



AGENDA

Ordinary meeting of the

Planning and Regulatory Committee

**Thursday 6 August 2015
Commencing at 9.00am
Council Chamber
Civic House
110 Trafalgar Street, Nelson**

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

1. Apologies

- 1.1 Apologies have been received from Her Worship the Mayor Rachel Reese and Councillor Ruth Copeland

2. Confirmation of Order of Business**3. Interests**

- 3.1 Updates to the Interests Register
- 3.2 Identify any conflicts of interest in the agenda

4. Public Forum**5. Confirmation of Minutes**

- 5.1 25 and 30 June 2015 **7 - 19**

Document number M1302

Recommendation

THAT the minutes of the meeting of the Planning and Regulatory Committee, held on 25 and 30 June 2015, be confirmed as a true and correct record.

- 6. Status Report - Planning and Regulatory Committee
- 6 August 2015** **20 - 22**

Document number R4626

Recommendation

THAT the Status Report Planning and Regulatory Committee 6 August 2015 (R4626) and its attachment (A1155974) be received.

7. Chairperson's Report 23 - 24

Document number R4656

Recommendation

THAT the Chairperson's Report (R4656) be received and the contents noted.

REGULATORY

8. Building Unit Fees and Charges 2015/2016 25 - 33

Document number R4380

Recommendation

THAT the report Building Unit Fees and Charges 2015/2016 (R4380) and its attachment (A1360198) be received;

AND THAT the proposed changes to Building Unit Fees and Charges (A1360198) be adopted and applied from 1st October 2015.

9. Strategy and Environment Report for 1 April 2015 to 30 June 2015 34 - 56

Document number R4398

Recommendation

THAT the report Strategy and Environment Report for 1 April 2015 to 30 June 2015 (R4398) and its attachments (A1379923 and A1369994) be received.

10. Local Approved Products Policy (LAPP) Deliberations Report 57 - 70

Document number R4489

Recommendation

THAT the report Local Approved Products Policy (LAPP) Deliberations Report (R4489) and its attachments (A375469, A1111554, A1378409, A1277140, and A1389122) be received;

AND THAT the draft Local Approved Products Policy be amended as necessary to reflect the Committee's decisions on submissions.

Recommendation to Council

THAT the Local Approved Products Policy (A375469) be adopted.

POLICY AND PLANNING

11. Nelson Plan Update August 2015 71 - 81

Document number R4497

Recommendation

THAT the report Nelson Plan Update August 2015 (R4497) and its attachment (A1378644) be received;

AND THAT a further update relating to the Nelson Plan is provided in December 2015.

12. Submission on National Environmental Standard - Plantation Forestry 82 - 95

Document number R4600

Recommendation

THAT the report Submission on National Environmental Standard - Plantation Forestry (R4600) and its attachments (A1390532 and A1391485) be received;

AND THAT the submission (A1390532) is lodged with the Ministry of Primary Industries by 11 August 2015.

PUBLIC EXCLUDED BUSINESS

13. Exclusion of the Public

Recommendation

THAT the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
1	Planning and Regulatory Committee Meeting Minutes - Public Excluded - 25 June 2015	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7.	The withholding of the information is necessary: <ul style="list-style-type: none"> • Section 7(2)(g) To maintain legal professional privilege.

14. Re-admittance of the public

Recommendation

THAT the public be re-admitted to the meeting.

Note:

- **Youth Councillors Daniel Leaper and Fynn JankieWicz-McClintock will be in attendance at this meeting.**

Minutes of a meeting of the Planning and Regulatory Committee

**Held in the Council Chamber, Civic House, 110 Trafalgar Street,
Nelson**

On Thursday 25 June 2015, commencing at 9.02am

- Present: Councillor B McGurk (Chairperson), Her Worship the Mayor R Reese, Councillors I Barker, R Copeland, K Fulton (Deputy Chairperson), M Lawrey and M Ward, and Ms G Paine
- In Attendance: Councillor P Matheson, Group Manager Strategy and Environment (C Barton), Manager Administration (P Langley), Manager Communications (P Shattock), Administration Adviser (S McLean), and Nelson Youth Councillors (K Phipps and H George)
- Apologies: Councillor E Davy for attendance and Her Worship the Mayor for lateness

1. Apologies

Resolved PR/2015/009

THAT apologies be received and accepted from Councillor Davy for attendance and Her Worship the Mayor for lateness.

McGurk/Fulton

Carried

2. Confirmation of Order of Business

There was no change to the order of business.

3. Interests

There were no updates to the Interests Register, and no interests with items on the agenda were declared.

4. Public Forum

- 4.1 Carolyn Hughes and Andrew Goldsworthy - Nelson Environment Centre

Carolyn Hughes provided background information on Advancing Sustainability Education (ASE), as summarised in her handout provided with the agenda (A1365579).

Ms Hughes asked Council to consider writing a letter to the Education Review Office (ERO) in support of ASE. She suggested the programme was in line with Council's Nelson 2060 goals.

Ms Hughes suggested that internships or placements for students working on sustainability could be provided by Council.

Andrew Goldsworthy spoke about the opportunity for Nelson to be a leader in sustainability education. He gave details on the credits available to students, and how the ERO would be assessing ASE.

Ms Hughes suggested that systems for recognition could involve Council, such as a letter to students from the Mayor.

Attendance: Councillor Barker left the meeting from 9.20am to 9.21am.

5. Confirmation of Minutes

5.1 14 May 2015

Document number M1219, agenda pages 9 - 16 refer.

Resolved PR/2015/010

THAT the minutes of the meeting of the Planning and Regulatory Committee, held on 14 May 2015, be confirmed as a true and correct record.

McGurk/Paine

Carried

6. Status Report - Planning and Regulatory Committee - 25 June 2015

Document number R4432, agenda pages 17 - 19 refer.

Resolved PR/2015/011

THAT the Status Report Planning and Regulatory Committee 25 June 2015 (R4432) and its attachments (A1155974) be received.

McGurk/Lawrey

Carried

7. Chairperson's Report

There was no Chairperson's Report.

REGULATORY

8. Submission to the Rules Reduction Taskforce

Document number R4254, agenda pages 20 - 33 refer.

Manager Consents and Compliance, Mandy Bishop, and Manager Environmental Inspections Ltd, Stephen Lawrence, presented the report.

Concerns were raised about needing to know why the list of rules in Attachment 1 to the officer report had been set in the first place. Ms Barton advised that central government would consider this in its assessment of any recommendations from the Rules Reduction Taskforce.

There was discussion on the Health (Hairdressers) Regulations 1980, with some councillors in support of making no change to the rule as it may encourage a reduction in areas such as sterilisation.

In response to a question, Mr Lawrence advised there was very little crossover between the Ministry of Health and Council-enforced health regulations.

In response to a question, Ms Bishop advised the submission had already been sent in as an unconfirmed submission, to be confirmed once the Committee had provided feedback.

Concern was raised about the Freedom Camping Act 2011, and the officer recommendation to increase the level of regulation. It was felt this went against the purpose of rules reduction. Ms Bishop said the point had been to highlight the difficulty in administering this legislation.

Group Manager Strategy and Environment, Clare Barton, advised that the submission prepared by officers was in line with the Local Government New Zealand and Tasman District Council submissions.

It was pointed out that industries had trended towards taking on the responsibility of health and safety.

It was suggested the cover letter to the submission include comment on ensuring the intentions of the withdrawn rules were covered elsewhere.

Councillor Barker, seconded by Councillor Copeland, moved a motion:

THAT the report Submission to the Rules Reduction Taskforce (R4254) and its attachments (A1349652 and A1366848) be received;

AND THAT the submission in Attachment 1 of this report (R4254) be confirmed by the Committee as the position of the Council for submissions to the Rules Reduction Taskforce.

Councillor Fulton, seconded by Councillor Ward, moved an amendment to remove reference to the Freedom Camping Act 2011:

THAT the report Submission to the Rules Reduction Taskforce (R4254) and its attachments (A1349652 and A1366848) be received;

AND THAT the submission in Attachment 1 of this report (R4254), with the removal of reference to the Freedom Camping Act 2011, be confirmed by the Committee as the position of the Council for submissions to the Rules Reduction Taskforce

Several councillors were not in support of removing the reference to the Freedom Camping Act 2011.

The Chief Executive, Clare Hadley, highlighted that the matter of freedom camping had been included because it was one area where the community was asking Council for an increase in rules.

In response to concerns, Mrs Hadley advised the focus on rules reduction was not a political matter. She said the list of rules provided was simply an assessment by experienced officers on rules which no longer provided any value to Council, the community, or officers.

It was suggested that the Freedom Camping Act 2011 was a political matter and should be dealt with as a separate issue.

The amendment was put and became the substantive motion.

Resolved PR/2015/012

THAT the report Submission to the Rules Reduction Taskforce (R4254) and its attachments (A1349652 and A1366848) be received;

AND THAT the submission in Attachment 1 of this report (R4254), with the removal of reference to the Freedom Camping Act 2011, be confirmed by the Committee as the position of the Council for submissions to the Rules Reduction Taskforce.

Copeland/Barker

Carried

Attendance: Her Worship the Mayor joined the meeting at 10.01am.

9. Sandwich Boards

Document number R4332, agenda pages 34 - 47 refer.

Manager Planning, Matt Heale, presented the report.

Mr Heale said that clarification had been sought from the Nelson branch of the Blind Citizens Association, who had advised they preferred the status quo, which was to have sandwich boards predominantly along the shop front. Group Manager Strategy and Environment, Clare Barton, said the clarification had been sought due to a discrepancy between the Associations submission and the hearing minutes which recorded their presentation.

Her Worship the Mayor, seconded by Councillor Barker, moved a motion:

THAT the report Sandwich Boards (R4332) and its attachments (A1372336, A1372341, and A1369029) be received;

AND THAT the Committee review its recommended bylaw provisions regarding sandwich boards in Nelson.

Recommendation to Council

THAT the Bylaw provisions for Sandwich Boards, as detailed in report R4332, include Option B – Status quo plus controls on flashing, illuminated signs;

AND THAT this approach to sandwich boards be adopted by Council.

In response to questions, Mr Heale advised that sandwich boards were placed at the kerb in Tasman. He said resource consent could be applied for by shop owners if required.

There was some support to revert the bylaw provisions for sandwich boards back to how they were before the draft Urban Environments Bylaw (the Bylaw) was consulted on.

Attendance: Councillor Ward left the meeting at 10.17am.

Point of order: A point of order was raised in accordance with Standing Order 3.13.4(c) noting that questions about Tasman District Council were irrelevant.

Attendance: The meeting adjourned from 10.19am to 10.22am, during which time Councillor Ward returned.

The Chairperson accepted the point of order.

In response to questions, Mr Heale said the matter had been consulted on with Tasman District Council. He advised the issues with illuminated signs had been discussed at earlier meetings, and there were no existing use rights for flashing signs in the Bylaw.

A suggestion was made to indicate a preference of Council for the future Bylaw review. It was agreed this would constrain the future Council and was not required.

Nelson Youth Councillor, Keegan Phipps, suggested that the feedback from the community had been clear that option B was the preferred choice.

The mover and seconder agreed to remove reference to flashing, illuminated signs, therefore moving to Option A.

The motion was put and a division was called.

Councillor Barker	Aye
Councillor Copeland	No
Councillor Davy	Apology
Councillor Fulton	No
Councillor Lawrey	No
Councillor McGurk	Aye
Councillor Ward	No
Her Worship the Mayor	Aye
External Appointee – Glenice Paine	Aye

The motion was lost, 4-4.

Attendance: The meeting adjourned for morning tea from 10.36am to 10.53am, during which time Her Worship the Mayor left the meeting.

10. Election signs - current practice and issues

Document number R4260, agenda pages 48 - 50 refer.

Manager Environmental Inspections Ltd, Stephen Lawrence, presented the report and provided detail on the number of complaints received.

Resolved PR/2015/013

THAT the report *Election signs - current practice and issues (R4260)* be received.

McGurk/Paine

Carried

Recommendation to Council PR/2015/014

THAT election sign rules in the Nelson Resource Management Plan be considered for change as part of the Nelson Plan review.

McGurk/Paine

Carried

11. Land Development Manual Review

Document number R4261, agenda pages 66 - 75 refer.

Senior Planning Adviser, Lisa Gibellini, and Steve Markham of Tasman District Council presented the report.

Resolved PR/2015/015

THAT the report Land Development Manual Review (R4261) and its attachments (A1365598) be received;

AND THAT the Committee nominate Councillors Ward and McGurk to be members of the Land Development Manual Steering Group;

AND THAT the attached draft Terms of Reference are adopted by the Planning and Regulatory Committee for finalisation at the first Steering Group meeting after which they will be confirmed by the Mayor and the Chair of Planning and Regulatory;

AND THAT those nominated Councillors provide regular reports back to the Planning and Regulatory Committee on progress with the Land Development Manual alignment and review;

AND THAT where possible both Tasman District Council and Nelson City Council use the same Hearing Commissioners to hear and make recommendations on submissions;

AND THAT a draft aligned Land Development Manual be brought back to the Planning and Regulatory Committee for consideration by December 2015.

Fulton/Lawrey

Carried

12. Dogs off the leash on Monaco Reserve

Document number R4134, agenda pages 76 - 90 refer.

Manager Planning, Matt Heale, and Planning Administrator, Jane Loughnan, presented the report. Mr Heale tabled a map of Monaco Reserve (A1376769).

Group Manager Strategy and Planning, Clare Barton, advised there would be a strain on resources if an amendment to the Dog Control Bylaw (the Bylaw) was required. She highlighted the need to be consistent with other reserves.

A suggestion was made to trial a suspension of the dog on lead rule for the Monaco Reserve. Ms Barton explained the requirement on Council to enforce its bylaws, and how it could signal to the community that Council was looking to amend the Bylaw.

A suggestion was made that part of Monaco Reserve could be a dog off lead area.

In response to a question, Ms Barton advised there was no clause in the Bylaw which allowed Council to change a schedule by resolution. She said the best process would be to review all reserves under the Bylaw at the same time.

Resolved PR/2015/016

THAT the report *Dogs off the leash on Monaco Reserve (R4134) and its attachments (A1374151, A1261310 and A1374167)* be received;

AND THAT the response provided to petitioners convey that the *Dog Control Bylaw* would be reviewed in 2018, and they are invited to submit at that time.

Fulton/McGurk

Carried

Attachments

1 A1376769 – Tabled Document - Map of Monaco Reserve

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

Document number R4140, agenda pages 51 - 60 refer.

Acting Manager Operations, Marg Parfitt, and Manager Capital Projects, Shane Davies, presented the report.

Attendance: Councillor Copeland left the meeting from 11.36am to 11.38am.

In response to a question, Ms Parfitt advised there had not been a call for long term parking in the commercial area of Vanguard Street.

Resolved PR/2015/017

THAT the report *Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules (R4140) and its attachments (A1349284,*

A1349105, A1349156, A1350309, A1350307, A1359621) be received;

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

Schedule 4: Special Parking Areas;

Schedule 9: No Stopping;

Schedule 14: Give Way Signs.

Barker/Ward

Carried

14. Use of Glyphosate

Document number R4372, agenda pages 61 - 65 refer.

Environmental Reserves Supervisor, Lindsay Barber, presented the report.

Mr Barber advised that members of the community could be added to a spray register if they suffered from reactions to spraying.

In response to questions, Mr Barber provided detail on how the New Zealand environment encouraged weed growth. He advised that coconut oil was used in playground areas as it was non-toxic. Mr Barber said the Nelson Resource Management Plan restricted the use of glyphosate in coastal marine areas.

In response to a question, Mr Barber said he was aware of recent reports from the World Health Organisation (WHO) regarding glyphosate. He highlighted that there were also reports disputing claims made by WHO. Mr Barber said that further information and discussions would take place on the matter over the coming months.

Attendance: Councillor Barker left the meeting from 11.56am to 11.57am, and from 11.59am to 12.00pm.

In response to a question, Mr Barber said that Council advertised its spraying programme in July.

Councillor Lawrey, seconded by Councillor Ward, moved a motion:

THAT the report Use of Glyphosate (R4275) be received;

AND THAT Council officers continue to monitor the use of glyphosate; take steps to mitigate any known adverse effects; and work to identify effective and safer alternatives;

AND THAT Council increases publicity of the No Spray Register through Live Nelson and other media including social media channels.

In response to a question, Mr Barber provided detail on the life of seeds and current eradication programmes.

With the approval of the mover and seconder, an addition 'to give regard to research' was made to the second clause of the resolution.

Resolved PR/2015/018

THAT the report Use of Glyphosate (R4275) be received;

AND THAT Council officers continue to monitor the use of glyphosate; to give regard to research; take steps to mitigate any known adverse effects; and work to identify effective and safer alternatives;

AND THAT Council increases publicity of the No spray register through Live Nelson and other media including social media channels.

Lawrey/Ward

Carried

15. Plan Change 18 Nelson South Operative Date

Document number R4136, agenda pages 91 - 106 refer.

Manager Planning, Matt Heale, presented the report.

Attendance: Councillor Lawrey left the meeting at 12.20pm.

Resolved PR/2015/019

THAT the report Plan Change 18 Nelson South Operative Date (R4136) and its attachments (A1352380 and A1340607) be received.

Ward/Fulton

Carried

Recommendation to Council PR/2015/020

THAT Council resolves to make Plan Change 18 – Nelson South operative on 17 August 2015, pursuant to Clause 20(1) of the First Schedule of the Resource Management Act 1991.

Ward/Fulton

Carried

Adjournment of Meeting

Resolved PR/2015/021

THAT the meeting adjourn until a time and date to be confirmed.

McGurk/Fulton

Carried

There being no further business, the meeting adjourned at 12.21pm.

Minutes of a reconvened meeting of the Planning and Regulatory Committee

Held in Council Chamber, Civic House, 110 Trafalgar Street, Nelson

On Tuesday 30 June 2015, commencing at 9.30am

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

In Attendance: Councillors L Acland, P Matheson, G Noonan, P Rainey, and T Skinner, Chief Executive (C Hadley), Group Manager Strategy and Environment (C Barton), Manager Administration (P Langley), Manager Communications (P Shattock), Administration Adviser (S McLean)

Apologies: Councillor K Fulton and Ms Glenice Paine

16. Exclusion of the Public

Resolved PR/2015/009

THAT the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

McGurk/Ward

Carried

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
1	Enforcement of	Section 48(1)(a)	The withholding of the

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
	the fence rule (REr.31.1)	The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	information is necessary: <ul style="list-style-type: none"> Section 7(2)(g) To maintain legal professional privilege

The meeting went into public excluded session at 9.31am and resumed in public session at 10.30am.

17. Re-admittance of the Public

Resolved PR/2015/010

THAT the public be re-admitted to the meeting.

McGurk/Ward

Carried

There being no further business the meeting ended at 10.30am.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

Status Report - Planning and Regulatory Committee - 6 August 2015

1. Purpose of Report

- 1.1 To provide an update on the status of actions requested and pending.

2. Recommendation

THAT the Status Report Planning and Regulatory Committee 6 August 2015 (R4626) and its attachment (A1155974) be received.

Gayle Brown
Administration Adviser

Attachments

Attachment 1: Status Report - Planning and Regulatory Committee - August 2015

All Actions				
Status Report - Planning and Regulatory Committee – 6 August 2015				
MEETING DATE	SUBJECT	MOTION	RESPONSIBLE OFFICER	COMMENTS
18 February 2014	Alteration to Resolution - Draft Local Approved Products Policy (Psychoactive Substances)	Resolved PR/2014/009 <i>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.</i>	Susan Moore-Lavo	Report to Planning and Regulatory Committee 6 August to deliberate on hearings to LAPP Ongoing
02 April 2014	Analysis of Submissions on the draft Urban Environments Bylaw	Resolved PR/2014/010 <i>AND THAT Council increase publicity and information about the provisions of the Bylaw and its enforcement.</i>	Matt Heale	Report to Council required to finalise decision on sandwich boards Ongoing
25 June 2015	Land Development Manual Review	Resolved PR/2015/015 <i>THAT the report Land Development Manual Review (R4261) and its attachments (A1365598) be received;</i> <i>AND THAT the Committee nominate Councillors Ward and McGurk to be members of the Land Development Manual Steering Group;</i> <i>AND THAT the attached draft Terms of Reference are adopted by the Planning and Regulatory Committee for finalisation at the first Steering Group meeting after</i>	Lisa Gibellini	Waiting on TDC Councillor nominations and organising the first meeting of the Steering Group for the last week of August Ongoing

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All Actions				
Status Report - Planning and Regulatory Committee – 6 August 2015				
<p><i>which they will be confirmed by the Mayor and the Chair of Planning and Regulatory;</i></p> <p><i>AND THAT those nominated Councillors provide regular reports back to the Planning and Regulatory Committee on progress with the Land Development Manual alignment and review;</i></p> <p><i>AND THAT where possible both Tasman District Council and Nelson City Council use the same Hearing Commissioners to hear and make recommendations on submissions;</i></p> <p><i>AND THAT a draft aligned Land Development Manual be brought back to the Planning and Regulatory Committee for consideration by December 2015.</i></p>				
Resolved PR/2015/016				
25 June 2015	Dogs off the leash on Monaco Reserve	<p><i>THAT the report Dogs off the leash on Monaco Reserve (R4134) and its attachments (A1374151, A1261310 and A1374167) be received;</i></p> <p><i>AND THAT the response provided to petitioners convey that the Dog Control Bylaw would be reviewed in 2018, and they are invited to submit at that time.</i></p>	Matt Heale	Response sent to petitioners Completed

M1377



Chairperson's Report

1. Purpose of Report

- 1.1 To update the Planning and Regulatory Committee on a number of matters.

2. Recommendation

THAT the Chairperson's Report (R4656) be received and the contents noted.

3. Discussion

Warm Healthier Homes Project

- 3.1 Phase One of Warm Healthier Homes Project (WHHP) is near completion. Council had provided \$40,000 funding in March 2015 to match fund \$40,000 from Canterbury Community Trust. This provided sufficient funding for 28-32 houses, depending on size and construction, to be retrofitted under the general scheme. To date 17 houses have been completed, a further six houses assessed for completion and another five houses waiting to be assessed.
- 3.2 Letter has sent to WHHP confirming funding of \$100,000 for current fiscal year and subsequent two years.

National Environment Standards - Fresh Water

- 3.3 Chairperson has been involved with the Maitai Freshwater Management Unit (FMU) Working Group to produce a set of agreed values, objectives and limits for the Maitai River catchment and the waterways emptying into Nelson Haven.
- 3.4 Work now underway for the Stoke FMU Working Group to produce a set of agreed values, objectives and limits for the Stoke waterbodies, both surface and groundwater. First working group meeting scheduled for 12 August 2015.
- 3.5 Another working group is to be established for Nelson North FMU.

Nelson Nature

- 3.6 Nelson Nature program of work was formally launched at a function at the Suter Gallery on 22 July 2015. Approximately 40 invited guests and media attended.

4. Conclusion

- 4.1 That the updates provided in this report are noted.

Brian McGurk

Chairperson - Planning and Regulatory Committee

Attachments

Nil



Building Unit Fees and Charges 2015/2016

1. Purpose of Report

- 1.1 To adopt the proposed Building Unit Fees and Charges for 2015/2016 effective from 01 October 2015.

2. Delegations

- 2.1 Officers have delegated authority to set fees and charges, however officers are of the view that approval via the relevant committee is appropriate.

3. Recommendation

THAT the report Building Unit Fees and Charges 2015/2016 (R4380) and its attachment (A1360198) be received;

AND THAT the proposed changes to Building Unit Fees and Charges (A1360198) be adopted and applied from 1st October 2015.

4. Background

- 4.1 The current Building Unit fees and charges became effective from 1 July 2014 and were significantly different in structure from previous years.
- 4.2 The major change was to introduce a 'fixed fee' structure for building consent applications based on estimated value of work.
- 4.3 This was implemented to provide a better customer experience around certainty of costs for building consent applications.

5. Discussion

- 5.1 To appreciate if this change to the structure is and will continue to be viable and sustainable it has been important to run it for a full year. This has enabled a review of the full year's earnings to inform if any changes are required.
- 5.2 It means fees and charges for the Building Unit for next year is coming later in the year for approval. Noting though under the Building Act

2004 Fees and Charges can be reviewed at any time and do not require public consultation under section 219 of the Building Act 2004.

- 5.3 General feedback from the public and applicants has been good around the new fee structure. However, the length of the document and accessibility of this information has been raised. So these have been addressed in this review and changes made.
- 5.4 All changes made to the current Fees and Charges are indicated in the adjacent 'changes made' column for Councillors convenience, noting this will be removed once adopted.

6. Options

- 6.1 Review the proposed Building Unit Fees and Charges for 2015/2016 and to accept these as they are advised or make recommendations for changes.

7. Alignment with relevant Council policy

- 7.1 To provide clearer information on fees for customers will simplify the process for customers. In undertaking a review of cost ensures fees and charges sought are still reasonable.
- 7.2 The long term plan requires costs and fees that are an appropriate reflection of the balance of individual benefit versus public good. With Building Unit fees it is important that rate payers do not unduly fund individual Building consents. As a result this is the key consideration when reviewing budgets and revenue from fees and charges.
- 7.3 The fees and charges structure is still in line with the changes made and approved by Council in 2014. As such is consistent with previous decisions.

8. Assessment of Significance against the Council's Significance and Engagement Policy

- 8.1 This decision is not significant under the Council's Significance and Engagement Policy

9. Consultation

- 9.1 There is no public consultation required for these Fees and Charges.

10. Inclusion of Māori in the decision making process

- 10.1 Māori have not been included in this decision making process.

11. Conclusion

- 11.1 The review has been undertaken and found only small changes are necessary. This year's review has been to check the major structure change from last year is working and sustainable.

Martin Brown
Manager Building

Attachments

Attachment 1: A1360198 - Proposed Fees and Charges 15/16

All Fees apply from 01 September 2015

Prepared by Manager Building - Martin Brown

General Information regarding Building Control Authority Fees and Charges

Other Fees and Levies may apply to any Building Consent or Certificate of Acceptance

Charges for 'Fixed Fee Building Consents' do not include 'Fixed Levies' (see section 1) or Compliance Schedules charges (see section 7) where applicable.

Development and Financial Contributions

Building Consents may also incur Development and/or Financial Contributions (see Council's brochure "Development Contributions, Financial Contributions, Reserve Contributions, Guide for small scale activity").

Deposit or Full Fee payable at lodgement (based on estimated value of work)

A deposit of 50% of full fee is required for work valued \$50,001 and over (except commercial). Full fee is required at time of lodgement on work valued \$50,000 and under (except commercial). Where deposit is paid, the remainder of the fee must be paid prior to collection of 'Issued Building Consent'.

****Limitations of 'Fixed Fee' and 'fair and reasonable time use' (Section 219(2) of the Building Act 2004)**

The 'Fixed Fee' system is based on reasonable time to complete processing and inspections. Poor quality and/or insufficient information requiring additional processing time and/or failed/missed inspections will potentially incur additional costs. These additional charges will be notified to the agent and owner and must be paid prior to issue of Building Consent and/or Code Compliance Certificate (as applicable).

Additional charges: will be invoiced and must be paid within one month.

All outstanding debts must be paid prior to release of Code Compliance Certificate.

Amendments: All formal amendments to building consents incur hourly charge out rate for Building officer and Administration.

Determinations, Lapsed Consents and Consents without Code Compliance Certificates (CCC) will all be charged at hourly rate

Determinations: Preparation of submission(s) for determination prior to signing Form D2 for the Ministry of Building Innovation and Employment.

Lapsed Consents: 12 months from the date of issue, the building consents will lapse under section 52 of the Building Act 2004, if work has not commenced. Consents can be extended, prior to lapsing date, for a further period as approved by the Building Consent Authority.

Code Compliance Certificates (CCC) that have not been issued within two years: Under section 93 of the Building Act, the Building Consent Authority must decide whether it can issue a code compliance certificate at 24 months from granting date.

Code compliance certificates (CCC) on older properties: Where the consent is older and no Code Compliance Certificate (CCC) exists, there will be additional costs (per hour rate) to cover the work to decide if a Code Compliance Certificate can be issued. This includes meeting with the customer, desk top review of the file, any letters, final inspection and other works.

1.0 Building Consent Fee Quick Reference Sheet –

 Please refer to ****Limitations** (on previous page)

Fixed Fee** Building Consents Includes reasonable processing, inspection and administration time, planning check and CCC	Fixed Fee (inc GST)	Deposit (inc GST)	Change made
New Residential (new complete buildings/ workshops/ houses)			
Value – up to and including \$50,000	\$2,000	\$2,000	New fee band added
Value – \$50,001 to \$100,000	\$2,900	\$1,450	
Value – \$100,001 to \$200,000	\$3,250	\$1,625	
Value – \$200,001 to \$450,000	\$3,900	\$1,950	
Value – \$450,001 to \$800,000	\$4,500	\$2,250	
Value – \$800,001 to \$1,100,000	\$5,250*	\$2,625	Split previous single band to two bands
Value – \$1,100,001 to 1,600,000	\$5,600*	\$2,800	
Value – \$1,600,001 upwards	Time Charge	\$3,000	New fee band & remove 'negotiated fee'
Adaptation and alteration of existing residential buildings (Other ancillary buildings i.e. sleep outs, Sheds and all retaining walls)			
Value – Up to and including \$5000	\$500	\$500	
Value – \$5001 to \$10,000	\$850	\$850	
Value – \$10,001 to \$20,000	\$1,650	\$1,650	Increased by \$150
Value – \$20,001 to \$50,000	\$1,950	\$1,950	Increased by \$150
Value – \$50,001 to \$100,000	\$2,400	\$1,200	
Value – \$100,001 to \$200,000	\$3,250	\$1,625	
Value – \$200,001 to \$450,000	\$3,900	\$1,950	
Value – \$450,001 to \$800,000	\$4,500	\$2,250	
Value – \$800,001 to \$1,100,000 Refer to New residential fee scale for works valued above \$1,100,000	\$5,250	\$2,625	
All Commercial			
Value – Up to \$10,000	\$1,300	\$1,300	
Value – \$10,001 to \$20,000	\$1,500	\$1,500	
Value – \$20,001 to \$100,000	\$2,300	\$1,150	
Value – \$100,001 to \$200,000	\$3,600	\$1,800	
Value – \$200,001 to \$450,000	\$4,500*	\$2,250	
Value – \$450,001 to \$800,000	\$5,250*	\$2,625	
Value – \$800,001 to \$1,200,000	\$5,500*	\$2,750	
Value – \$1,200,001 to \$4,000,000	Time Charge	\$4,250	Removed 'negotiated fee' to these bands.
Value – \$4,000,001 upwards	Time Charge	\$5,000	

*Excludes multiple unit projects and 'Multi-proof' consents, estimated costs will be advised at pre lodgement meetings.

BUILDING UNIT FEES AND CHARGES

2015/16

Other Simple Residential Building Consents		Fixed Fee (inc GST)	Changes made
Includes reasonable processing, inspection and administration time, planning check and Code Compliance Certificate. Levies and/or Contribution may also be chargeable. Full fee is payable at lodgement of building consent and is non refundable.			Changed name to 'simple' removed 'Pre Paid'.
Space heaters – all fuel types	Free standing	\$200	
	Inbuilt	\$250	
Wood Pellet Fires		\$200	
Tents or Marquees > 100m ²	Commercial	\$300	
	Residential	\$200	
Tents or Marquee (any size in place for more than 1 month) *	Commercial	\$300	
	Residential	\$200	
* This covers Marquees/large tents for private (residential) or commercial functions that are not ordinarily classed as 'camping tents'.			
All Demolition (full or part building)		\$450	Added 'part building'
Solar Hot Water Heaters (stand-alone)		No Fee	
Swimming Pool fencing application - allows for 1 hour processing/administration and 1 inspection		\$200	
Swimming Pool (stand-alone) allows for 1 hour processing/administration and 2 Inspections. Engineer monitoring and inspections are charged separately at \$125/hr		\$400	
Proprietary kitset garages/carports up to 50m ² (allows for 3 inspections). Firewall inspection are charged separately at \$125/hr		\$900	
Bathroom alterations only (allows for 2 inspections). Wet-floor/wall system inspection are charged separately at \$125/hr		\$450	

Levies as required by Building Act 2004 and fixed by legislation	\$ based on value of work	
Insurance Levy	\$20,000 and over	\$0.75 per \$1,000 or part of
Building Research Association New Zealand Levy (BRANZ)	\$20,000 and over	\$1.00 per \$1,000
Department of Building and Housing Levy (MBIE)	\$20,000 and over	\$2.01 per \$1,000
Quality Assurance Levy (QA)	\$20,000 and over	\$1.00 per \$1,000

2.0 Schedule 1: Works for which a Building Consent is not required

Schedule 1 Applications	Fixed Fee (inc GST)
Part 1, 2 and 3 – no assessment by Territorial Authority, application placed on property file	\$100
Part 1(2)(a) (b) – Requires Territorial Authority assessment and decision. Includes administration	\$250

3.0 Notice to Fix and other enforcement

Enforcement	Fixed Fee (inc GST)
Notice to Fix (each) issue and administration	\$150
Other Notices (each) issued under Building Act 2004. For example: Section 124 Notices (except Earthquake prone notices)	\$150
Building Consent Officer time and monitoring of Notices issued - charged at hourly rate	
Infringement Offences and fixed fines as per Building (Infringement Offences, Fees and Forms) Regulations 2007, adopted by Council 19 Sept 2009	

4.0 Charge for Hourly Rates of BCA staff, External Contractors and Meetings

Staff, External Contractors and Meetings	Fee (inc GST)	Changes made
All Building Unit technical/management staff (hourly rate)	\$125/hr	All technical officers are on the same /Hr rate
Building Control Administrators (hourly rate)	\$95/hr	All BC Admin officers are on the same /Hr rate
Technical advice or duty meetings and other meetings with Building Unit staff	No fee up to 30 minutes 30 minutes to one hour- \$50.00 Additional hours at hourly rate of \$125/hr	Up to 30 mins free then chargeable from then on
Schedule 1 Building Act 2004 exemptions meeting	\$50.00 per each 30 minutes block or part of	From fixed fee to ½ hourly charge
Pre lodgement meetings (Commercial Only)	\$50.00 per each 30 minutes block or part of	Split from Lodgement meeting to be clearer
Lodgement meetings (mandatory for Commercial, optional for Residential)	One included in fixed fee, subsequent meetings at hourly rate of \$125/hr	Inc. 1 free for commercial & residential application.
External Consultants engaged by Council to provide expertise not available in house for building consent related peer reviews.	At cost notified by external contractor/peer reviewer	

5.0 Certificates of Acceptance and Unauthorised Building Works

Certificate of Acceptance	Fixed Fee (inc GST)
Certificate of Acceptance (COA) Section 96 Building Act 2004	\$750 lodgement fee
	\$200 Certificate issue
All Building Officer time is charged at hourly rate. The following will be additional time charged as applicable: Insurance, DBH, BRANZ & QA levies Nelson City Council Development or Financial Contributions Compliance Schedule fee	

**BUILDING UNIT FEES AND CHARGES
2015/16**

Certificate of Acceptance	Fixed Fee (inc GST)
Un-authorised building works report	\$100 lodgement fee

6.0 Registration of Documents with Land Information New Zealand

LINZ	Fixed Fee (inc GST)
Section 73 Building Act 2004	\$200
Section 75 Building Act 2004	\$200
Removal of either Section 73 or 75 BA2004 (or equivalent under the BA1991)	\$200

7.0 Other services provided by the Building Unit

Other services	Fee (inc GST)	Change made
Section 37 Certificate (fixed fee)	\$75	
Section 37 Administration	\$95/hr	
Project Information Memorandum (PIM) Certificate administration (fixed fee)	\$75	
Property Information review	\$95/hr	Reduced from \$100/hr
Compliance Schedule plus any additional staff time (hourly rate)	\$150 each	Additional time at hourly rate
Compliance Schedule amendment plus any additional staff time (hourly rate)	\$50 per specified system	Additional time at hourly rate
Building Warrant Of Fitness renewal plus any additional time to review 12A forms (hourly rate)	\$150 each renewal	Additional time at hourly rate
Application for addition to register of: Independent Qualified Persons (IQP's)	\$150 each	
Determinations, Lapsed consents, Section 93 and old Code Compliance Certificate (CCC) (hourly rate)	\$/hr	Admin fee increased to \$95
Certificate for Public Use fee (public buildings) plus staff time (hourly rate)	\$200	Additional time at hourly rate
Swimming Pool and Fence Monitoring under the Fencing of Swimming Pools Act 1987 (FOSPA) (every 3 years). Additional inspections and applications will be charged separately	\$210	
Application for exemption under the Fencing of Swimming Pools Act 1987 (Hearing Panel) e.g. for existing doors without automatic closers.	\$75 + Time costs incurred by Council reporting officer during hearing.	
Application for exemption under the Fencing of Swimming Pools Act 1987 (Hearing Panel)	\$250	

8.0 Other miscellany

**BUILDING UNIT FEES AND CHARGES
2015/16**

Miscellaneous	Fixed Fee (inc GST)
Certificate of Compliance (District Licensing Agency) Building Code compliance assessment for fire safety and sanitary facilities in a building, prior to an application for Liquor Licence.	\$150 each
Register of Suppliers of Producer Statements Chartered Professional Engineers (CPENG) Others	\$50 \$150
Photocopied Reports of Building Consents Processed	\$125 (per annum)
ALL Photocopying Charges Actual cost from copy service plus Administration staff time (hourly rate – section 4)	
Debt Recovery Applicant shall be liable for all costs incurred by Council as a result of debt recovery.	



Strategy and Environment Report for 1 April 2015 to 30 June 2015

1. Purpose of Report

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

2. Delegations

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

3. Recommendation

THAT the report Strategy and Environment Report for 1 April 2015 to 30 June 2015 (R4398) and its attachments (A1379923 and A1369994) be received.

4. Background

- 4.1 The report and attachments detail the performance monitoring of the Council's activities and how these activities impact on or assist developments in our community, progress the Nelson Plan and deliver environmental programmes.

5. Discussion - Building

Summary of Issues

- 5.1 The Building Consent Authority (BCA) in the last quarter observed a slight increase in the amount of building consent applications (including amendments). The numbers re-projected for the financial year were approximately 757. The number received at year end (30 June) was 720.
- 5.2 This financial year has seen 141 less applications, around a 17% decrease, against last financial year applications and amendments

numbers of 861. Noting the decline from 2012/13 was 1020 to 861 which indicates a decrease of 17% also.

- 5.3 BCA work flow is dependent on market and economic trends. The current trend from the BCAs review is in a stable market in slight decline. Indications from the industry suggest the market will start to rise in the 15/16 financial year.

Challenges

- 5.4 The BCA witnessed periodic 'peak' challenges to meet Ministry of Business, Innovation and Employment (MBIE) guidance to undertake inspections in 48 hours and 72 hours maximum. Processes are in place to ensure these challenges can be managed going forward.
- 5.5 The 'Lodgement of residential building consents pilot' which commenced on 30 March 2015 has seen limited uptake (this involves a pre-lodgement meeting with the applicant and building staff to identify any obvious information gaps or clarification requirements). As a result a larger pilot is planned from August for three months to make all residential applicants attend a lodgement meeting. This pilot programme is to gauge whether:
- information quality improves;
 - the customer/ agent experience changes; and
 - if this will be sustainable (capacity of staff time) for the BCA.

Successes

- 5.6 The IANZ assessment undertaken over 23 to 25 June resulted in no corrective actions being issued which is an excellent result for the Building Consent Authority.
- 5.7 This demonstrates a growth of understanding and maturity in the team with complying with the Building Consent Authority Regulations. IANZ lead assessor commented that the team had done an 'Outstanding job' which is validation of the 'buy in' and hard work of the team over the last two years.
- 5.8 The BCA has maintained zero breaches (20 day time limit) for Building Consents, Code Compliance Certificates and Certificates of Acceptance over the fourth quarter.

Summary of the year 2014/15

- 5.9 To summarise the year the Building Unit has evolved well and settled in with the changes to electronic processing of building consents and utilising mobile devices for inspections. In addition the change to a fixed fee processing model has also been embedded.

- 5.10 Trends for the year show a decline on general applications and amendments. Inspections hit pinch points though numbers have slightly reduced overall. The Building Unit has increased access to capacity through internal and external contractors.
- 5.11 The TA functions around earthquake prone building work, Fencing of Swimming Pools Act 1996 and Building Warrants of Fitness are well catered for with achievements in:
- identification of all IL4, IL3 and Heritage Earthquake prone buildings. Notification Status; 21 s124 issued, 14 s124 lifted, 47 s124 remain active;
 - the inspection of pool fences progression; and
 - Building Warrant of Fitness Audits set to recommence with the new compliance officer.

Looking ahead 2015/16

- 5.12 In 2015/16 it is planned to build on the operational systems which have been initiated over the last year. The inspection mobile devices will be reviewed and requirements assessed to seek improvements to increase efficiencies. Commencement of an initial review around the 'online' submission/acceptance of building consent applications and other information.
- 5.13 All initial swimming pool fence inspections are due to be completed in 2016. This means the cost of this activity may be able to be reduced for subsequent re-inspection phase required under the Fencing of Swimming pools Act 1987.
- 5.14 Trends for the coming year indicate a stabilisation of numbers of Building Consent applications and amendments projected.
- 5.15 As the need has arisen to pro actively be following up issued consents over 4 years old (pre 2011) that have no Code of Compliance Certificates, (noting this was also raised in the recent IANZ accreditation assessment), recruitment of a new Senior Building Officer is underway to address this need.

6. Discussion - Consents and Compliance

Summary of Issues

- 6.1 The changes to the Resource Management Act that became effective in March required applicants to provide more information up front. Staff have some discretion in determining what information is relevant but otherwise must reject incomplete applications. The number of rejected applications since the legislation change has not altered when compared to a similar time period last year.

Challenges

- 6.2 The weekly harbourmaster patrols have continued weather permitting. Fewer boaties have been around in the unsettled weather. Speed continues to be an issue with 12 different vessel operators spoken to. 14 kayakers have also been spoken to for being too close to ships or berths.
- 6.3 Two vessels were inspected for bio-security issues that the Ministry for Primary Industry eventually took control of.

Successes

- 6.4 Compliance with wearing lifejackets has improved greatly for paddle boarders, kayakers and speed boats with over 90% compliance. There has also been significant improvement in vessels carrying the correct lights following the deputy harbourmaster's lead up to winter education "campaign" at the boat launching ramp.
- 6.5 Other education opportunities that the harbourmaster and deputy harbourmaster are continuing to enjoy success are at the Victory Centre, Founders Park, Monaco Boating Club, schools and the library. Support was also provided for the Boulder Bank walk fundraiser from the coastguard.

Summary of the year 2014/15

- 6.6 For the first time ever the resource consents team averaged 100% (actually 99.7%) for the processing timeframes of non-notified consents over the course of a year. Only one consent, out of a total of 376 consents for the year, failed to be processed in the 20 day statutory timeframe. The average processing days for the year is the lowest ever at 12 days. This is a huge improvement from eight years ago when there was 45% compliance and an average of 30 days to process the consents. There also used to be 25-30 formal objections to consent decisions and now there is only one or two a year – none though for 2014/15.

Looking ahead 2015/16

- 6.7 The resource consents team will focus on removing any actual or perceived barriers to ensure developers can have a greater sense of certainty for their proposed developments. The infringement regime for the navigation safety should be established to add another tool to the existing education approach to improve safety for coastal and harbour activities.

7. Discussion - Environmental Programmes

Summary of Issues

- 7.1 Air quality monitoring equipment needing to be repaired or replaced during the winter months. A maintenance and replacement schedule has

been put in place to ensure disruption to this service is kept to a minimum.

Successes

7.2 Calwell Slipway

The Contaminated Sites Remediation Fund (CSRF) application has been approved by the minister and the final stages of the tendering process to undertake the planning and consents phase (phase 3b) is currently underway.

7.3 Environmental Education

- Nayland Kindergarten has attained the Silver Enviroschools Award;
- Enviroschools celebrated 10 years in Nelson at a special celebration that took place at Auckland Point School on 22 June; and
- 12 schools and NMIT have signed up to participate in this year's NCC funded native tree planting programme. Over 1100 students will take part in the programme this year.

7.4 Waste Minimisation

Support for reducing waste from construction and demolition sites in Nelson and Tasman, has been received from the Master Builders network.

7.5 Integrated Data Collection

Work has started on a project to improve the management of resource consents data. To provide robust information to report against for environmental monitoring.

Summary of the year 2014/15

7.6 Heritage

15 heritage building owners received funding through the Council's Heritage Project Fund. The total allocated was about \$64,000, with amounts ranging from \$1,500 to \$6,232. 119 applications were also received for the 2015 - 2017 round of the Council's Rates Remission for Heritage Maintenance.

7.7 Air Quality

Air quality promotion work has been aimed at domestic burning and improving emissions from existing burners.

7.8 Environmental Education

Enviroschools in Nelson saw seven out of 20 Enviroschools attain a Bronze or Silver Award. Almost 6000 students are now involved with Enviroschools in Nelson. The Moturoa Mission in March saw over 150 students navigate a series of sustainability-based challenges.

Two Second Hand Sunday events took place in 2014/2015 with over 260 households taking part. Because of the positive response, four events will now take place during March, June, September and December.

Ecofest is to be replaced with a series of information and education campaigns and events that focus on specific sustainable behaviour change messages and actions.

YouTube clips and workshops are being trialled with young families in Nelson and Tasman as part of the Love Food Hate Waste campaign.

7.9 Maitai/Mahitahi

Project Maitai/Mahitahi has involved a wide variety of community partners and iwi, most notably the Friends of the Maitai, as well as twenty-six staff across Council. Altogether community groups contributed over \$50,000 worth of time, expertise and donated goods to these projects.

Major riverside planting events were held with a total of 6500 plants put into the ground.

Three large wastewater leaks into the river via the stormwater system were located and fixed.

A rubbish clean up in Saltwater Creek was carried out by the Wakatu Rotary group and Nelmac, with further work planned in this area.

A chain, bollards and signage were installed at Almond Tree Flats ford to prevent inappropriate use of the ford (for example, car washing).

An existing inanga spawning site has been enhanced at Shakespeare Walk Reserve to increase the available space for inanga (whitebait) to lay their eggs on the Maitai River bank.

Fish passages were installed beside the Maitai Dam at the water intake weir on the Maitai south branch and over the reservoir spillway.

Operations at the Maitai Dam were changed to improve the quality of water discharged from the reservoir into the Maitai south branch.

A variety of other work has also been carried out including; fencing stock out of waterways, meetings with forestry representatives, research into gravel movement throughout the catchment and a study of river flows.

7.10 State of the Environment Monitoring (SOE)

Monitoring programmes and sites for hydrology, water quality and recreation bathing water quality have been reviewed to align with the National Objective Framework for Freshwater Management.

Overall Nelson's beaches and Maitai swimming holes had few E coli exceedances that were mostly explained by elevated bacteria from rain events.

The Nelson fish distribution and spawning areas have been reviewed; this information is being used to determine Sites of Aquatic Significance for the Nelson Plan review.

Tributaries of the Maitai River, including York Stream, Little Go Stream and the creek in Pipers Park Reserve (upper Emano Street) have been a focus for fish passage and stream habitat enhancement.

The dry summer led to water restrictions on irrigation during March 2015, for 500 residents on non-reticulated water supplies, mainly in North Nelson.

The Land, Air, Water, Aotearoa (LAWA) website, <http://www.lawa.org.nz> now reports the Council's water quality and water use data for each Water Management Zone within the region.

Regional reporting on air quality is the next module due to be launched on LAWA.

Phormidium cyanobacteria (toxic blue-green algae) was prevalent during the low summer flows in the Maitai River.

7.11 Information and Analysis

Reports have been provided summarising Nelson's Census 2013 results and population projections.

Information is gathered on Nelson's housing issues; trends in the range and affordability of property and factors that could affect housing choice in the future, such as the ageing population. This work is informing the Growth component of the Nelson Plan.

In the last year, residents, business owners and customers were surveyed about central city parking, urban bylaws, customer service, library services and earthquake strengthening issues.

The economic impacts of the free parking initiative and events such as Light Nelson are being evaluated by using reported retail spending information.

7.12 Land Management and Biodiversity

Planning for Nelson Nature is well underway with the year one baseline monitoring programme currently being finalised.

The 2014/15 year saw 10,550 plants provided for 37 landowners. This year 525m of stock exclusion stream fencing was completed using the Councils rural fencing grants scheme.

Taiwan cherry was targeted as a pest plant species and year one of a five year management programme has been completed.

Council has continued to support and convene the Nelson Biodiversity Forum.

Looking ahead 2015/16

7.13 Air quality promotion work will continue to focus on improving emissions.

7.14 Council-funded environmental education programmes will get a revamp to better support achievement of Nelson 2060 goals and alignment with Council environmental priorities. Nelson 2060 will be a focus.

7.15 A Council Science Strategy will be developed to plan and identify information requirements to support future Council priorities and collaborate with other Councils and science providers; this work will link in with regional and national science initiatives and funding opportunities. Including issues associated with Tasman Bay.

7.16 New Project Maitai/Mahitahi initiatives are planned for this financial year, the planting, E. coli, reservoir operations, and fish passage projects from the 2014/15 year will continue.

7.17 The current land management and biodiversity work programme will be absorbed into Nelson Nature and will be expanded to meet the outcomes and objectives of the new programme.

7.18 A Council and forestry industry liaison group is to be set up to encourage targeted and timely engagement and to be proactive on identifying potential issues before they can occur.

7.19 Top of the South Marine Biosecurity Partnership (TOSMBP) will start the new financial year with Nelson City Council chairing the partnership committee, hosting the meetings and managing the co-ordination contract.

8. Discussion - Planning

8.1 The Planning and Regulatory Committee confirmed the Urban Environments Bylaw, recommended that Plan Change 18 become operative, and confirmed that the Monaco Reserve would remain an on lead park until 2018 at the 25 June Planning and Regulatory Committee.

Summary of Issues

- 8.2 Engagement with Nelson Plan key stakeholders and iwi partners has been ongoing. Council officers have sought direction from Council on the development of the Nelson Plan through a number of workshops.

Challenges

- 8.3 Flood modelling results have been provided for the Maitai, the Brook, and the York with additional modelling not able to be completed for remaining catchments until the start of 2016.

Successes

- 8.4 The Nelson and Tasman Housing Accords were signed by the Minister of Building and Housing for Tasman District Council and Nelson City Council.

9. Discussion - Nelson Plan

- 9.1 The Nelson Plan is currently in the engagement phase with a range of meetings held with iwi partners and key stakeholders.
- 9.2 The joint TDC/NCC review of the Land Development Manual has progressed with an inter-Council steering group being established to guide the review.
- 9.3 A number of Council workshops have held and this matter will be reported separately to Council
- 9.4 A survey has commenced seeking feedback on development issues from Potential Earthquake Prone Building Landowners in the Central City.
- 9.5 Officers are currently in the process of establishing Freshwater Advisory Groups across catchments in the north and south of Nelson and a Developers Advisory Group to inform city development.

Summary of the year 2014/15

- 9.6 The focus for the Nelson Plan has been on identifying Nelson's significant resource management issues and strategic outcomes to guide the development and engagement of the Nelson Plan - the why and the what. Key Stakeholder engagement has focussed on Growth, hazards, landscape, air, and biodiversity. Iwi engagement has also focussed in these areas.

Looking ahead 2015/16

- 9.7 The Nelson Plan focus will be on the 'how' – Objectives, policies, and methods and completing key stakeholder and community engagement.
- 9.8 Overall the priority will be to produce the draft air quality provisions by December 2015 with a target notification date of March 2016. The target

for the wider Nelson Plan is notification in mid 2016. A status report of timeframes for the Nelson Plan will be provided to Council in December 2015 following the completion of the initial round of Council workshops in October 2015.

10. Discussion - CBD Development.

Earthquake Prone Building Policy

- 10.1 The Building (earthquake-prone buildings) Amendment Bill had its final submissions request in early July 2015. Enactment is expected at any time in the next quarter.
- 10.2 The following properties have been issued section 124 Notices in respect of the Earthquake Prone Buildings Policy over the fourth quarter:
- Bridon Warehouse Port Nelson Ltd; and
 - Mustad warehouse Port Nelson Ltd.
- Notices on Council owned buildings:
- Zumo Coffee House, 42 Rutherford Street
 - Ex Four Seasons building, 250 Haven Road
- 10.3 Four Notices were lifted (public buildings: Mission to Seafarers at Port Nelson. Council buildings: Founders Energy Centre; Riverside Pool and Melrose House).

11. Discussion - Other Development

District

- 11.1 The Nelson Tasman Cycle Trails Trust obtained consent to erect information signage along the Great Taste Cycle Trail.
- 11.2 Sport Tasman obtained consent for noise associated with the South Island Masters Games social celebrations held at Saxton.
- 11.3 The Nelson School of Music has lodged an application to strengthen and redevelop the category A heritage building.
- 11.4 A protected tree (Common Yew) in Albion Square was removed due to its very poor condition.

Regional

- 11.5 NCC has applied to construct gravel traps in Poormans Valley and Orphanage Streams.
- 11.6 NCC upgrade of Saxton Creek stage 2 is awaiting written approvals from affected parties. Council's Jenkins Stream riverbank protection works

application has been limited notified due to some written approvals not being able to be obtained.

Development Trends

- 11.7 Comparisons for building consent applications received year to date with the last three years are provided in Attachment 1.
- 11.8 The 'new development' element of consent applications received for the fourth quarter included 33 applications for new dwellings, 1 application for new offices, and 3 other new commercial buildings (i.e. not office or accommodation). All other consents were for building alterations.
- 11.9 Building Consent applications received in comparison with other Councils of similar size for the last quarter - Napier City Council and Tasman District Council (TDC) have not been able to provide information to date. Information from Marlborough District Council (MDC) indicates:
- Nelson's Fourth quarter consent and amendment applications numbers ,157, are considerably less in comparison with MDC. MDC have trended up from last quarter with 408 consents.
 - In the Fourth quarter NCC's estimated value of work is \$9.6 million. MDC had its second best quarter with \$40.5 million estimated value of work.
- 11.10 Resource consent numbers were 20% higher than the previous year and 4% higher than the average for the last 6 years. No clear trend can be detected for land use consent numbers but subdivision consent numbers are relatively steady between three and seven consents per month.

12. Discussion - Legal Update

Proceedings

- 12.1 Two abatement notices for breaches to Plan rules have been appealed. Mediation dates are yet to be set by the Environment Court.
- 12.2 One claim being worked through by the Building Unit for buildings which have leaked. This was resolved out of court on the 15 July 2015.
- 12.3 Court proceedings against an owner for failing to comply with a Notice to Fix for a retaining wall on their property, has been adjourned as the party is now cooperating with the requirements of the notice to fix.

Legislation Changes

- 12.4 The Building (Earthquake-prone Buildings) Amendment Bill. The NZ Parliament website still indicates that this will be enacted later in 2015.

13. Iwi Liaison

- 13.1 A tender document to award contracts for the production of Cultural Impact Assessments to form a part of Council applications for resource consent has been finalised. The successful tenderer will need to liaise with all iwi and incorporate their views in the Cultural Impact Assessments required.

14. Options

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

15. Assessment of Significance Against the Council's Significance and Engagement Policy

- 15.1 The decision is not a significant decision in terms of the Council's Significance and Engagement Policy.

16. Alignment with Relevant Council Policy

- 16.1 The Council's annual plan includes performance measures for various activities and this report enables the Council to monitor progress towards achieving these measures.
- 16.2 Progress towards setting the context to achieve identified goals in Nelson 2060 can also be tracked.

17. Consultation

- 17.1 No consultation has been undertaken.

18. Inclusion of Māori in the Decision Making Process

- 18.1 Not consultation with Maori has been undertaken.

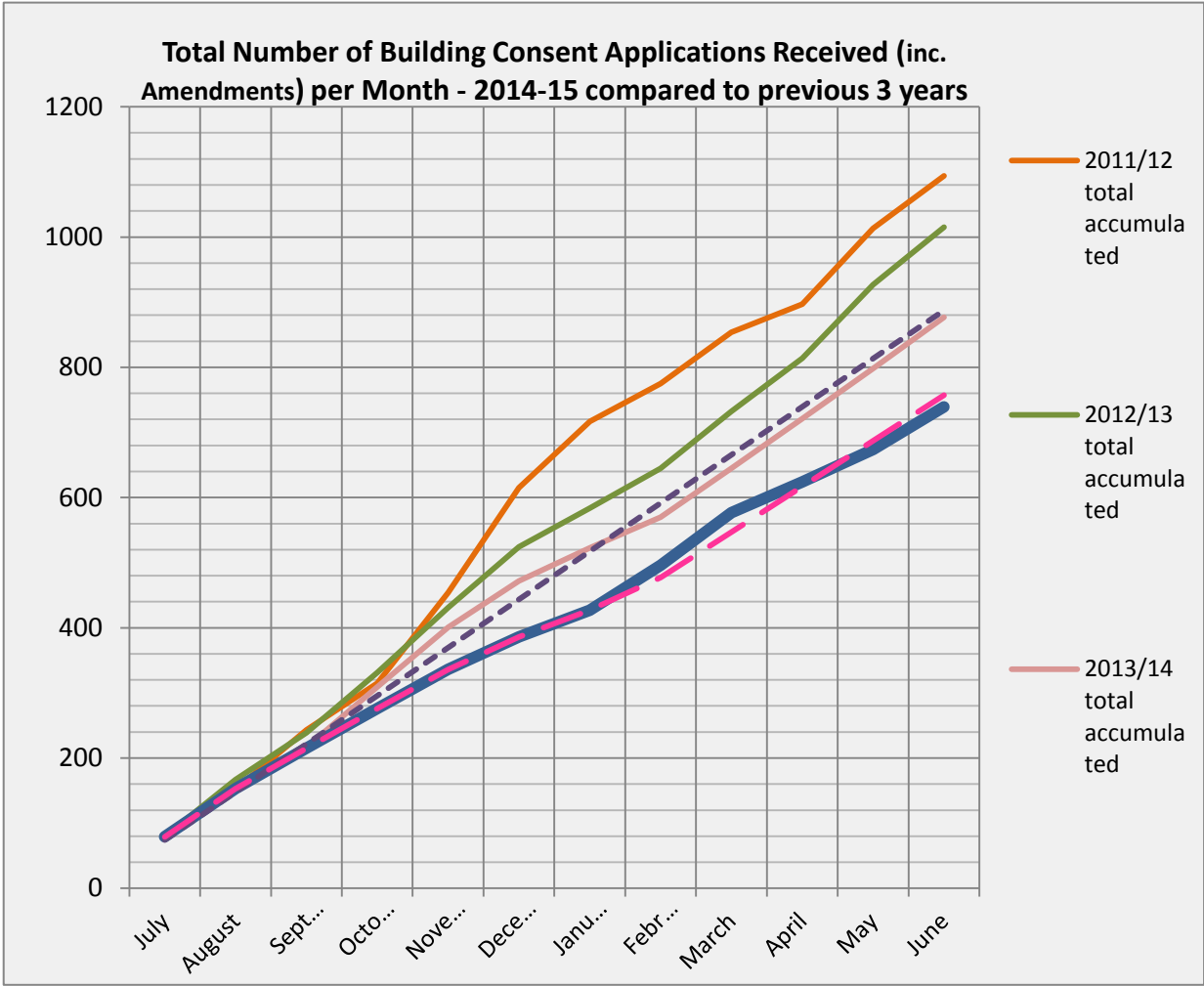
Mandy Bishop
Manager Consents and Compliance

Attachments

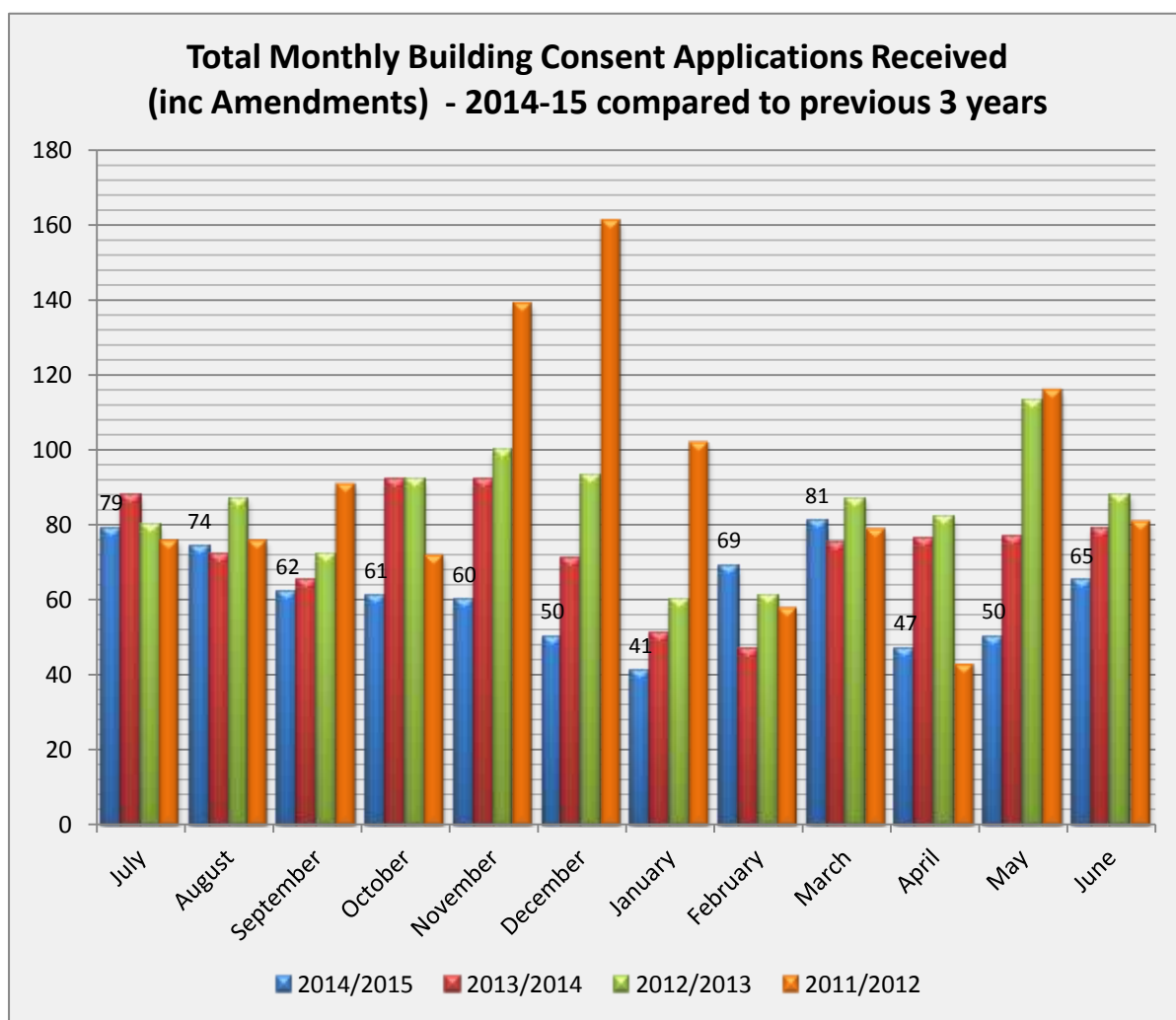
- Attachment 1: A1379923 Building Unit statistics 1 April - 30 June 2015
- Attachment 2: A1369994 Consents and Compliance statistics 1 April - 30 June 2015

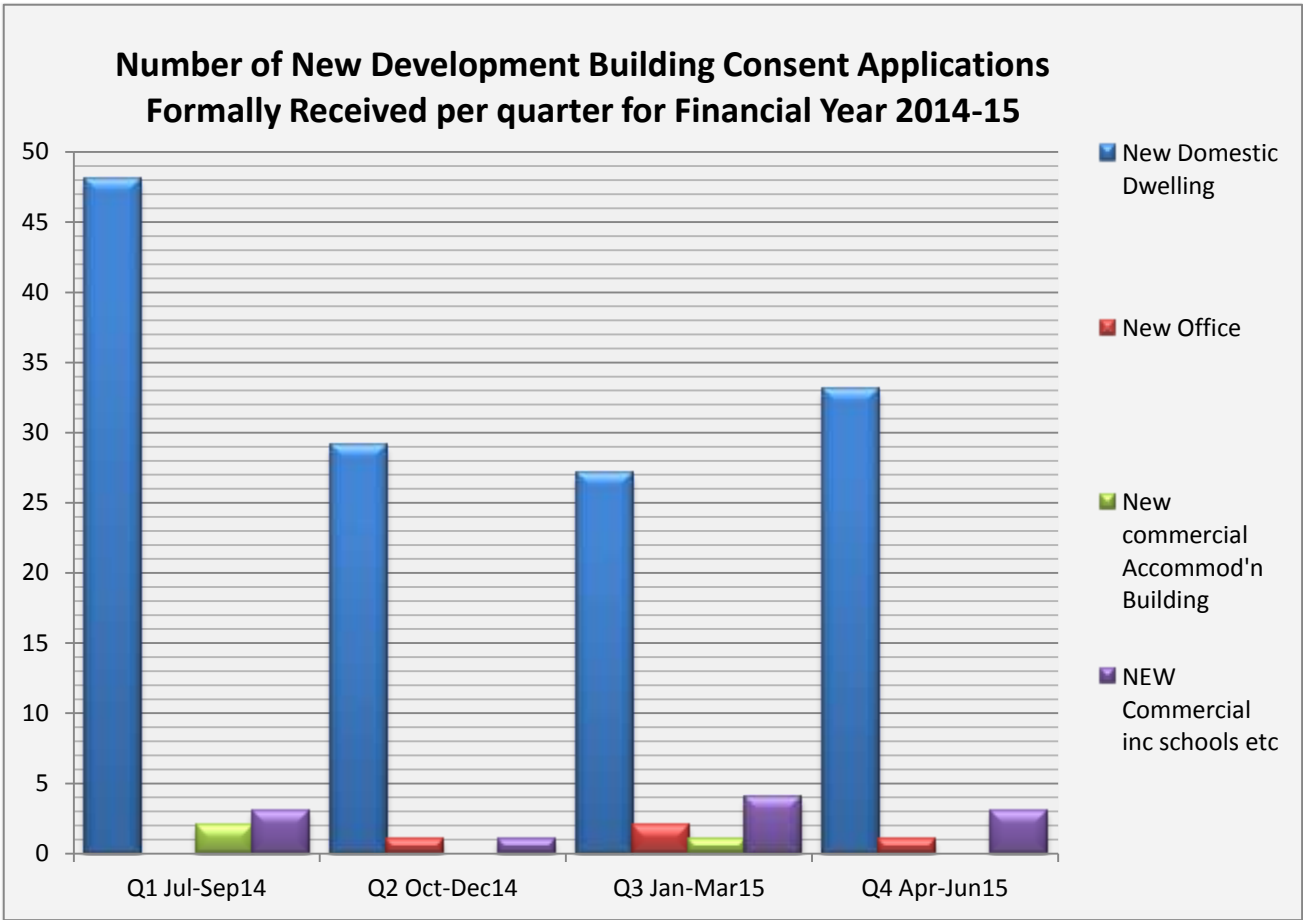
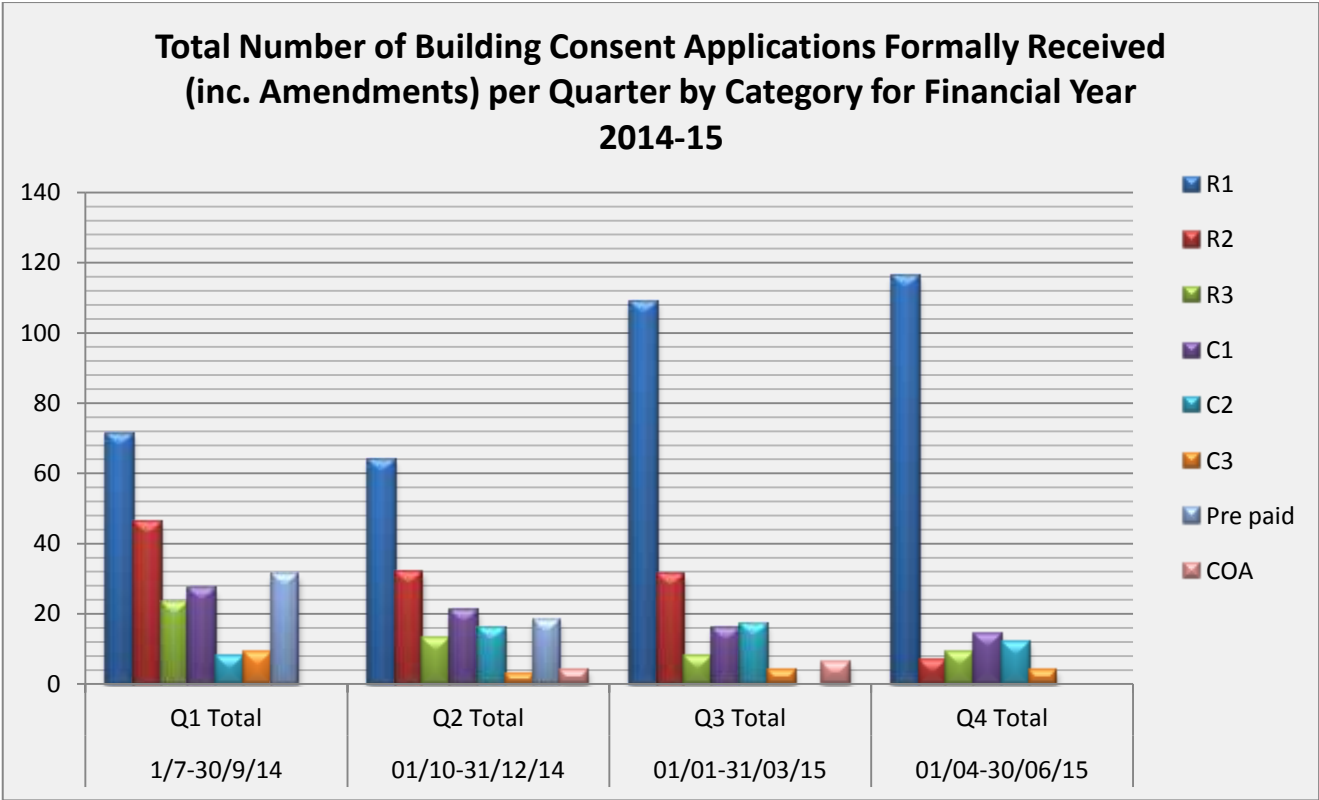
Building Unit Statistics 1 April – 30 June 2015

1. Building Consent Applications Received.

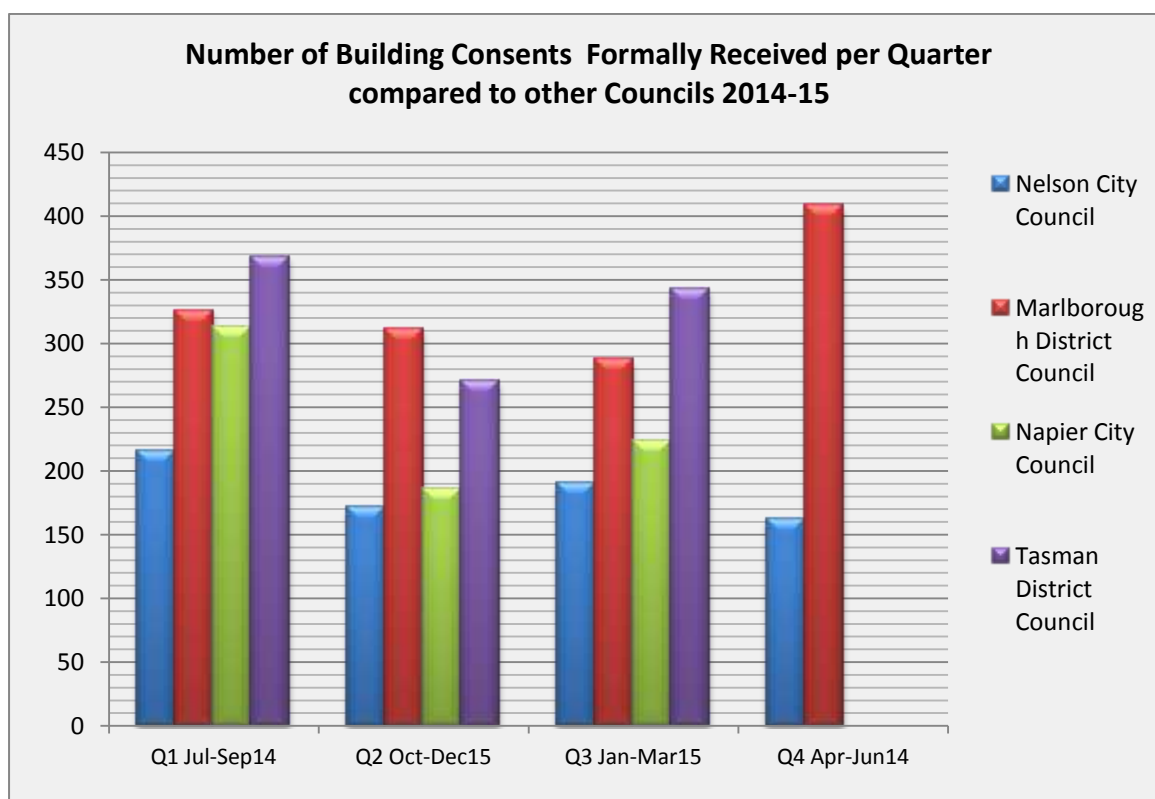


2. Building Consent Applications Received.

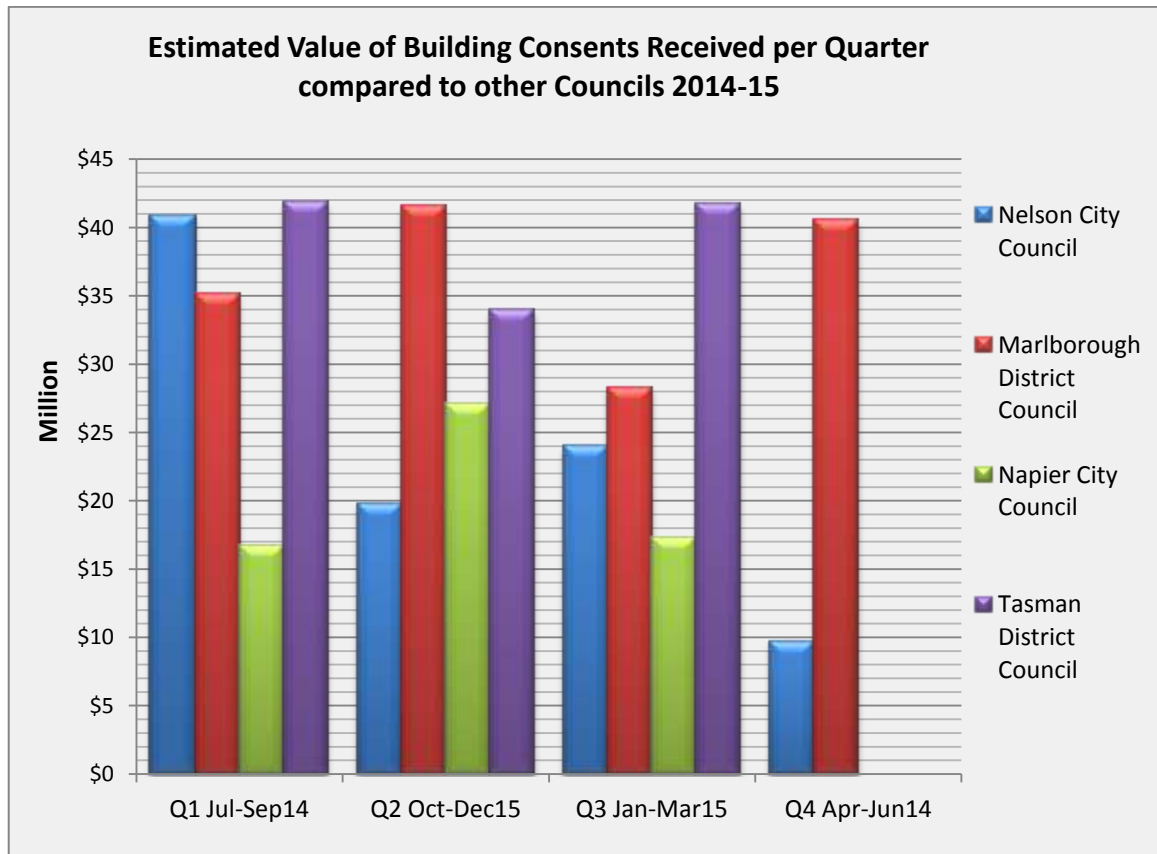




Comparison with other Councils No. Applications Received	Q1 Jul-Sep14	Q2 Oct-Dec15	Q3 Jan-Mar15	Q4 Apr-Jun14
Nelson City Council	<u>215</u>	<u>171</u>	<u>191</u>	<u>162</u>
Marlborough District Council	326	312	287	408
Napier City Council	313	185	224	
Tasman District Council	368	270	343	



Comparison with other Councils Estimated Value of Work	Q1 Jul-Sep14	Q2 Oct-Dec15	Q3 Jan-Mar15	Q4 Apr-Jun14
Nelson City Council	\$40,847,315	\$19,706,269	\$23,976,608.00	\$9,688,953.00
Marlborough District Council	\$35,098,201	\$41,551,799	\$28,269,920.00	\$40,513,206.30
Napier City Council	\$16,691,879	\$27,027,207	\$17,203,442.00	
Tasman District Council	\$41,851,635	\$33,925,686	\$41,687,207.00	



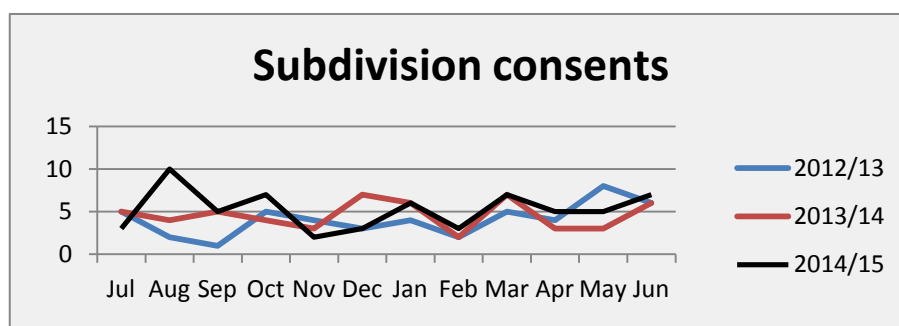
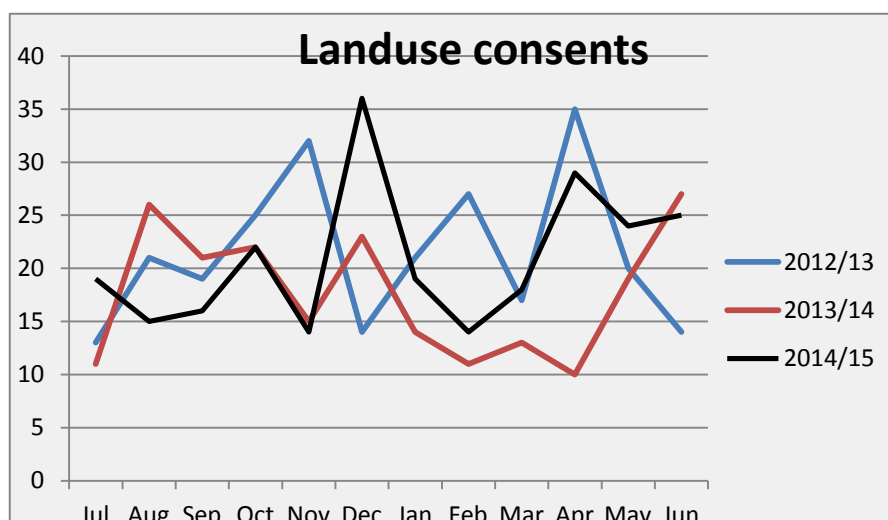
Attachment 2

Consents and Compliance Statistics 1 April – 30 June 2015

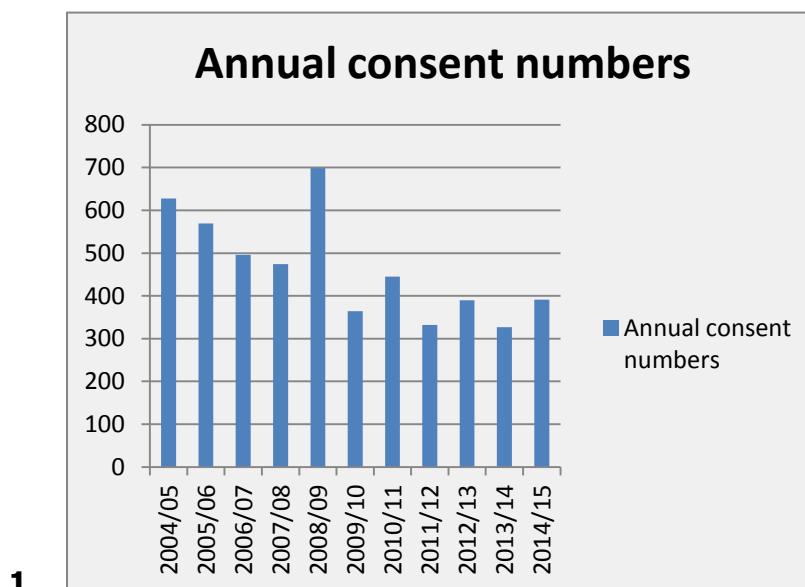
1. Resource Consent Processing Times

Month	NON NOTIFIED				NOTIFIED AND LIMITED NOTIFIED		
	% processed on time	Average process days	Median process days	Consent numbers	% processed on time	Average process days	Consent numbers
April	100	11	13	38			0
May	100	10	8	33			0
June	100	10		43			0
Average from 1 July 2014	100	12	12	31	83	59	1
Total from 1 July 2014				376			15
2013/14 average	98	13	13	26	100	54	1
2013/14 totals				316			11

2. Land use and subdivision consent numbers



3. Annual total consent numbers



4. Parking Performance

Activity	April	May	June
Enforcement			
Safety	93	144	120
Licence labels /WOF	356	422	382
Licence labels/WOF (Warnings)	330	217	176
Central Business District meters	1100	969	801
Time Restrictions	537	566	522
Total Infringement notices issued	2416	2318	2001
Service Requests			
Abandoned Vehicles	10	23	22
Requests for Enforcement	46	36	36
Information /advice	42	36	33
Total service requests			
Courts			
Notices lodged for collection of fine	430	334	345
Explanations Received			
Explanations declined	45	61	60
Explanations accepted (within guidelines)	57	44	35
Explanations accepted (outside guidelines)	66	64	52

Activity	April	May	June
Explanations accepted (warden error)	2	0	1
NOTE: Tickets are cancelled when explanation accepted			

5. Environmental Health and Dog Control Activities

Activity	Responses			Year to Date
	April	May	June	
Dog Control	151	188	151	2041
Resource consent monitoring	130	151	198	1548
Noise nuisance	77	49	35	971
Bylaw / Building / Planning	45	65	32	809
Liquor applications	33	37	24	421
Liquor Inspections	7	16	32	188
Pollution	10	12	22	261
Stock	3	5	3	71

6. Summary of Hearing Panel Activities

Date	Matter	Location	Outcome
1/4/15	Objection to classification of a dog as dangerous under the Dog Control Act 1996	N/A	The objection was dismissed and the dangerous dog classification upheld
1/4/15	Applications for exemption under section 6(1) of the Fencing of Swimming Pools Act 1987	8 Pinnacle Place	Exemption granted subject to conditions
		669 Fifeshire Crescent	Exemption granted subject to conditions
		54 Scotia Street	Exemption granted subject to conditions
		37 Douglas Road	Exemption granted subject to

Date	Matter	Location	Outcome
			conditions
		199A Annesbrook Drive	Exemption granted subject to conditions
		71 Golf Road	Exemption granted subject to conditions
		4 Harford Court	Exemption granted subject to conditions
		64 Fifeshire Crescent	Exemption granted subject to conditions
		31 Roto Street, Nelson	Exemption granted subject to conditions
1/4/15	Street naming application	Stage 6 of the Springlea Heights subdivision off Frenchay Drive	"Bristol Lane" name approved
28/5/15	Applications for exemption under section 6(1) of the Fencing of Swimming Pools Act 1987	63 Newman Drive	Exemption granted subject to conditions
		9 Taunton Place	Exemption granted subject to conditions
		411 Waimea Road	Exemption granted subject to conditions
		78 Newman Drive	Exemption granted subject to conditions
		5 Francois Way	Exemption granted subject to conditions
		13 View Mount	Exemption granted subject to conditions
		207/283 Wakefield Quay	Exemption granted subject to conditions

Date	Matter	Location	Outcome
		3 Citrus Lane	Exemption granted subject to conditions
		21 Cherry Avenue	Exemption granted subject to conditions
		3 Taunton Place	Exemption granted subject to conditions
		164 Quebec Road	Exemption granted subject to conditions

7. Harbourmaster Patrol Hours

Month	Patrol Hours
April	69
May	86
June	64

8. Official Information Act Requests

Period	Number received	Number completed	Number outstanding
1 April – 30 June	28	26	2

9. Summary of Legal Proceedings

Party	Legislation	Matter & date of initial action	Status
Jatco Holdings	WHRS Regulations 2007	Building defects, claim for negligence in NCC issuing building consent and Code Compliance Certificate in 2004/2005	Hearing is timed for 20 July in Wellington High Court. No resolution has been reached currently so preparations for court are underway.
Handforth	Building Act 2004, Building Regulations 1992	28 September 2014 Notice to Fix issued for Construction of a retaining wall without building consent. In addition the engineers information indicates the wall is not in compliance with the Building Regulations 1992.	Proceedings underway under the Criminal Proceedings Act to the owner of the property for failing to comply with the Notice to Fix. Final resolution meeting planned early July to see if prosecution can be avoided. Otherwise call date of July 8 for first appearance.
R MacDonald	Resource Management Act 1991	Appeal against abatement notice for breach of fence rule 30 April 2015	Awaiting mediation date from the Court
W Luthje	Resource Management Act 1991	Appeal against abatement notice for breach of access splay rule 22 April 2015	Awaiting mediation date from the Court



REPORT R4489

Local Approved Products Policy (LAPP) Deliberations Report

1. Purpose of Report

- 1.1 To provide information and recommendations to support deliberations on a draft Local Approved Products Policy.

2. Delegations

- 2.1 The Planning and Regulatory Committee has delegated authority to hear and deliberate on submissions for, and to recommend final decisions on, Special Consultative Procedures falling within its area of responsibility. Matters of Public Health and Safety, including the Local Approved Products Policy, are within this area of responsibility.

3. Recommendation

THAT the report Local Approved Products Policy (LAPP) Deliberations Report (R4489) and its attachments (A375469, A1111554, A1378409, A1277140, and A1389122) be received;

AND THAT the draft Local Approved Products Policy be amended as necessary to reflect the Committee's decisions on submissions.

Recommendation to Council

THAT the Local Approved Products Policy (A375469) be adopted.

4. Background

- 4.1 The Psychoactive Substances Act 2013 (the Act) commenced on 18 July 2013 and regulates the manufacture and sale of psychoactive substances, which are the active ingredients in party pills, energy pills and herbal highs. Prior to the Act these substances were able to be sold without any form of regulation.
- 4.2 The Act is administered by the Ministry of Health (the Ministry) which initially created interim licences to allow the sale and supply of a limited

range of products until full implementation of the Act. Following expressions of public concern, all psychoactive substances were withdrawn pending the establishment of a testing and licensing regime.

- 4.3 The Act prohibits the selling of psychoactive substances from a number of specified types of outlets including dairies, supermarkets, automotive retail outlets, alcohol outlets, and non permanent premises such as street carts. The Act is less prescriptive about which type of outlets can sell psychoactive substances once these are again available.
- 4.4 Previously, there were two main outlets in Nelson City selling psychoactive substances: one an R18 store and the other a general retail outlet targeted at the youth market. Products were also available on-line. The lack of regulation meant that there was no real control over the age of people buying products, on who could sell products, or quantities and form of products sold.
- 4.5 Local authorities have a role in the adoption of a Local Approved Products Policy (LAPP) to regulate geographic locations where approved products can be sold within their area. As at June 2015, 37 local authorities had adopted LAPPs.
- 4.6 Councils may regulate the location of premises by reference to: broad areas; proximity of other premises from which approved products are sold; and proximity to premises or facilities of a particular kind or kinds.
- 4.7 Councils cannot ban (or regulate to the extent that it effectively creates a ban) the sale of approved products. It is also not the role of councils to issue licences, or make decisions about numbers of licences. This is the role of the Psychoactive Substances Regulatory Authority.
- 4.8 It should be noted that given the stringent testing system that will be used as part of the application for product approval, the open market for such products has effectively ceased and some commentators believe it will be 5 to 10 years before any legitimate trade is re-established.
- 4.9 Recent communication from the Ministry states that there is no plan to amend or repeal the Act and the development of the testing and licensing regime is proceeding. As yet no applications have been received for testing of products. Licences for retail of products cannot be received until a regulatory system has been established. This is expected to be by November 2015.
- 4.10 Although a LAPP also does not take effect until the regulations are in place, it is considered useful to complete the process of adopting a Policy. This is because once the issuing of licenses does begin, the Authority can be guided by the LAPP in making its decisions.

5. Discussion

The LAPP development process to date

- 5.1 On 28 November 2013, the Governance Committee approved a draft LAPP which included a map showing the proposed area where approved products could be sold (Attachments 1 and 2). It was agreed that the hearings and deliberations on the draft Policy would be carried out by the Planning and Regulatory Committee with a recommendation made to Council for a final decision. The consultation took place between 3 December 2013 and 20 January 2014.
- 5.2 At the close of the submission period, ten submissions had been received. At the Planning and Regulatory Committee meeting of 28 January 2014, it was agreed that hearings would take place but that deliberations should be delayed until further information was available from the Ministry. It was later decided, at the Planning and Regulatory Committee meeting of 18 February 2014 that hearings would also be delayed. The information from the Ministry, which relates to licensing and retail regulations, was expected to be available in mid 2014 but is now timed for November 2015.
- 5.3 On 27 November 2014, submissions on the draft policy were heard by the Planning and Regulatory Committee. Two submitters presented at the meeting: the Health Action Trust and the Nelson Marlborough District Health Board. A third submitter that had previously indicated a wish to be heard (Be Adult Boutique) did not attend.

Nelson City Council Draft LAPP

- 5.4 The draft LAPP proposes to:
- Limit the location of premises selling psychoactive substances to the Nelson Inner City Zone – Centre City as defined in the Nelson Resource Management Plan. This restriction is proposed on the basis that the area has high foot traffic and thus a level of informal surveillance to provide a deterrent to any antisocial behaviour;
 - Prohibit the location of premises within 100 metres of those premises already licensed for the sale of approved products;
 - Prohibit the location of premises within 100 metres of a kindergarten, early childhood centre, school, library, community centre, reserve, playground, or place of worship.

Summary of submissions

- 5.5 The Council received a total of ten submissions. A summary of the submissions with officer comments is appended as Attachment 3. The complete submissions are appended as Attachment 4.
- 5.6 Of the ten submissions received:

- four submitters asked Council to lobby Central Government for a ban on psychoactive substances;
- two submissions (Youth Council and Public Health Service) supported the draft policy;
- two asked for a restriction on the number of licences granted;
- a number of submissions commented on location or proximity of licensed premises in relation to learning institutions, including Nelson Marlborough Institute of Technology, and to premises selling alcohol;
- two submitters wanted no outlets in Stoke or Tahunanui;
- one submitter sought an extension to the proposed area for permitted premises to beyond the Inner City Zone (as defined the NRMP) to the Western City Centre Expansion Area (as identified in the Heart of Nelson Strategy).

5.7 The Planning and Regulatory Committee heard from two submitters on 27 November 2015: the Health Action Trust and the Nelson Marlborough District Health Board. Both spoke of the need to promote safety and minimise harm to users and members of the community. An extract of the minutes of the Planning and Regulatory meeting which pertain to the LAPP hearings are appended as Attachment 5.

6. Options

6.1 The following options are available for the next step in adopting a LAPP:

- Option One: Adopt the draft Policy without amendments.
- Option Two: Make amendments with reference to the submissions received, including those two which were heard, and adopt the amended Policy.
- Option Three: Propose a draft Policy which contains significant changes from that draft already consulted on, and begin a new special consultative procedure.
- Option Four: Defer deliberations about the draft Policy development pending further information from the Ministry of Health, including possible deferment until testing systems actually begin.
- Option Five: Decide to not implement a LAPP, and use the controls available under the Nelson Resource Management Plan and local bylaws to manage sale and public use of approved psychoactive substances.

6.2 It is recommended that either Option One or Two are progressed. The Ministry is yet to finalise the regulatory regime for psychoactive substances, therefore any actual availability of these substances may be some time away depending on the stringency of the regulations.

However, having a LAPP already in place prior to any licenses being applied for will provide guidance for the regulatory authority in its assessments.

- 6.3 Officers do not recommend that any major amendments are made which would require a new consultation at this stage, as there have been no developments at either the regulatory level, or through the appeals process, that would necessitate amendments to the draft.
- 6.4 Putting aside those submissions which raised issues unable to be addressed by Council, the majority of submitters support the draft policy. The two agencies who spoke to their submissions are arguably two of the most experienced in terms of dealing with the effects of psychoactive substances on the user, and they both support the draft LAPP.
- 6.5 Options one or two both fit with the requirements under the LGA in terms of being cost effective and in anticipating both current and future circumstances.
- 6.6 There are no costs associated with adopting the LAPP under either Option one or Option two, nor are there likely to be further costs associated with Option five (to not adopt a LAPP).
- 6.7 If the draft LAPP is not adopted, and a new consultation is undertaken, there will be costs incurred in staff time. There may also be further staff costs associated with continuing to delay adopting the LAPP as it is not at this point known what the timeframes will be, or what the regulations will contain. Delaying for too long a time, may result in the need to hold a new consultation.

7. Alignment with relevant Council policy

- 7.1 The decision to recommend a LAPP fits with Council's strategic documents, including its Long Term Plan, Nelson 2060, and the Council's Community Outcomes. It also fits within the powers given Council under the Psychoactive Substances Act.

8. Assessment of Significance against the Council's Significance and Engagement Policy

- 8.1 The Act requires that a LAPP must be adopted in accordance with the special consultative procedure. This process has been followed.

9. Consultation

- 9.1 The draft LAPP has been consulted on using the special consultative procedure outlined under section 83 of the Local Government Act. A statement of proposal was adopted in November 2013, and consultation took place between December 2013 and 20 January 2014.
- 9.2 Ten submissions were received, and those agencies who wished to do so, submitted their views on the proposed draft policy on 27 November

2014. This process, and the reasons for the delay in hearing of submissions, has been outlined earlier in this paper.

10. Inclusion of Māori in the decision making process

- 10.1 Maori were consulted with as part of the wider consultation for the development of the draft LAPP.

11. Conclusion

- 11.1 This paper seeks a decision on the adoption of a Local Approved Products Policy. It is recommended that Council either adopt the draft Policy or adopt it with minor amendments, reflecting the community views brought forward during the consultation period.
- 11.2 The Government is yet to finalise the regulatory regime for psychoactive substances. Once this has happened, there will be a significant testing period before these substances are made available, if at all. Despite this likely timeframe, having a local policy in place prior to licences being issued and products being sold, will enable the regulatory authority to be guided in making its decisions by criteria developed by Council in association with the community.
- 11.3 Any significant changes that take place at a Government level that might influence the LAPP can be incorporated as future amendments to the Policy.

Susan Moore-Lavo
Policy Adviser

Attachments

- Attachment 1: A375469 - Draft Local Approved Products Policy
- Attachment 2: A1111554 - Map LAPP
- Attachment 3: A1378409 - Summary of Submissions
- Attachment 4: A1277140 - Complete Submissions (*Circulated separately*)
- Attachment 5: A1389122 - Extract Minutes of Hearings LAPP

DRAFT LOCAL APPROVED PRODUCTS POLICY**1. PURPOSES OF THE POLICY**

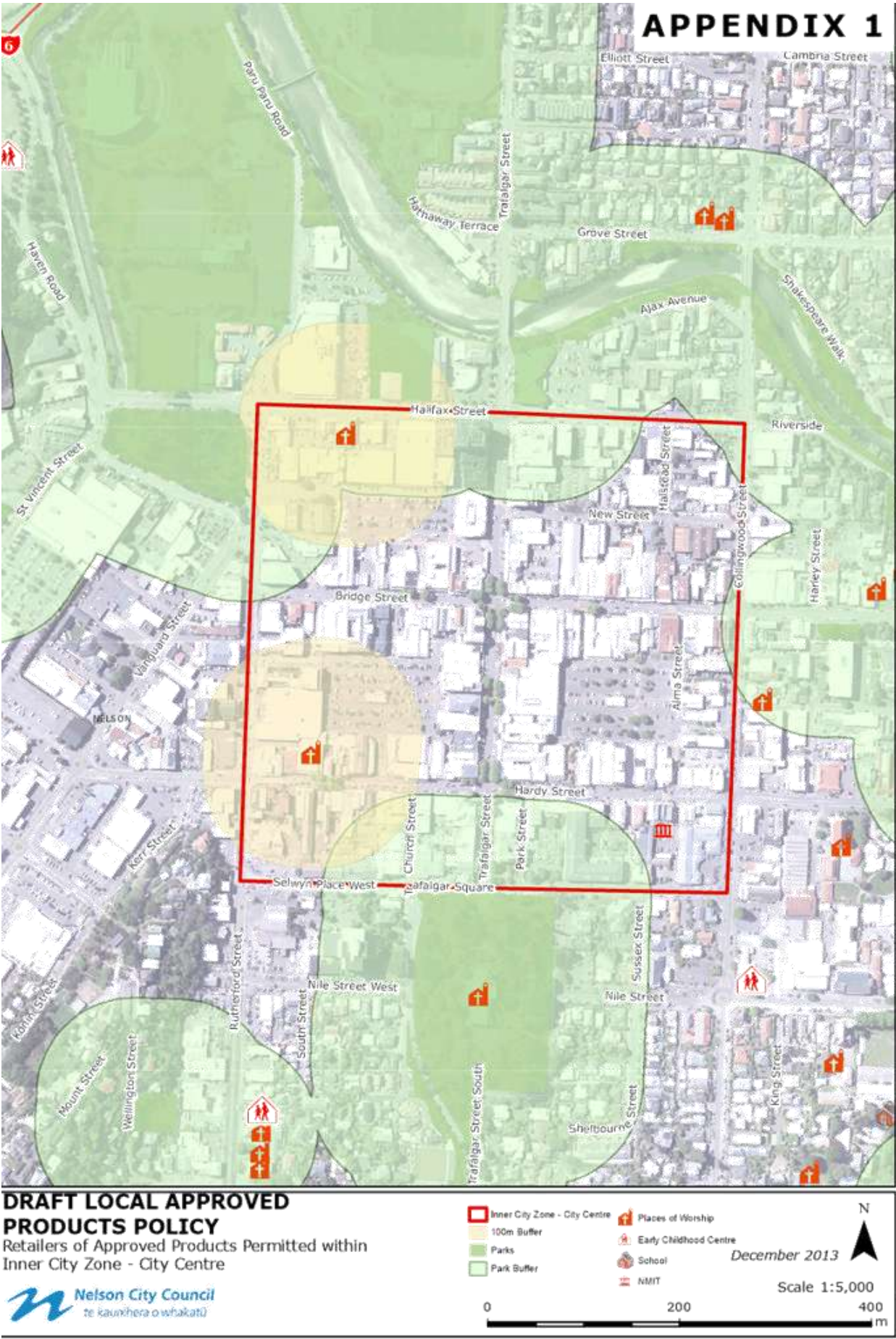
- 1.1 The Nelson City Council is proposing to have a policy relating to the location and density of points of sale for products approved under the Psychoactive Substances Act 2013. The policy covers points of sale within the Nelson City Council territorial authority area. Sections 66 to 69 of the Psychoactive Substances Act 2013 set out the matters that may be contained in the policy.

2. OBJECTIVES OF THE POLICY

- 2.1 To minimise the harm to the community caused by psychoactive substances by limiting the location and density of the retailers of approved products.
- 2.2 To ensure that Council and the community have influence over the location and density of retailers of approved products in the District.
- 2.3 To minimise the potential for adverse effects from the sale of psychoactive substances in residential areas, near recreational facilities and other inappropriate locations.
- 2.4 To minimise the exposure and potential for harm to vulnerable communities from the sale of psychoactive substances.

3. LOCATION OF PREMISES FROM WHICH APPROVED PSYCHOACTIVE PRODUCTS CAN BE SOLD

- 3.1 Premises licensed for the sale of approved products under the Psychoactive Substances Act 2013 must be located within the Nelson Inner City Zone – City Centre, as defined in the Nelson Resource Management Plan.
- 3.2 Premises licensed for the sale of approved products under the Psychoactive Substances Act 2013 are not permitted within 100 metres of a kindergarten, early childhood centre, school, library, community centre, reserve, playground or place of worship.
- 3.3 New licenses for the sale of approved products under the Psychoactive Substances Act 2013 are not permitted from premises within 100 metres of an existing premise holding a licence (interim or full) to sell approved products.



Summary of Submissions received on the Draft Local Approved Products Policy

Submission Number	Submission Name	Submission recommendation	Submission rationale	Officer comment
1	Derek Nees	Central Government should be lobbied to ban psychoactive substances	These substances cause harm to users	Government has indicated that it has no plans to amend the legislation and ban psychoactive substances. It has stated that the new testing regime will ensure that only substances proven to have a low risk to the user will be able to be legally sold.
2	Debbie Christie Nelson Bays Primary Health	Would like policy to limit the number of new licences		Under the Act LAPP's can only restrict on the basis of location/proximity to other sites – cannot set limit on total number of licences
3	Jacquetta Bell Community and Whanau, CWTAS and Victory Community Centre	Preference to see legal highs banned in Nelson. Urge Nelson City Council to lobby Central Government to limit their sale and run a media campaign	Concerned that legal highs remain widely available and that businesses selling them do not self regulate who they sell to. Dealing with the impact of these substances is tying up health resources in an unsustainable way	Government has indicated that it has no plans to amend the legislation and ban psychoactive substances. It has stated that the new testing regime will ensure that only substances proven to have a low risk to the user will be able to be legally sold.
4	Katie Greer	Request that number of outlets be restricted to two within the district. Supports not allowing outlets in		Under the Act LAPP's can only restrict on the basis of location/proximity to other sites – cannot set limit on total number of

Submission Number	Submission Name	Submission recommendation	Submission rationale	Officer comment
		Tahunanui and Stoke		licences
5	Queenie Balance National Council of Women Nelson Branch	Prefer the banning of sale of these substances. Support no sales in Tahunanui and Stoke and suggest over time the 100m restriction be extended.	Minimise exposure and potential for harm to vulnerable communities	LAPP's cannot ban substances, or restrict to the extent that a ban is created by default. The 100m distance is consistent with the Gambling Policy.
6	Rosey Duncan Health Action Trust	Recommend restricting sales outlets to a 100 metre distance from NMIT as per the distance from schools Recommend restricting sales outlets to a minimum distance of 50 metres from alcohol outlets Recommend that council provide relevant health promotional information to all local psychoactive outlets when licenses are granted by the authority. We could assist with providing such material.	The demographic of the student age-group is central to the target demographic of the sales Slight reduction in permissible outlet locations, less likelihood of people leaving bars and purchasing psychoactive substances while under the influence of alcohol, reduces the likelihood of town developing "druggy areas", increased difficulty with which people can purchase alcohol and other psychoactive substances on the same journey, thereby reducing likelihood of combined usage.	Extending the restriction to include NMIT would be consistent with the treatment of schools as sensitive sites. The 100m distance is consistent with the Gambling Policy. The regulations being developed will contain those which apply to the labelling and packaging of products. It is expected that health warnings will be part of the requirements.

Submission Number	Submission Name	Submission recommendation	Submission rationale	Officer comment
7	Nelson Youth Council	Support policy Request that Council lobby central government to ban these substances in the region	Consider these substances to be dangerous and harmful to young people – making them easily accessible is putting people at risk	Government has indicated that it has no plans to amend the legislation and ban psychoactive substances. It has stated that the new testing regime will ensure that only substances proven to have a low risk to the user will be able to be legally sold.
8	Be Adult Boutique Limited	Central City zone should be extended to include the Western City Centre Expansion area as outlined in Heart of Nelson Strategy. Could be graduated distance from sensitive sites from 50 – 100 metres.	The submitter proposes the wider zone as this is already designated for office and retail space, and does not contain schools or sensitive sites. Proposes a graduated distance as submitter does not consider that parks or places of worship are as sensitive as schools.	The 100m distance is consistent with the Gambling Policy.
9	Grant Hall The STAR Trust	Restrictions should be no stricter than those applying to alcohol sale. Proposes distance from sensitive sites should be 50 metres.	Once regulated, psychoactive substances will be low risk, and no greater risk than alcohol.	The 100m distance is consistent with the Gambling Policy.
10	Dr Ed Kiddle Public Health	Supports the development of a LAPP	100m is seen as too restrictive and likely to exclude outlets from rightfully establishing.	Extending the restriction to include NMIT would be consistent with the treatment of schools as sensitive

Submission Number	Submission Name	Submission recommendation	Submission rationale	Officer comment
	Service	Recommend reducing the 100m restriction to 50m for sensitive sites Proximity restriction should include NMIT as a school	Question whether a reserve should be included in the policy as a sensitive site. As a place where young people congregate, there should be restrictions	sites. The 100m distance is consistent with the Gambling Policy.

EXTRACT FROM THE Minutes of a meeting of the Planning and Regulatory Committee

Held in the Council Chamber, Civic House, 110 Trafalgar Street, Nelson

On Thursday 27 November 2014, commencing at 1.04pm

Present: Councillor B McGurk (Chairperson), Her Worship the Mayor, Councillors K Fulton (Deputy Chair), I Barker, R Copeland, E Davy, M Lawrey, and M Ward, and Glenice Paine

In Attendance: Councillors T Skinner, P Matheson, G Noonan, and L Acland, Group Manager Community Services (C Ward), Kaihautu (G Mullen), Group Manager Strategy and Environment (C Barton), Manager Administration (P Langley), and Administration Adviser (F O'Brien)

Apology: Councillor E Davy for lateness

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

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

Health Action Trust

Rosey Duncan spoke on behalf of Health Action Trust and tabled a document (A1283757). Ms Duncan noted that simply to ban psychoactive substances was not an effective harm minimisation plan as illegal sources could still be found. Ms Duncan stated regulation was necessary as if products were not covered by legislation dangerous products would still be sold. The benefit of regulation would be to place potential harm and responsibility on manufacturers and risk of harm would be displayed on products.

Regarding the location of drug use Ms Duncan suggested that visibility was a safety issue and that the future of psychoactive drug use would

likely become similar to that of Amsterdam with strict guidelines around safe location and regulation. She mentioned that the perception of these products would change as they become part of society and need to be dealt with in a way which shows acceptance.

Ms Duncan proposed an exclusion zone distance of 100 metres from learning institutions and the suggested zone to be made to include Nelson Marlborough Institute of Technology. It was noted that regarding information provision, Council collaboration with the Ministry of Health was recommended, and any auditing of code should be done externally.

In response to a query regarding the change to level of availability Ms Duncan stated that drugs were still available and it was not the drugs used that were the problem but the levels used. There was no regulation of potency levels in illegal drugs and if legal products were available then advice could be given regarding responsible use.

Nelson Marlborough District Health Board (NMDHB)

Dr Ed Kiddle and Jan Anderson, on behalf of the NMDHB, spoke on the necessity of the Act to promote safety and minimise harm and discussed the need for appropriate sale locations to be established as the ban on psychoactive substances had not stopped their availability and there needed to be regulation.

Dr Kiddle suggested that the Local Approved Products Policy (LAPP) be restricted to the CBD area and within 50 metres of educational facilities rather than 100 metres and noted that age of users had yet to be defined in regulations.

A suggestion was made for Council collaboration with District Health Board to establish a drug use safety strategy and it was noted that many parallels existed with alcohol issues.

Queries were raised around overuse and addiction and it was mentioned that some drug users have a tendency to overuse no matter the restrictions but the issue lay more in the area of withdrawal issues such as insomnia. Manufacturers had begun looking into lower addiction drugs.

A query was voiced whether to align substance regulations with alcohol regulations but this was not recommended as instant intoxication with drug users was unlikely.

Be Adult Boutique Limited

Be Adult Boutique Limited did not speak at the hearing.



Nelson Plan Update August 2015

1. Purpose of Report

- 1.1 To update the Committee, as part of officers regular reporting, on the progress of the Nelson Plan and details matters covered in recent Council workshops.

2. Delegations

- 2.1 The Planning and Regulatory Committee are delegated powers to make review and make amendments to the Nelson Resource Management Plan.

3. Recommendation

THAT the report Nelson Plan Update August 2015 (R4497) and its attachment (A1378644) be received;

AND THAT a further update relating to the Nelson Plan is provided in December 2015.

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 which are being used as a starting point to guide the development of the Nelson Plan.
- 4.2 A further report went to the November 2014 Planning and Regulatory committee providing an update on Nelson Plan programme progress, engagement, and technical work completed.
- 4.3 Additional updates have been provided to the Planning and Regulatory Committee via the Strategy and Environment quarterly reports.
- 4.4 A number of workshops have been held with Council between March and June 2015. This report provides a further update on the Nelson Plan progress and outlines the broad outcomes of the Council workshops.

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 a stakeholder engagement process has now commenced with broader public consultation planned in the coming months.
- 5.2 A programme plan for the Nelson Plan has been developed. An update on community engagement is provided below (refer paragraph 5.21). The programme plan establishes a number of workstreams that closely link to the Strategic Outcomes (e.g.) Hazards, Coastal, Landscape, Biodiversity etc.
- 5.3 Further workshops are planned from now until October 2015 to consider feedback ahead of citywide consultation later in the 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 Council decided in December 2014 to merge the review of the Air Quality Management Plan with the Nelson Plan review but to give air quality management a priority in the process.
- 5.5 Consequently the Nelson Plan programme has been altered to focus on producing a draft air chapter by December 2015 with notification planned for March 2016.
- 5.6 It is proposed that a further paper be presented to Council in December highlighting work undertaken to that date and work required to be completed prior to notification of the Nelson Plan.
- 5.7 A number of Council workshops have been held between March and July 2015. A copy of the approach to draft objectives, policies, and methods reflecting feedback from Council workshops is provided in Attachment 1. A summary of those workshops is provided below.

Nelson Plan Overview (17 March 2015)

- 5.8 An outline was presented regarding the role of Councillors and officers in the development of the Nelson Plan. Councillors indicated a preference for an independent hearing panel given the need for technical expertise and the amount of time taken for the hearing process.
- 5.9 An overview of the Nelson Plan programme was provided including the agreed three step engagement process being key stakeholders, wider community, and formal RMA process. An update was also provided outlining the engagement and technical work undertaken.
- 5.10 Councillors expressed an interest in getting a better understanding of the NRMP. A separate workshop was held with the consents staff to provide an overview on the NRMP on 23 June 2015. The 26 May 2015 Nelson

Plan workshop provided an overview of the NRMP provisions and the areas of the plan with a focus for change.

Development and Infrastructure (28 April 2015)

- 5.11 An overview of growth and development issues was presented. This included matters such as the need to provide for an older and aging population and smaller household size, housing choice and affordability, urban consolidation and infrastructure alignment, provision of greenfield and brownfield development opportunities, maximising central city potential, sustainability of rural activities, constraints on industrial growth, and the need to address hazard risk. A range of methods were traversed including regulatory, public investment, financial, and development facilitation. There was discussion about the need to coordinate infrastructure and land use and the overlap with the LTP and Development Contributions Policy.
- 5.12 Councillors identified the need to establish a Developers Advisory Group to inform the development of the Nelson Plan. This group is being established.

Nelson Plan Overview Hazards (26 May 2015 and 9 June 2015)

- 5.13 An overview of the Nelson Plan was provided including significant resource management issues, strategic outcomes, summary of current NRMP provisions, proposed areas of change, discussion of future engagement plans (including advisory groups, stakeholder groups, large landowner discussions, area and topic based meetings, and wider community engagement) and timeframes. Councillors expressed a desire to have a broad engagement process.
- 5.14 In relation to hazards a wide range of information was provided with an initial emphasis on flooding and sea level rise. Information was also presented on liquefaction, earthquake fault lines, contaminated (HAIL) sites, and slope risk. Councillors heard developers concerns about Maitai flood modelling and identified the need for a clear procedure and a risk based approach to hazards generally.

Landscape and Coastal Natural Character (16 June 2015)

- 5.15 A presentation was given outlining the findings of the reports relating to Outstanding Natural Character in the Coastal Environment, Outstanding Natural Features and Landscapes, and work undertaken relating to amenity landscapes. A 3-D fly over was presented of where the landscape areas were located and some mock ups of potential development options in amenity landscape areas were presented. An outline of current plan provisions was provided as well as a range of options for changes to plan provisions.

- 5.16 There were discussions about the need to engage with the public and stakeholders to confirm values, and integrate landscape work with the growth work-stream.

Air (25 June 2015)

- 5.17 Councillors provided feedback on air quality issues, objectives, and methods and considered the focus for the review to be on woodburners with further options to be modelled. An engagement approach was outlined that involved community and stakeholder meetings over July/August, with modelling being completed, a community meeting in November with a draft plan to be considered in December 2015.

Biodiversity (30 June 2015)

- 5.18 An overview was provided of the Nelson Nature programme and the existing biodiversity provisions in the NRMP. An assessment was provided looking at future options for biodiversity management including general vegetation clearance controls, zone based controls, mapping of Significant natural areas, rules relating to specific habitat types, and a mixed approach that looks at mapping of SNA's where possible and habitat type controls.
- 5.19 The direction from the workshop was to explore the various options to contact affected landowners to discuss using existing survey information as a first step.

Freshwater (7 July 2015)

- 5.20 As part of the Freshwater workshop Councillors undertook a site visit to the Maitai River where they were provided with a first hand view of electric fishing and some of the native fish species present. The new inanga spawning area was also viewed and the benefits and successes discussed.
- 5.21 At the workshop Councillors were provided with an overview of the National Policy Statement for Freshwater Management (NPS-FM) and councils progress towards its implementation. The current state of Nelsons freshwater bodies, issues and contributing causes were also discussed and Councillors provided feedback on the freshwater values, desired outcomes, and potential methods.
- 5.22 As required under the NPS-FM, the Region has been broken into several Freshwater Management Units and stakeholder working groups. Councillors confirmed the freshwater management approach being taken and sought that the stakeholder working group meeting dates were included in the Councillor newsletter. These dates are Maitai 24 July and Stoke 12 August.

Heritage (21 July 2015)

- 5.23 Councillors had a presentation about the history of Albion Square and some of the issues facing heritage buildings at Fellworth House.

- 5.24 Councillors provided feedback on a draft objective, whether nominations should be council or community led, whether items that have no regulatory protection should be included in the Nelson Plan, implications for hazard risk, and how archaeological sites and sites of significance to iwi should be referenced in the Nelson Plan.
- 5.25 Minor wording changes were suggested to the proposed objective and there was a preference to have a mixed community/council led approach to heritage listings with nominations coming from the community and experts but the implications of those listings being discussed with landowners first. It was acknowledged that non-regulatory recognition was appropriate for listings with lower heritage value but that these listings could sit outside the Nelson Plan and would not attract council funding. It was acknowledged that hazard risk needed to be considered in the policy approach to heritage listings. A preference was identified for the approach taken by neighbouring Councils to rely more on Heritage NZ regulations for archaeological sites rather than doubling up and requiring resource consents for these sites. Overlays were supported where it is impractical to specifically identify all items.

Further workshops

- 5.26 A number of further workshops are planned between August and October 2015 as follows:
- Heritage – 21 July 2015
 - Iwi – 4 August 2015
 - Coastal – 27 August 2015
 - Integration of topics – 1 September 2015
 - Area based planning – 13 October 2015 (TBC)
 - Stoke – 20 October 2015 (TBC)

Engagement

- 5.27 Key Stakeholder engagement commenced in late 2014. The initial focus was on seeking feedback from key stakeholders with an interest in the Natural Resource area. Discussions then expanded to include city development issues such as Wakapuaka, Stoke, and the Central City. A number of meetings have also been undertaken with other key stakeholders such as planning professionals, developers, owners of large rural properties in the north of the city, infrastructure providers and the port and airport.
- 5.28 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. Councillors have indicated a desire to engage more with key stakeholders through the workshop process and additional meetings

have been set up such as woodburner community meetings and the Developers Advisory Group.

Technical Reports

- 5.29 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. This technical work has been provided to the Planning and Regulatory Committee through a range of means including Nelson Plan workshops, Strategy and Environment quarterly reports, and specific agenda items. A list of the technical work that has been presented to the committee/Council is in the Google Drive for councillors and is available on request from an Administration Adviser.
- 5.30 This technical work has informed discussions with key stakeholders to date. The intention is that this information will be made available to the wider public on Councils website once it has been presented to Council via Nelson Plan workshops or through agenda items. This work will be used to develop topic based consultation papers to be released to the community after the conclusion of Nelson Plan Council workshops in November. Feedback on these papers will inform the development of a Draft Nelson Plan.

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. Alignment with relevant Council policy

- 7.1 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
- 7.2 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.
- 7.3 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.
- 7.4 How we work with the community to develop the Nelson Plan will determine whether we achieve theme four – successful partnerships providing good leadership.
- 7.5 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.
- 8. Assessment of Significance against the Council's Significance and Engagement Policy**
- 8.1 This issue is not considered to be significant in terms of Council's significance policy.
- 9. Consultation**
- 9.1 Consultation on the Nelson Plan has commenced as outlined in the engagement section of this report (refer paragraph 5.21).
- 10. Inclusion of Māori in the decision making process**
- 10.1 Te Tau Ihu Iwi partners have been involved in the development of the Nelson Plan through the Iwi Working Group process.
- 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.

Matt Heale
Manager Planning

Attachments

Attachment 1: A1378644 - Summary of Council Workshops on Nelson Plan

Topic	Strategic Outcome	Draft objective	Draft Policies	Draft Methods
Air Quality	<p>Councils strategic outcome for Air sits within the natural resource outcome as follows:</p> <p><i>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</i></p> <p><i>This outcome will be achieved by creating:</i></p> <p><i>....Clean Air</i></p> <ul style="list-style-type: none"> <i>Our air quality is protected in a way that recognises our community's human health needs."</i> 	<p>Updates existing objectives to recognise the need to protect community's human health needs and developments and innovations in technology</p>	<p>Update existing Policies to acknowledge:</p> <p>Recent PM10 reductions data</p> <p>Technological changes</p> <p>Phase outs passed</p> <p>Potential capacity in Stoke and Brook/Wood/Atawhai</p> <p>Health effects of cold homes</p>	<p>Provision of zoning buffers in the NRMP between incompatible activities</p> <p>Subdivision standards to maximise solar gain</p> <p>Promotion of housing insulation</p> <p>Landfill management</p> <p>Use of MfE guidelines</p> <p>Education</p> <p>Financial incentive schemes</p> <p>Provision of meteorological and monitoring data</p> <p>Monitoring of ambient levels of contaminants to measure compliance</p> <p>On the ground compliance monitoring and advice followed by enforcement</p> <p>Promotion of composting, recycling, and waste reduction</p> <p>RLTP and Council operations to reduce vehicle emissions</p> <p>Dust management practices on Industrial sites</p>
Development and Infrastructure	<p>Councils strategic outcomes for development and infrastructure sits within the City Development outcome as follows:</p> <p><i>Creates a Vibrant and Attractive City</i></p> <p><i>Recognise and confirm Nelson City as the premier urban centre for the top of the South;</i></p> <p><i>Support business, including the marine sector;</i></p> <p><i>Explore land based aquaculture options;</i></p> <p><i>Promote efficient land use through:</i></p> <ul style="list-style-type: none"> <i>Enabling a wide range of housing choice;</i> <i>Encouraging residential intensification;</i> <i>Encouraging higher density clusters around key commercial centres such as the Central City, Victory, Tahunanui, and</i> 	<p>Updates existing objectives to recognise the need to strategically coordinate the provision of infrastructure with land use.</p> <p>Updates existing objectives to enable greater housing choice and intensification, especially in the city centre and suburban centres.</p> <p>Update existing city centre objectives to strengthen avoidance of retail leakage and strengthen design provisions to build on city centre character and amenity values.</p> <p>Update existing rural objectives to provide for greater housing choice and recognise importance of protection of environmental values.</p> <p>Provide for land based aquaculture at Wakapuaka.</p> <p>Retain urban design objectives.</p> <p>Update transport objectives to align with RLT and strengthen connected transport network and modal shift</p>	<p>Prioritise supply of infrastructure based on achievement of development goals/growth areas and growth projections/demographic changes.</p> <p>Identify growth area: greenfield and intensification including targets.</p> <p>Extend urban design policy framework through all zones.</p> <p>Strengthen retail containment policies.</p> <p>Strengthen residential intensification around centres framework.</p> <p>Provide land based aquaculture framework for Wakapuaka.</p> <p>Provide area based policy framework for Stoke, Tahunu, Victory, Wakapuaka and Hira.</p> <p>Provide rural based policy framework based on development opportunities balanced with protection of natural and cultural features.</p> <p>Provide policy framework to respond to hazards over next 50 to 100 years for development and infrastructure.</p>	<p>Identify future growth areas where new or more intensive development will be enabled.</p> <p>Encourage (eg through density targets, transition zoning, SHAs) more intensive development in and around centres.</p> <p>Stage the release of land to ensure coordinated provision of infrastructure.</p> <p>Identify major infrastructure projects required to support intensification and the release of land (i.e. through asset management planning and the infrastructure strategy).</p> <p>Review bulk, location, height, daylight, balcony and outdoor living area requirements in residential and city centre zones to enable greater housing choice.</p> <p>Require redevelopment within the city centre to be at least two storey.</p> <p>Review activity status of retail in zones other than city centre and suburban centres.</p> <p>Review residential activity status in city centre, suburban centres and industrial zones.</p> <p>Provide for second kitchens and minor units across the residential zone.</p> <p>Reduce carparking requirements for residential and city centre zones.</p> <p>Align engineering standards with Tasman District Council.</p>

Topic	Strategic Outcome	Draft objective	Draft Policies	Draft Methods
	<p><i>Stoke;</i></p> <ul style="list-style-type: none"> <i>Encouraging quality urban design;</i> <i>Considering the needs of rural communities.</i> <p><i>Co-Ordinates Growth and Infrastructure</i></p> <p><i>Considers demand for improvements in infrastructure assets and prioritises supply of infrastructure based on the achievement of strategic outcomes;</i></p> <p><i>Recognises and provides for key regional infrastructure (Port, Airport, water infrastructure, quarries, and landfills).</i></p> <p><i>Connects Communities</i></p> <p><i>Strategically links transport networks to provide for ease of access across the city and to the central city.</i></p> <p><i>Achieves natural resource outcomes</i></p>	<p>relative to centres and neighbourhood design.</p> <p>Provide development and infrastructure resilience to hazards.</p>		<p>Provide one stop shop/red carpet approach – reduce transaction costs with consenting.</p> <p>Adapt or retreat methods for hazards in urban areas.</p>
Terrestrial (Land based) Biodiversity	<p>Councils strategic outcome for Biodiversity sits within the natural resource outcome as follows:</p> <p><i>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</i></p> <p><i>This outcome will be achieved by creating:</i></p> <p><i>....Enhanced Natural Areas and Landscapes</i></p> <ul style="list-style-type: none"> <i>Protecting the city's indigenous biodiversity and connecting these areas.</i> <p>□</p>	<p>Consistent with current district wide objective:</p> <p><i>An environment within which natural values are preserved and enhanced and comprise an integral part of a natural setting.</i></p>	<p>Promotion of regulatory and non-regulatory methods as part of the Plan</p> <p>Working with landowners and acknowledging stewardship</p> <p>Maintain and enhance language</p> <p>Avoid adverse effects where required by NZCPS</p> <p>Acknowledge allowance for some suitable activities. Cultural, restoration, existing suitable activities</p>	<p>Strong focus on Non-regulatory methods through Nelson Nature</p> <p>Continued education</p> <p>Monitoring programmes</p> <p>Supporting community and landowner initiatives</p> <p>Biodiversity Forum</p> <p>Working with partner agencies in biodiversity area; DOC, MPI / Biosecurity Act</p> <p>Rules to act as a backstop and to define acceptable behaviours. Specific details to be refined once primary method of SNA identification, habitat type, or hybrid approach settled. General tenor to protect what we have, allow for enhancement, allow for desirable and compatible activities to occur, recognise landowner stewardship.</p>
Landscape	Councils strategic outcome for	Separate out outstanding items from	<u>Outstanding Landscapes and Natural Character</u>	<u>Outstanding Landscapes and Natural Character</u>

Topic	Strategic Outcome	Draft objective	Draft Policies	Draft Methods
and Coastal Natural Character	<p>Landscape and Coastal Natural Character sit within the natural resource outcome as follows</p> <p><i>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</i></p> <ul style="list-style-type: none"> <u>Landscape</u>: Protecting outstanding natural features and landscapes and mitigating adverse effect on wider landscape values including rural character. <u>Coastal Natural Character</u>: 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. 	<p>amenity items</p> <p><u>Outstanding Landscapes and Natural Character</u></p> <p>Overall objective to preserve and protect areas with identified outstanding values.</p> <p>Objectives recognising the differing requirements between the NZCPS 'avoid adverse effects' and RMA section 6 'preserve' and 'protect'.</p> <p><u>Amenity Landscapes</u></p> <p>Objective to maintain and enhance the character and quality of the setting of the city whilst recognising potential for urban growth.</p>	<p>Policy to accurately identify areas and attributed values</p> <p>Allow for the continuation of existing uses where these existed when assessment was carried out and are not detrimental to those values.</p> <p>Allowance for compatible cultural and / or economic use within iwi owned lands in particular</p> <p><u>Amenity Landscapes</u></p> <p>Recognise the visual qualities and sensitivities of particular areas such as ridgelines and skylines, and seaward facing slopes</p> <p>Policies to allow for managed development</p>	<p>Enabling rules which seek to allow compatible activities, and the continuation of existing activities where these meet requirements of RMA and NZCPS.</p> <p>Specific allowance for iwi cultural activities, use of redress lands, and expectations under Te Ture Whenua Maori Act 1993 and Marine and Coastal Area (Takutai Moana) Act 2011.</p> <p>Provisions specifically addressing aquaculture in the Coastal Marine Area identified as Outstanding. Likely to be limited opportunities due to NZCPS.</p> <p><u>Amenity Landscapes</u></p> <p>Methods for management of amenity landscapes to be reviewed to achieve a balance between amenity and growth potential. General approach not to discourage but to allow a level of managed growth consistent with the values of the area.</p> <p>Focus on immediate backdrop to Nelson</p>
Freshwater	<p>Councils strategic outcome for Freshwater sits within the Natural Resources outcome of:</p> <p><i>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</i></p> <p><i>This outcome will be achieved by creating:</i></p> <p>Clean and Accessible Water</p> <ul style="list-style-type: none"> Managing activities that may impact on 	<ol style="list-style-type: none"> All Nelson streams and rivers are of swimmable water quality To recognise and provide for wairua, mauri and mana Improve water quality – Te Mana o Te Wai, where degraded <ol style="list-style-type: none"> Ground water Surface water Maintain freshwater values Freshwater does not adversely affect coastal ecosystem health or coastal contact recreation and the interconnectedness is recognised and provided for The natural character of 	<p>Update existing Policies to acknowledge:</p> <p>NPS-FM – Maintenance and enhancement of water quality</p> <p>Water allocation constraints</p> <p>Technological changes for stormwater discharges from industrial premises/carparks etc</p> <p>Fish passage and instream biodiversity</p> <p>Goal of swimmable/fishable rivers</p>	<p>Review current methods including regulatory and non regulatory methods</p> <p>Look at new rules around:</p> <ul style="list-style-type: none"> Excluding stock from all freshwater bodies Managing piping and channelisation of open waterbodies. Managing discharge of raw sewage Establish levels for permitted water takes – urban/lifestyle/rural Manage earthworks to minimise sediment runoff to rivers and streams Require latest technology for sediment/silt and heavy metal trap technology for stormwater LDM: new stormwater requirements for subdivisions – use of infiltration beds, wetlands, etc Adopt National Environmental Standards for Production Forestry

Topic	Strategic Outcome	Draft objective	Draft Policies	Draft Methods
	<p><i>both water quality and quantity.</i></p> <p>Nelson 2060 - <i>Goal 3 aims to ensure that our natural environment is protected and healthy.</i></p>	<p>waterbodies is protected and where degraded restored towards its natural state</p> <p>7. The abundance and diversity of native fish species is enhanced/improved over time (threatened fish become more abundant in Nelson)</p> <p>8. Unobstructed fish passage across all of Nelson surface water bodies</p> <p>9. The abstractive uses of allocated freshwater are used efficiently</p>		<p>(NES-PF) – rules around planting and earthworks</p> <p>Potential Non regulatory methods:</p> <p>New developments encouraged to install rain water storage tanks for storage and times of drought</p> <ul style="list-style-type: none"> Permitted activity monitoring Target Nelson Nature funding to improve instream biodiversity with priority aimed at improving areas adjacent to popular swimming sites Project Maitai – targeted funding to improve swimming holes and native fish numbers/habitat Groundwater - amnesty to cap unused groundwater bores and consent users taking water without appropriate water permits Targeted programme to replace potentially leaking ‘concrete’ sewer pipes that cross under the beds of identified critical rivers/streams Increase number of telemetry flow monitoring sites to allow better understanding of stream flows and minimum flow rates Identify where ‘day-lighting’ (opening of piped streams, concrete channels) can occur to restore natural values. Develop gravel management strategies for all major streams
Hazards	<p>Councils strategic outcomes for Hazards sits within the City Development Outcome of:</p> <p><i>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.</i></p> <p><i>This outcome will be achieved by providing for growth and development in a way that:</i></p> <p>Adapts to Our Hazards</p> <ul style="list-style-type: none"> <i>Responds to an acceptable level of natural hazard risk for the community.</i> <p>Nelson 2060: <i>Goal 5 is focused around ‘rapidly adapting to change’</i></p>	<p>Updates existing objectives to recognise various approaches to managing hazard risk– retreat, adapt or protect</p> <p>Focus on a risk based approach – community acceptance/tolerance for risk</p>	<p>Update existing Policies to acknowledge:</p> <p>Hazard risk and acceptable community level of risk</p> <p>Retreat, adapt or avoid hazards</p> <p>Flood protection</p> <p>Hazardous substances – management/storage of</p>	<p>Education – information on building smart homes - adaptation</p> <p>Provision of risk data</p> <p>Taking of riparian areas</p> <p>Minimum set backs of new development from hazards – especially rivers and coast</p> <p>Simplify rules around determining use and storage of hazardous substances</p>

REPORT R4600

Submission on National Environmental Standard - Plantation Forestry

1. Purpose of Report

- 1.1 To adopt the attached Council submission on The Ministry for Primary Industries Draft National Environmental Standard for Plantation Forestry.

2. Delegations

- 2.1 The Planning and Regulatory Committee are delegated powers to lodge and present submissions to external bodies on policies and legislation relevant to the areas of responsibility.

3. Recommendation

THAT the report Submission on National Environmental Standard - Plantation Forestry (R4600) and its attachments (A1390532 and A1391485) be received;

AND THAT the submission (A1390532) is lodged with the Ministry of Primary Industries by 11 August 2015.

4. Background

- 4.1 The Ministry for Primary Industries are promoting a Draft National Environmental Standard for Plantation Forestry (NES-PF). Submissions close on **11 August 2015**.
- 4.2 The proposed NES-PF would override existing council rules relating to plantation forestry and replace them with a national standard with narrowly defined scope for councils to set more stringent rules. Some areas of the proposal have significant implications for the Nelson region and Councils statutory and community responsibilities including:
- Achieving the freshwater objectives and limits set by the stakeholder working groups for each of the freshwater management areas (Maitai, Stoke, and North Nelson).

- The protection of significant natural areas (SNAs) where they are not mapped in the NRMP or Nelson Plan.
- The time and resources necessary to review plans and make necessary changes, and ensure appropriate alignment across our region.
- Funding implications for Councils requirement to monitor and report on the permitted activities.

4.3 The proposed Council submission is attached.

5. Discussion

Proposed NES-PF

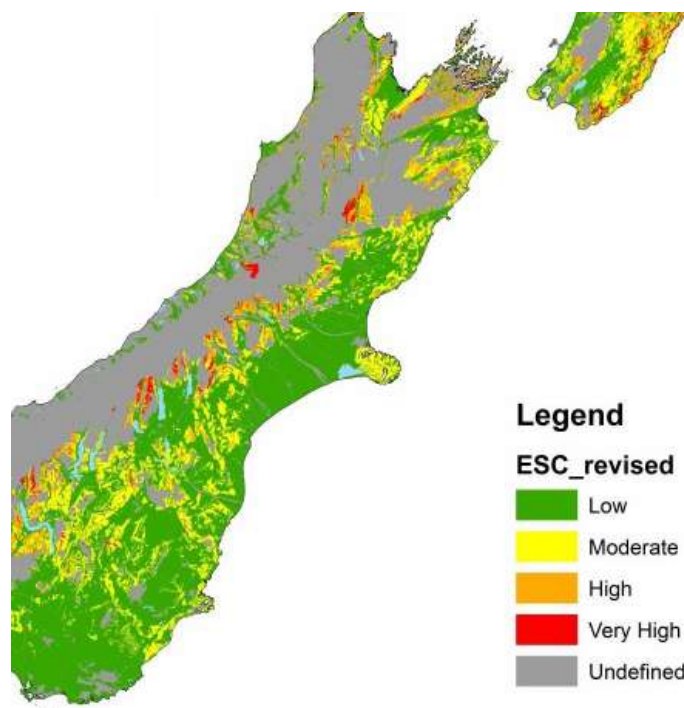
- 5.1 The Proposed NES-PF establishes technical standards for all plantation forestry across New Zealand, set out under the following eight activity categories:
- mechanical land preparation (eg root raking)
 - afforestation (including wilding spread and sedimentation from earthworks in erosion-prone areas)
 - earthworks (eg construction of roads and infrastructure)
 - forestry quarrying (for roading materials)
 - river crossings (eg culverts)
 - pruning and thinning-to-waste (slash/debris management)
 - harvesting
 - replanting
- 5.2 The principles underpinning the NES are that all forestry activities are permitted subject to performance standards. Controls have been included under the permitted activity performance standards for planting and replanting in or near water bodies, refuelling of machinery in water bodies, discharge of dust to air, and the disturbance of riverbeds.
- 5.3 The NES-PF will effectively override and replace existing council rules relating to plantation forestry in the NRMP (and Nelson Plan when proposed).
- 5.4 In some circumstances the NES allows councils to set more stringent rules but only for specified matters with formal recognition in plans or policies, including:
- the Freshwater NPS and NZ Coastal Policy Statement
 - groundwater systems for shallow aquifers within an identified drinking water protection zone
 - areas of known cultural or heritage value

- areas of mapped significant indigenous vegetation (with exclusions as permitted in the NES – eg incidental damage), habitats of indigenous fauna and outstanding natural features

5.5 The NES establishes three Environmental Risk Assessment tools including:

- wilding spread risk calculator
- fish spawning indicator
- erosion susceptibility classification (ESC)

5.6 Under the NES-PF approximately 90% of all production forestry related activities will be permitted. For the Nelson region, the vast majority of production forestry lands are classed in the Low and Moderate erosion risk categories – therefore, without other specified risk factors, plantation forestry would also be a permitted activity. Attachment 1 provides an overview of the erosion classification for Nelson.



5.7 The main overall concerns with the NES-PF for Council are outlined in the submission and include:

- Frequent use of uncertain language such as “as far as is practicable”, “if unavoidable”, “except where unsafe or impracticable to do so” is all too uncertain and unclear to enable effective monitoring and compliance by councils.
- Requirements for auditing permitted activities results in increased workloads and costs for the Council. Costs for managing this information are not recoverable for permitted activities.

- c) Third party approvals or processes for permitted activities (e.g. minimum afforestation distances from adjoining properties and dwellings, Heritage NZ).
- d) The requirements for provision of earthworks, harvesting and quarry management plans do not specify the required content or standards that must be met, nor are they able to be declined or improved if deficient. These plans should also be provided to councils without the need to request them.
- e) It is unclear what process councils are to follow where more stringent rules are required in addition to the NES-PF rules. For example to maintain and enhance waterbodies as required under the NPS for Freshwater Management (NPS-FM).

6. Alignment with relevant Council policy

- 6.1 Submitting on the NES-PF ensures that Council can meet its commitments to the Natural Environment priorities and to the following Council Outcome of healthy land, sea, air and water;
- 6.2 Ensuring that Council has the ability to manage resources and activities that have adverse environmental effects will be key for achieving the Nelson 2060 vision and goals. In particular robust planning rules for production forestry related activities are necessary if Council is to achieve Goal 3 of Nelson 2060: Our natural environment – air, land, rivers and sea are protected and healthy

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

- 7.1 This decision is not considered to be significant in terms of the Council's Significance and Engagement Policy.

8. Consultation

- 8.1 Council officers attended a meeting with MPI, LGNZ and several regional and district councils from the top of the south and the bottom of the North Island to discuss the NES-PF. Both LGNZ and the majority of councils have significant concerns with the proposed NES and the permitted activity principles underlying the rules. LGNZ has commissioned a solicitor to review the document in terms of its legality regarding the uncertain nature of the permitted activity performance standards and its relationship to other NES's and the NPS for freshwater.
- 8.2 A public meeting was held by MPI in Nelson where over 60 people attended. The main issues raised at the meeting by stakeholders and councils (including Tasman District Council and Marlborough District Council) were similar to those expressed by LGNZ.
- 8.3 Tasman District Council and Marlborough District Council will be making similar submissions to address the points of issue.

9. Inclusion of Māori in the decision making process

- 9.1 Officers have not met with iwi separately to discuss this submission. MPI have been held several hui with iwi groups, and public meetings around the country.

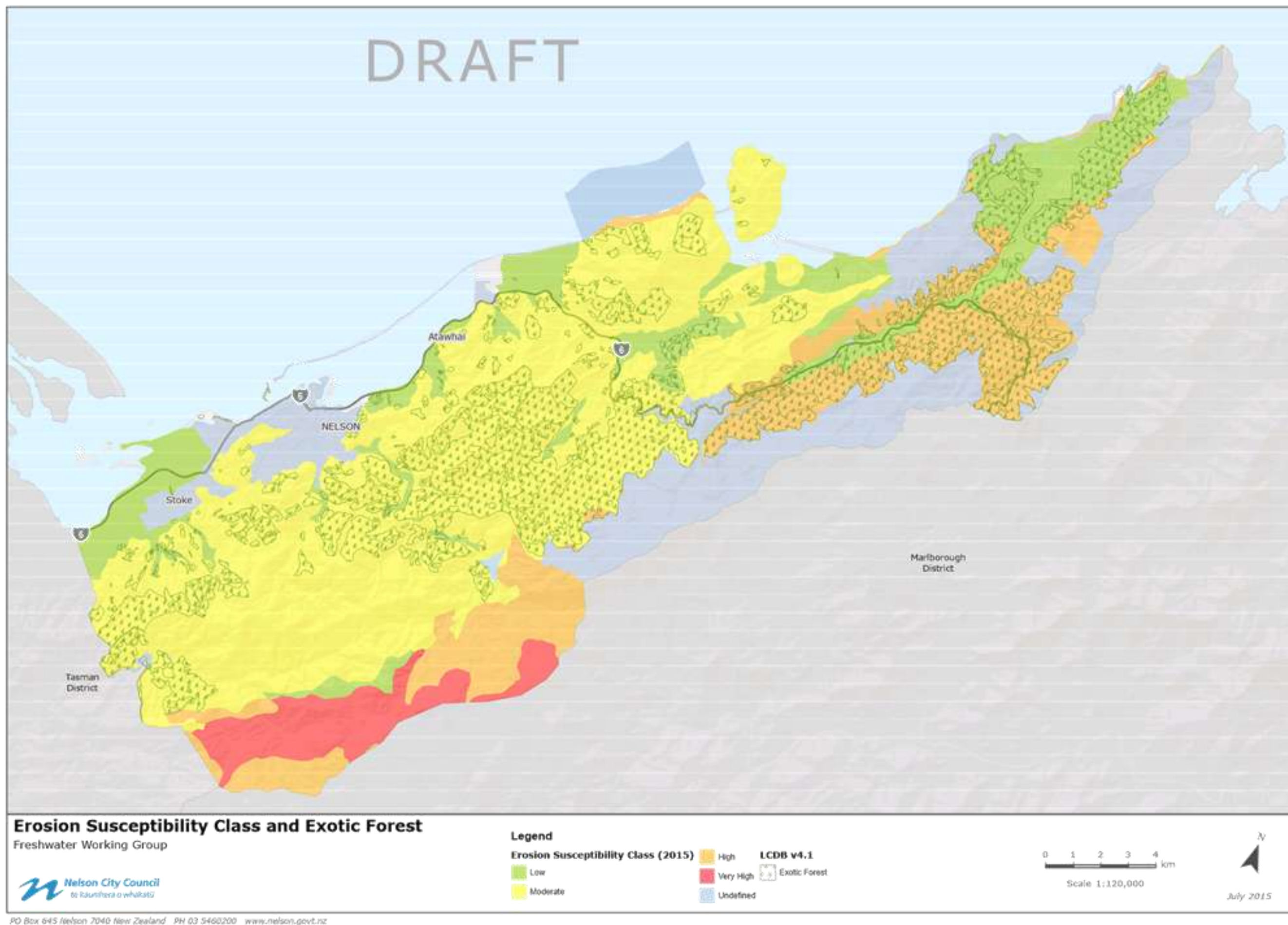
10. Conclusion

- 10.1 This report outlines a summary of the NES-PF and implications for Council. The proposed Council submission on the NES-PF is attached and it is recommended that this is endorsed and lodged with MPI by the 11 August 2015.

Sharon Flood
Senior Planning Adviser

Attachments

- Attachment 1: A1391485 - Nelson Erosion Susceptibility Classification - NES-PF
- Attachment 2: A1390532 - NCC Submission on NES-PF July 2015



NATIONAL ENVIRONMENTAL STANDARD FOR PLANTATION FORESTRY CONSULTATION DOCUMENT - JUNE 2015

Submission from NELSON CITY COUNCIL

The Nelson City Council appreciates the opportunity to comment on the consultation document of A National Environment Standard for Plantation Forestry (NES-PF).

1. Overview

In general, while Nelson City Council appreciates and supports the effort that has gone into developing an NES for plantation forestry and the improvements since the last iteration; this submission is largely in opposition to the proposed permitted activity standards and does not support the draft in its current form.

Nelson City Council is currently embarking on the development of an integrated second generation RMA plan review. The Nelson Plan aims to manage natural resources in an integrated and sustainable manner to maintain and enhance natural, ecological, recreational and cultural values. It is submitted that the NES-PF in its current form does not assist Council with meeting these objectives and may hinder its ability to manage the adverse effects from forestry related activities. Council requires the ability to be more stringent than allowed for in the NES-PF.

While the NES-PF tries to introduce a level of national consistency in relation to the plantation forestry sector, it does so in a way which starts from a premise that all activities should be permitted where the effects are largely unknown and introduce judgement and uncertainty. Language used such as "as far as is practicable", "if unavoidable", "except where unsafe or impracticable to do so" results in conditions that are litigious or unenforceable. This is at variance with the RMA and effects based planning. It is questionable therefore whether the proposed permitted activity standard conditions are *vires* as they provide inadequate certainty or clarity.

The NES proposal explains further analysis and drafting is envisaged and the rules as they are amount to drafting instructions. There is no obvious clear and certain language for many of the rules that would suitably manage adverse effects across all circumstances. Therefore it is important that if the permitted activity status is retained for these activities, the relevant conditions err on the side of caution, alternatively a consents regime should be required.

The proposed NES is likely to result in higher costs for both the plantation forest industry and the Council in terms of permitted activity monitoring and enforcement with little clear additional benefit.

2. Overall Issues with Draft Rules

The proposed permitted activity rules where they are uncertain or unclear result in risks to the environment, or result in costly new processes and monitoring for councils. In particular Nelson City Council has concerns with the following:

- a) Frequent use of uncertain language such as "as far as is practicable", "if unavoidable", "except where unsafe or impracticable to do so" is all too uncertain and unclear to enable effective monitoring and compliance by councils.
- b) Third party approvals or processes for permitted activities (e.g. minimum afforestation distances from adjoining properties and dwellings, Heritage NZ).

- c) The requirements for provision of earthworks, harvesting and quarry management plans do not specify the required content or standards that must be met, nor are they able to be declined or improved by councils if deficient. These plans should all be provided to councils without the need to request them.
- d) Requirements for auditing result in increased workloads and costs for the Council. Costs for managing this information are not recoverable for permitted activities.
- e) Further definition and explanation for the majority of the terms used, such as “urban area” is required.
- f) It is unclear what process councils are to follow where more stringent rules are required in addition to the NES-PF rules. For example to maintain and enhance waterbodies as required under the NPS for Freshwater Management (NPS-FM).

3. Ability to be More Stringent

The listed NES-PF activities covered by the rules encompass all major works within forest activities. The ability for councils to be more stringent is tightly constrained. To properly apply sustainable management and give effect to our statutory responsibility Council requires the ability to be more stringent than allowed for in the NES-PF.

Mapping areas of significance is expensive, takes considerable time to collect and collate the required data, and may not be the best planning management option. Council is currently considering its options in terms of mapping SNAs in the new Nelson Plan. Currently there are approximately 40 sites mapped in the operative plan, and at least another 120 have been identified as worthy of inclusion. It is submitted that good outcomes for these areas can be achieved through setting out key parameters and using site specific assessments. The inability of Council to protect SNAs that are not mapped in the plan means that the NES-PF has adverse implications for meeting section 6(c) RMA requirements.

Relief sought: Unmapped wahi tapu sites, unmapped significant indigenous flora and fauna, SNAs, other than outstanding but still significant freshwater bodies and natural features and landscapes (as well as sensitive receiving environments as below) all be included as matters where councils can apply more stringent rules.

4. Sensitive Receiving Environments

The Fish spawning indicator enables controls to be targeted so restrictions on activities only occur where required to protect instream fish habitat. However, the NES-PF does not fully recognise the potential catchment scale flow on effects to sensitive habitats (e.g. lower catchment waterways and estuaries), and provides no incentives to harvest in a more sustainable manner (e.g. harvest smaller areas) to reduce wide-scale slope erosion and sediment discharges during intense rainfall events.

Relief sought: Inclusion of sensitive receiving environments such as estuaries, coastal marine areas, water intakes, sites of significance, dwellings and amenity features into the matters where councils can apply more stringent rules.

5. Orange Zone - Harvesting and Afforestation

Harvesting on all of the Orange Zone Erosion Susceptibility Class (ESC) is a permitted activity. This is opposed for the Nelson Region. Orange zoned land includes a number of Land Use Capability (LUC) units that are steep to very steep erosion prone land. The NES permitted activity conditions are inadequate and rigid. It is unacceptable that such land is afforded permitted activity status given the risks involved. Section 43 A (3) (b) RMA 1991 does not allow an NES to state that an activity is a permitted activity if it has significant adverse effects on the environment. This is such an activity.

Relief sought: Controlled or restricted discretionary status for harvesting on steep to very steep erosion prone LUC units of Orange Zone ESC.

Linked to Orange ESC harvesting issues is afforestation (of new forests) which is a permitted activity in this zone. This would prevent Councils from applying planting restrictions as a method to mitigate woody debris from future harvesting.

Relief sought: Apply restricted discretionary status for afforestation on steep to very steep erosion prone LUC units of Orange Zone ESC.

6. Earthworks

The timing of earthworks and activity within riverbeds is a significant issue both in terms of generation of sediment and avoidance of impacts on aquatic ecosystems and birdlife. No provision for an earthworks “close out” season is provided for in order to protect the values of sensitive receiving environments including outstanding waterbodies and wetlands.

Relief sought: Councils have the ability to be more stringent around the timing of earthworks and activities adjacent to and within the bed of a river or lake in all zones where this is required to protect sensitive receiving environments and to achieve limits set under the NPS-FM process.

As Council develops its second generation plan it is considering introducing constraints on the area of clearcuts and roading density. The NES-PF does not include any restriction on or set thresholds for these activities in any of the erosion susceptibility classes.

Relief sought: define and incorporate thresholds in the NES-PF to allow councils to control the size and timing of forestry activities such as earthworks and harvesting as a means of mitigating risk in all erosion susceptibility zones.

7. Management Plans

Harvest Plans, Quarry Management Plans, and Erosion and Sediment Control Plans are required to be prepared for harvesting, quarrying and earthworks respectively. The contents required of these plans is broadly described and it is uncertain whether the plans will adequately describe activities or if the activities intended will be sufficient to achieve other permitted activity conditions.

The role of councils is restricted to being advised when activities will begin and having the Plans made available to them. There is no provision for councils (or any other body) to certify the Plans as adequate. This becomes an issue for the smaller woodlots where planning and management practices may be currently lacking.

Relief Sought: During the legal drafting phase, the content of management plans should be made clear and linked to clear outcomes. Provision should also be made for Council certification to ensure they adequately meet requirements.

8. NPS for Freshwater Management (NPS-FM)

Many of the proposed rules in the Draft NES-PF do not provide for the NPS-FM Objectives 1 and 2, and the requirement for the Council to maintain and improve water quality. While the NES-PF provides councils with the “ability to be more stringent where required to meet the Objectives of the NPS-FM”, the discussion document identifies this as only where a limit has been set that has not been met, and forestry activities are the source of the contaminant.

It is submitted that although the NES-PF allows for councils to impose stricter regulations, this is likely to lead to increased litigation where forestry operators consider that local

authorities are trying to impose improper forestry controls for reasons associated with the NPS-FM.

In the table on page 99 which lists matters where councils can apply more stringent rules, this only specifies this can be done in relation to Outstanding Freshwater Bodies and does not refer to meeting NPS-FM limits as discussed in section 6. Under the NPS-FM the threshold to include freshwater bodies as 'outstanding' is very high and has to be exceptional in some way. Only a small number have been identified by MFE across New Zealand. Under this definition, Nelson has no outstanding freshwater bodies, but many it does have several waterbodies which must be maintained and enhanced. This does not provide for councils to meet their requirements under the NPS-FM.

Relief sought: Provide a more detailed description of local authorities ability to impose more stringent requirements in relation to implementing the NPS-FM. Further include the ability for Councils to be more stringent in relation to all water quality limits set in order to maintain and improve water quality as required by the NPS-FM. Ensure that this ability to be stricter to meet NPS-FM objectives and limits is included in the rules and in the table on page 99 under 'Matters where councils can apply more stringent rules'.

The NPS-FM specifically requires the protection of the significant values of wetlands. The discussion document does not specifically identify wetlands and their riparian areas as being a matter over which councils can be more stringent. All of the forestry activities identified within the rule tables have the ability to affect the significant values of wetlands. For example in relation to setbacks the NES-PF rule tables reference wetlands only greater than 2500m². In many instances the setbacks proposed may insufficient to protect a wetland's significant values – for example by altering the water table.

Relief sought: The rules in relation to wetlands are deleted in their entirety and councils retain the ability to be more stringent around the management of wetlands and their riparian areas across all activities.

9. Setbacks and Riparian Buffers

The conditions for earthworks and afforestation require setbacks of 5 metres for streams less than 3 metres in width and 10m for those greater than 3 metres. A riparian buffer width of less than 10 metres will not maintain all of the ecological functions that support healthy freshwater ecosystem processes, such as efficient plant nutrient uptake. Some riparian functions can be maintained or enhanced with riparian widths less than 5 metres either side of the stream, whereas others may require widths of greater than 15 metres (Parkyn *et al.* 2000).

Relief sought: Review information on riparian buffer widths necessary to support sustainable vegetation and meet aquatic functions.

The Harvesting rule allows for the felling of trees directly across waterbodies where unavoidable and for harvesting within and across riparian zones. As discussed above riparian zones are required to support healthy freshwater ecosystems and no felling into or across these zones should be permitted as of right.

Relief sought: Delete references to allowing the felling and harvesting within riparian zones in the rules and allow councils the full ability to put in place appropriate rules for activities which could affect these riparian areas.

10. Genetically Modified Tree Stock

Afforestation and replanting using genetically modified tree stock is a permitted activity where approval has been granted by the Environmental Protection Authority (EPA). There is no opportunity for council to make its own rules or policies in relation to GM tree species in

relation to landscapes and ecosystems. This provision contradicts the recent Environment Court decision (2015 NZEnvC 89) (*Federated Farmers v Northland Regional Council*, decision Principal Environment Judge Newhook, 12 May 2015). That decision found that there is jurisdiction under the RMA for regional councils to make provision for control of the use of GMOs through regional policy statements and plans.

Relief sought: Delete reference to allowing the allowing the use of genetically modified tree stock as a permitted activity and allow councils the full ability to put in place appropriate rules to manage the use GMO species (potentially for a range of reasons including environmental risk, pest management, or risks to the region's economy and reputation and ability to market produce overseas).

11. Environmental Risk Assessment Tools

There are issues with the reliability and implementation of the three environmental risk assessment tools as all involve judgement and interpretation. As discussed above it is questionable whether such performance standards are viable.

Council has the following comments:

- ***Erosion Susceptibility Classification***

The ESC classification is based on LUC which is then used to determine activity status. Council has some concerns over the use of the ESC classification in the Nelson Region and the significant variation between the original maps produced in 2011 to the proposed version in 2015. This has resulted in most of Nelson's forestry areas downgraded from high to medium and low susceptibility. This has significant implications especially in catchments such as the Maitai, where forestry is seen to be having a large impact on instream water quality and river health.

Resource consent in the three lower ESC zones is only triggered by non-compliance with the Permitted Conditions. Therefore by implication, emphasis is on remedying adverse effects with little emphasis on avoiding adverse effects. This may not sufficiently protect environmental values as required under the RMA or NPS-FM.

This ESC classification currently takes no account of variations in downstream receiving environments which demand site specific measures to avoid or mitigate adverse effects. Where the activity status includes a resource consent requirement this imparts the flexibility to provide for differing receiving environments and this is supported. However where permitted activity status applies, supported by generic permitted activity conditions only without allowance for variations in downstream receiving environments, this is opposed. It also breaches the Section 43A (3) (b) RMA.

Relief sought: Inclusion of sensitive receiving environments such as estuaries, coastal marine areas, water intakes, dwellings and amenity features into the matters where councils can apply more stringent rules. It is noted that in the earlier Plantation Forestry NES proposal this included an exception for sensitive receiving environments.

Under several rules, for example earthworks, these activities are a restricted discretionary activity for land in the Orange Zone with a slope of greater than 25 degrees. It is unclear how this rule will be enforced and who is responsible for determining these areas.

Relief sought: Clarify who is responsible for defining land in the Orange Zone that has a slope that is over 25 degrees. The council considers that this should be undertaken by MPI and provided to Councils to allow for planning and management of those areas.

- ***Fish Spawning Indicator***

There appears to be no specific reference to the fish spawning indicator in the draft rules.

Fish spawning is addressed as part of the general conditions that apply to all forestry activities, but neither the condition nor accompanying explanatory content refer expressly to the indicator or how it is to be used to evaluate compliance.

Relief sought: Amend rules and related conditions to specifically include reference to the fish spawning indicator.

Fish species: There are significant issues with the fish spawning indicator. The information used in the calculator is based on old research and outdated records dating back to 1915. The indicator only includes a limited number of species, and fails to include many endangered and at risk species across New Zealand.

Relief sought: Amend list to include: long finned eel, short finned eel, short jawed kokopu, torrentfish, Crans bully, bluegill bully, upland bully, giant bully, inanga, banded kokopu, lamprey and smelt.

Spawning: The General Conditions list periods of time where beds of rivers cannot be disturbed in order to protect the spawning of fish species. These times do not however align with local spawning dates for those species. Fish spawn at different times in the Nelson region which renders some these dates ineffective.

Relief sought: Allow councils to identify the local spawning times for fish species in their region through their regional plans.

Non migratory fish species: The General Conditions do not provide for native non migratory fish species. For many non migratory fish species, such as kokopu and koraro, that spend their adult life in one location adverse impacts from forestry related activities presents a significant risk to the adult, its habitat, and lifecycle.

Relief sought: Allow councils to identify sites of significance for non migratory native fish in their regions and be more stringent in relation to activities in the beds of rivers during these periods.

Fish migration: The General Conditions do not provide for native fish migration. In the case of species such as long finned eel, barriers to downstream migration can result in the death of the eels as they have undergone physiological change in order to undertake migration and no longer feed.

Relief sought: Allow councils to identify important migration periods for native fish in their regions and be more stringent in relation to activities in the beds of rivers during these periods.

Water temperature: The review of harvesting effects on fish spawning and habitat provides a useful summary but does not fully take account of the significant increase in river water temperatures that occur when riparian margins are removed as part of the harvest. Increase in stream water temperature post harvest can have long term negative effects on freshwater invertebrate communities and fish spawning, which is well documented in NZ.

Relief sought: Allow councils to identify sites of significance for native fish in their regions and be more stringent in relation to riparian margin setbacks and activities in the beds of rivers during these periods.

Nesting sites: The General Conditions provide for protection of nesting sites from disturbance for Nationally Critical or Nationally Endangered species. This does not provide for regionally threatened species or stronghold populations.

Relief sought: Councils are able to be more stringent where they have identified regionally threatened species or stronghold populations.

12. General Conditions

Fuel: The current permitted activity rule allows refuelling of machinery adjacent to surface water provided this does not occur within the waterbody. To reduce the risk from any accidental spills, a minimum distance for refuelling should be specified.

Relief sought: Require that all machinery on the work site shall be refuelled at least 20 metres away from any open watercourse. If spillage of any contaminants into any watercourse or onto land occurs, this shall be adequately cleaned up so that no residual potential for contamination of land and surface water runoff from the site occurs. If a spill of more than 20 litres of fuel or other hazardous substances occurs, the Council shall be immediately informed.

Vegetation Clearance and Disturbance: The permitted activity rule allows indigenous vegetation of existing tracks within SNAs to be damaged or removed. This may be at odds with Councils aim to maintain and enhance these areas, including old roads or tracks. Currently there is no age restriction or other qualification for these areas and arguably also allows old bridle and walking paths to be damaged for forestry purposes.

The rule also allows incidental damage to riparian and indigenous vegetation provided it will readily recover within five years. As discussed above, these performance standards are subjective and open to interpretation. Who will determine if the vegetation can recover within five years, and what happens if it does not – what comeback is there for councils or adjacent landowners?

Relief sought: Delete the last three bullet points of this performance standard. Consent should be required to damage or remove any indigenous vegetation within an SNA. Directional felling and adoption of appropriate harvesting techniques should also be implemented to avoid incidental vegetation damage. If it is determined that this cannot be achieved, consent should be required as a controlled or restricted discretionary activity.

Introduction of weed species from soil residues on heavy machinery: Undesirable weed seed can be transported between areas on the tracks and tyre treads of skidders, haulers and diggers as these are uplifted from one site to another by trailer. Unlike logging truck movements that have greater potential to lose contaminated soil from tyre treads en-route to the next site, heavy logging machinery can potentially introduce new weed species from another district directly from stuck on, seed infested mud/soil.

Relief sought: Consideration should be given to the mandatory water blasting of machinery between sites. This should particularly apply if the next site is relatively weed free or in cases where a forest is being retired from plantation forestry.

13. Administrative and Monitoring Costs

Nelson City Council considers that the provisions for permitted activities along with the monitoring and reporting requirements will lead to significant increased costs. The shift in focus to permitting activities for the forestry sector results in a shift of administrative and monitoring costs to the wider ratepaying community.

The need for amendments and alignment with council plans will require considerable administrative effort to align concepts and activity specifications in the Council Plan with the NES-PF.

Resource consent processes involve pre-application discussions, requiring further information and formulating clear activity based conditions that will lead to required

environmental outcomes. These are proactive processes by which forestry activities are able to be shaped before they begin. Forestry activities such as earthworks, quarrying and harvesting are irreversible and are often large in scale and happen very quickly.

Where activities are permitted they are able to proceed without council approval. How the activities are carried out is unable to be influenced. Council involvement is limited to compliance monitoring and enforcement. These are reactive in nature, occurring after activities have occurred.

Relief sought: Councils are provided with the ability to charge forestry operators to monitor permitted activities; or councils are provided central government funding to fulfil the monitoring requirements.

Council supports the proposed review of the NES-PF after five years given its wide reaching impact on council rules and potential for significant adverse environmental effects.

Thank you for the opportunity to comment on this document. I would be pleased to make officers available to further explain these submission points and work with MPI staff towards solutions.

Yours faithfully

Clare Hadley
Chief Executive
Nelson City Council