for the community.

### LOOKS AFTER OUR HERITAGE

- Appropriately manages the heritage resources of the city.

### ACHIEVES NATURAL RESOURCE OUTCOMES.

## Natural Resources

**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

- Managing activities that may impact on both water quality and quantity.

### HEALTHY COASTAL AND MARINE AREAS

- In coastal and riparian areas natural character and outstanding natural features will be preserved; ecological, heritage, amenity values and public access will be maintained and enhanced; natural hazards will be minimised, and reclamation should be avoided.

### ENHANCED NATURAL AREAS AND LANDSCAPES

- Protecting the city's indigenous biodiversity and connecting these areas;
- Protecting outstanding natural features and landscapes and mitigating adverse effects on wider landscape values including rural character.

### CLEAN AIR

- Our air quality is protected in a way that recognises our community's *human health needs*.