



**Notice of the Ordinary meeting of**

## **Nelson City Council**

### ***Te Kaunihera o Whakatū***

Date:	Thursday 14 September 2023
Time:	9.00a.m.
Location:	Council Chamber Floor 2A, Civic House 110 Trafalgar Street, Nelson

## **Agenda**

### ***Rārangi take***

**Chairperson**

**Deputy Mayor**

**Members**

His Worship the Mayor Nick Smith

Councillor Rohan O'Neill-Stevens

Cr Matty Anderson

Cr Matthew Bengé

Cr Trudie Brand

Cr Mel Courtney

Cr James Hodgson

Cr Kahu Paki Paki

Cr Pete Rainey

Cr Campbell Rollo

Cr Rachel Sanson

Cr Tim Skinner

Cr Aaron Stallard

**Quorum 7**

**Nigel Philpott  
Chief Executive**

Nelson City Council Disclaimer

Please note that the contents of these Council and Committee agendas have yet to be considered by Council and officer recommendations may be altered or changed by the Council in the process of making the formal Council decision. For enquiries call (03) 5460436.

## **Karakia and Mihi Timatanga**

### **1. Apologies**

An apology has been received from Councillor P Rainey

### **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**

4.1 Nelson Tasman Pasifika Community Trust - Pasifika Communities in Whakatu

Robert Blake, GM from the Nelson Tasman Pasifika Community Trust, will speak about Pasifika Communities in Whakatu.

4.2 Make/Shift Spaces Inc - The Shared Communities Initiative

Anne Rush from Make/Shift Spaces Inc, will speak about the Shared Communities Initiative.

4.3 Giving Aroha - Rough Sleepers and Most Vulnerable in our Community

Jackie Galland from Giving Aroha will speak about the rough sleepers and most vulnerable in our community.

### **5. Confirmation of Minutes**

5.1 10 August 2023

**11 - 27**

Document number M20242

Recommendation

***That the Council***

1. **Confirms the minutes of the meeting of the Council, held on 10 August 2023, as a true and correct record.**

5.2      17 August 2023      **28 - 33**

Document number M20258

Recommendation

***That the Council***

1. **Confirms the minutes of the meeting of the Council, held on 17 August 2023, as a true and correct record.**

## **6.      Recommendations from Joint Committees      34 - 34**

Document number R27922

6.1      Saxton Field Committee Meeting on 8 August 2023.

Proposed Saxton Field Committee Capital Works Programme

The recommendation refers to the Attachment on page 34

Recommendation

***That the Council***

1. **Adopt, subject to the approval of the Tasman District Council the proposed capital works programme for Saxton Field contained in Attachment 1 to Report R27843 (196698121-50136) for incorporation into each Council's draft budgets as part of the Long Term Plan 2024-2034 processes, with the following amendments:**

- a. ***a capital budget line be included to provide for a regional skate facility at Saxton Field with \$20,000 included in 2024/25, and \$400,000 in each of years 2026/27 and 2027/28, together with an income line budgeting \$320,000 income in each of years 2026/27 and 2027/28.***

2. **Delegate responsibility for agreeing to any amendments to the budget values resulting from further cost analysis to the Councils' Group Managers (Group Manager Community Services at Nelson City Council and Group Manager Community Infrastructure at Tasman District Council).**

## **7. Mayor's Report**

**35 - 49**

Document number R27917

Recommendation

### ***That the Council***

- 1. Receives the report Mayor's Report (R27917) and its attachment (1118544611-7258); and**
- 2. Acknowledges with a minute's silence the death of Seddon Marshall, who served on Nelson City Council for 33 years; and**
- 3. Agrees in principle to a cost-sharing package with the Government to support the recovery work from the extreme weather event of August 2022, subject to an officer's report detailing the implications and future cost to Council; and**
- 4. Notes there will be additional costs to Council for up to 14 buyouts of properties where the cost to repair exceeds their value; and**
- 5. Instructs Council officers to prepare a report for the 19 October Council meeting on the next steps required to finalise the funding agreement with the Government; and**
- 6. Receives an update on Plan Change 29 including an extension to the submission timeframe.**
- 7. Agrees that Councillor Matty Anderson replace Deputy Mayor Rohan O'Neill-Stevens on the Community Housing Acceleration Taskforce, subject to Council approving the proposed revised Terms of Reference for the taskforce (R27788) on today's agenda.**

## **8. Draft Significance and Engagement Policy for consultation**

**50 - 67**

Document number R27870

Recommendation

### ***That the Council***



1. **Receives the report Draft Significance and Engagement Policy for consultation (R27870) and its attachment (839498445-14234); and**
2. **Agrees that the proposed amendments to the existing Significance and Engagement Policy, outlined in paragraph 5.1 of this report (R27870), are sufficiently substantial to require public consultation; and**
3. **Adopts the Draft Significance and Engagement Policy in Attachment 1 (839498445-14234) for public consultation in accordance with sections 76AA, 82 and 82A of the Local Government Act 2002; and**
4. **Agrees that the consultation on the Draft Significance and Engagement Policy (839498445-14234) will occur at the same time as the Long Term Plan 2024-2034 consultation process; and**
5. **Agrees that His Worship Mayor Hon Dr Smith and the Chief Executive be delegated authority to approve any minor amendments required to the Draft Significance and Engagement Policy (839498445-14234) prior to it being made available for public consultation.**

## **9. Navigation Safety Policies and Harbour Safety Management System**

**68 - 160**

Document number R27847

Recommendation

***That the Council***

1. **Receives the report Navigation Safety Policies and Harbour Safety Management System (R27847) and its attachments (1940938042-1672, 1940938042-1678, 1940938042-1651, 1940938042-1777, 1940938042-1956, 1940938042-1980); and**
2. **Approves the following:**
  - **Harbour Safety Policy (Attachment 1, 1940938042-1672);**
  - **Harbour Safety Management System Harbour Safety Plan (Attachment 2, 1940938042-1678);**
  - **Harbour Safety Management System Manual (Attachment 3, 1940938042-1651);**

- *Harbour Operational Policies (Attachment 4, 1940938042-1777);*
  - *Nelson Harbour Hot Work Policy (Attachment 5, 1940938042-1956); and*
3. *Receives the Port and Harbour Marine Safety Code external review report (Attachment 6, 1940938042-1980); and*
  4. *Agrees to make the Harbour Safety Policy and Harbour Safety Management System documents publicly available on the Nelson City Council website (Harbourmaster page) and referenced in other relevant documents such as the Long-Term Plan.*

**10. Draft Utilities Activity Management Plans 2024-34 (Water Supply, Wastewater, Stormwater) 161 - 166**

Document number R27840

Recommendation

***That the Council***

1. *Receives the report Draft Utilities Activity Management Plans 2024-34 (Water Supply, Wastewater, Stormwater) (R27840) and its attachments*
  - *Draft 2024-34 Water Supply Activity Management Plan (5082210-161);*
  - *Draft 2024-34 Wastewater Activity Management Plan(205082210-160);*
  - *Draft 2024-34 Stormwater Activity Management Plan(205082210-162); and*
2. *Approves the -*
  - *Draft 2024-34 Water Supply Activity Management Plan (5082210-161);*
  - *Draft 2024-34 Wastewater Activity Management Plan(205082210-160);*
  - *Draft 2024-34 Stormwater Activity Management Plan(205082210-162);*

***as the versions to inform the development of the Long Term Plan 2024-2034; and***

**3. Notes that the-**

- *Draft 2024-34 Water Supply Activity Management Plan (5082210-161);***
- *Draft 2024-34 Wastewater Activity Management Plan(205082210-160);***
- *Draft 2024-34 Stormwater Activity Management Plan(205082210-162); and***

***will be updated, and the final Activity Management Plans approved by Council after the adoption of the Long Term Plan 2024-2034.***

**11. Draft Transport Activity Management Plan 2024 167 - 171**

Document number R27886

Recommendation

***That the Council***

- 1. Receives the report Draft Transport Activity Management Plan 2024 (R27886) and its attachment (1862260321-21129); and**
- 2. Approves the Draft Transport Activity Management Plan 2024-34 (1862260321-21129) as the version to inform the development of the Long Term Plan 2024-2034; and**
- 3. Notes that the Draft Transport Activity Management Plan 2024-34 (1862260321-21129) will be updated, and the final Activity Management Plan approved by Council after the adoption of the Long Term Plan 2024-2034.**

**12. Community Housing Acceleration Taskforce - Change of Terms of Reference 172 - 180**

Document number R27788

Recommendation

***That the Council***

1. **Receives the report Community Housing Acceleration Taskforce - Change of Terms of Reference (R27788) and its attachment (336940202-7576); and**
2. **Approves the revised Terms of Reference for the Community Housing Acceleration Taskforce in Attachment 1 (336940202-7576).**

**13. The City of Nelson Civic Trust - Council Controlled Organisation Exemption 181 - 185**

Document number R27640

Recommendation

***That the Council***

1. **Receives the report The City of Nelson Civic Trust - Council Controlled Organisation Exemption (R27640); and**
2. **Approves an exemption to the City of Nelson Civic Trust for the purposes of Section 6(4)(i) of the Local Government Act 2002, in accordance with Sections 7(3) and 7(6) of the Act and after considering the matters in Section 7(5) of the Act.**

**14. Members' Code of Conduct 186 - 220**

Document number R27350

Recommendation

***That the Council***

1. **Receives the report Members' Code of Conduct (R27350) and its attachment (839498445-17264); and**
2. **Adopts the updated Members' Code of Conduct; and**
3. **Notes that the updated Members' Code of Conduct will be made publicly available through Council's website.**

## CONFIDENTIAL BUSINESS

### 15. Exclusion of the Public

Recommendation

#### ***That the Council***

- 1. Excludes the public from the following parts of the proceedings of this meeting.***
- 2. 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)
<b>1</b>	<b>Council Meeting - Confidential Minutes - 10 August 2023</b>	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"><li>• Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities</li><li>• Section 7(2)(g) To maintain legal professional privilege</li><li>• Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</li></ul>
<b>2</b>	<b>Recommendations from Committees Chief Executive Employment Committee</b>	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"><li>• Section 7(2)(a) To protect the privacy of natural persons, including that of a deceased person</li></ul>

<b>Item</b>	<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Particular interests protected (where applicable)</b>
<b>3</b>	<b>Bishop Suter Trust - Trustee Rotation and Remuneration 2023/24</b>	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"> <li>• Section 7(2)(a) To protect the privacy of natural persons, including that of a deceased person</li> <li>• Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</li> </ul>
<b>4</b>	<b>Nelmac Limited - Director Reappointment</b>	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"> <li>• Section 7(2)(a) To protect the privacy of natural persons, including that of a deceased person</li> </ul>
<b>5</b>	<b>Nelmac Limited - Director Remuneration 2023</b>	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"> <li>• Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</li> </ul>

## **Karakia Whakamutanga**



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## **Minutes of a meeting of the**

### **Nelson City Council**

#### ***Te Kaunihera o Whakatū***

**Held in the Council Chamber, Floor 2A, Civic House, 110 Trafalgar Street, Nelson on Thursday 10 August 2023, commencing at 9.00a.m.**

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Present: His Worship the Mayor N Smith (Chairperson), Councillors M Anderson, M Benge, T Brand, M Courtney, J Hodgson, R O'Neill-Stevens (Deputy Mayor), K Paki Paki, P Rainey, C Rollo, R Sanson, T Skinner and A Stallard

In Attendance: Acting Chief Executive and Group Manager Infrastructure (A Louverdis), Group Manager Environmental Management (M Bishop), Group Manager Community Services (A White), Group Manager Corporate Services (N Harrison), Group Manager Strategy and Communications (N McDonald) Team Leader Governance (R Byrne) and Senior Governance Adviser (H Wagener)

Apologies : Nil

### **Karakia and Mihi Timatanga**

#### **1. Apologies**

No apologies were received.

Attendance: Councillor Skinner joined the meeting at 9.05a.m.

#### **2. Confirmation of Order of Business**

His Worship the Mayor Hon Dr Nick Smith advised that the order of business would be adjusted to progress the meeting efficiently.

### 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. Kathleen Mardon - The Nelson Foodbank and their work

Document number R27825

Kathleen Mardon spoke to a tabled presentation (1982984479-6448) and answered questions regarding the availability of ongoing funding, the impact of the cost-of-living crises vulnerable community members and Nelson Foodbank's collaboration with other organisations.

#### Attachments

- 1 1982984479-6448 Nelson Foodbank presentation

#### 4.2. Mike Rodwell - Vaping

Document number R27880

Mike Rodwell spoke about vaping addiction and the number of vape stores opening in the community and answered questions about an increase in youth addiction.

### 5. Confirmation of Minutes

#### 5.1 6 July 2023

Document number M20212, agenda pages 12 - 22 refer.

The minutes have been amended to reflect the full change to the wording of the Draft Significant Forecasting Assumptions on pages 113 and 116 of the Council Agenda of 6 July 2023.

Resolved CL/2023/154

#### ***That the Council***

- 1. Confirms the amended minutes of the meeting of the Council, held on 6 July 2023, as a true and correct record.***

His Worship the Mayor/Courtney

Carried

### 6. Mayor's Report

Document number R27833, agenda pages 23 - 73 refer.



His Worship the Mayor Hon Dr Nick Smith presented his report and proposed taking the discussion in parts. He noted the successful introduction of the new bus service and increase in patronage and thanked the staff responsible for the 1 August roll-out and continued promotion of the new service.

Resolved CL/2023/155

***That the Council***

- 1. Receives the report Mayor's Report (R27833); and its attachment (1118544611-7197); and***
- 2. Receives the Local Government Members (2023/24) Determination 2023 from the Remuneration Authority (1118544611-7197);***

His Worship the Mayor/Rainey

Carried

The item was adjourned until 10.25 a.m. for attendance and morning tea in recognition of service for Laurie Christian.

## **7. Governance Structure Review**

Document number R27853, agenda pages 74 - 87 refer.

Group Manager Strategy and Communications, Nicky McDonald and Manager Governance and Support, Devorah Nicuarta-Smith took the report as read and answered questions on the scope of the climate change taskforce, the remuneration of committee and taskforce chairs, public accessibility of taskforce information and meetings and how the taskforces fit in with iwi partnership.

His Worship the Mayor Hon Dr Smith advised that he had put forward the recommendations in the report on appointments to the two proposed taskforces.

His Worship the Mayor Hon Dr Smith moved the motion, seconded by Councillor Courtney.

**Recommendation**

***That the Council***

- 1. Receives the report Governance Structure Review (R27853) and its attachments (1974015928-1230, 1974015928-1231, 1373411589-804, 1522493403-1647 and 1982984479-6368); and***
- 2. Requests the Chief Executive to present a high-level six-monthly report to Council on progress in each of the following***

*activity areas: environment and regulation, infrastructure, and community services; and*

3. *Approves that the following two taskforces be established and confirms the proposed Terms of Reference for each that are attached to this report (R27853):*
  - *Climate Change Taskforce (1974015928-1231)*
  - *City Centre Playspace Taskforce (1974015928-1230); and*
4. *Confirms that the membership of the Climate Change Taskforce will be:*
  - *Councillor Aaron Stallard (Chair)*
  - *Councillor Matthew Benge*
  - *Councillor Mel Courtney*
  - *Councillor Rachel Sanson*
  - *Mayor Nick Smith; and*
5. *Confirms that the membership of the City Centre Playspace Taskforce will be:*
  - *Councillor James Hodgson (Chair)*
  - *Councillor Pete Rainey*
  - *Councillor Kahu Paki Paki*
  - *Councillor Campbell Rollo; and*
6. *Adopts the Taskforce Protocols (1373411589-804) as guidance for the members and external participants of taskforces; and*
7. *Agrees that external participants appointed to taskforces are not members appointed under the Local Government Act 2002 as outlined in the Taskforce Protocols.*
8. *Notes the guidance prepared on liaison councillor roles and information protocols (1522493403-1647, 1982984479-6368); and*
9. *Notes that the Delegations Register will be updated to reflect the confirmed changes from the Governance Structure Review (R27853)*

10. *Agrees that in May 2024, Council further considers its governance arrangements so as to allow them to evolve over this triennium.*

His Worship the Mayor/Courtney

Councillor Stallard broadly supported the items but supported additional standing committees and moved an amendment, seconded by Councillor Paki Paki. The motion proposed the establishment of standing committees including, but not limited to Infrastructure, Environment and Planning; and Community and Recreation committees.

Acting Chief Executive and Group Manager Infrastructure, Mr Louverdis advised that the amendment was substantially different to the recommendation and from that that was workshopped with elected members. Mr Louverdis noted that good local government decision-making required adequate time to consider the impact of the amendment specifically in relation to the implications of any new structure on existing meeting and the ability of staff to resource this. In relation to a question Mr Louverdis advised that should the amendment be successful a follow up report dealing with implications could be presented to Council in October 2023. The mover and seconder of the amended motion agreed to this change.

The item was adjourned at 10.25a.m. to consider the reconvened Mayor's Report.

## **8. Mayor's Report (Agenda Item 6 reconvened)**

Document number R27833, agenda pages 23 - 73 refer.

Laurie Christian joined the meeting and His Worship the Mayor Hon Dr Nick Smith recognised his nearly 30 years of service to the Nelson Community Patrol.

Resolved CL/2023/156

### ***That the Council***

- 3. Acknowledges the retirement of Laurie Christian, from the Nelson Community Patrol, after close to 30 years of service.**

His Worship the Mayor/Courtney

Carried

The meeting adjourned from 10.30a.m until 10.52a.m.

## **9 Governance Structure Review (Agenda Item 7 reconvened)**

Document number R27853, agenda pages 74 - 87 refer.

The benefits of establishing committees were discussed, including transparency of debate and decision making, making full use of the wide range of experience of elected members, upskilling of newly elected members, broad oversight of the activities of Council, distribution of responsibilities amongst elected members and avoidance of concentrated decision-making. The disadvantages noted were very structured processes and discussion format, undue pressure on staff time and resources brought about by reconsideration of committee decisions by Council and costs to Council.

Advantages of taskforces were also discussed including the improved quality of decision making by Council, the flexibility provided by reduced formality and that taskforces had to date been effective and efficient. It was also noted that taskforces were working well and no change in approach was required.

The amendment moved by Councillor Stallard, seconded by Councillor Paki Paki was put, and a division was called.

*That the Council*

1. *Receives the report Governance Structure Review (R27853) and its attachments (1974015928-1230, 1974015928-1231, 1373411589-804, 1522493403-1647 and 1982984479-6368); and*
2. *Requests the Chief Executive to present a high-level six-monthly report to Council on progress in each of the following activity areas: environment and regulation, infrastructure, and community services; and*
3. *Approves that the following two taskforces be established and confirms the proposed Terms of Reference for each that are attached to this report (R27853):*
  - *Climate Change Taskforce (1974015928-1231)*
  - *City Centre Playspace Taskforce (1974015928-1230); and*
4. *Confirms that the membership of the Climate Change Taskforce will be:*
  - *Councillor Aaron Stallard (Chair)*
  - *Councillor Matthew Benge*
  - *Councillor Mel Courtney*
  - *Councillor Rachel Sanson*
  - *Mayor Nick Smith; and*

5. Confirms that the membership of the City Centre Playspace Taskforce will be:
  - Councillor James Hodgson (Chair)
  - Councillor ~~Trudie Brand~~ Councillor Pete Rainey
  - Councillor Kahu Paki Paki
  - Councillor Campbell Rollo; and
6. Adopts the Taskforce Protocols (1373411589-804) as guidance for the members and external participants of taskforces; and
7. Agrees that external participants appointed to taskforces are not members appointed under the Local Government Act 2002 as outlined in the Taskforce Protocols.
8. Notes the guidance prepared on liaison councillor roles and information protocols (1522493403-1647, 1982984479-6368); and
9. Notes that the Delegations Register will be updated to reflect the confirmed changes to taskforces from the Governance Structure Review (R27853)
10. Agrees to the establishment of standing committees including, but not limited to:
  - a) Infrastructure;
  - b) Environment and Planning;
  - c) Community and Recreation; and
11. Agrees that changes to the delegations register to enable the establishment of these committees will be brought to the October Council meeting; and
12. Notes that the existing governance arrangements and taskforce protocols, particularly delegations and governance adviser support, will be reviewed in line with the establishment of standing committees and any required changes brought back to the October Council meeting; and
13. Agrees that in May 2024, Council further considers its governance arrangements so as to allow them to evolve over this triennium.

The amendment was put, and a division was called:

<u>For</u>	<u>Against</u>
Cr O'Neill-Stevens	His Worship the Mayor Smith
Cr Paki Paki	(Chairperson)
Cr Rainey	Cr Anderson
Cr Sanson	Cr Bengé
Cr Stallard	Cr Brand
	Cr Courtney
	Cr Hodgson
	Cr Rollo
	Cr Skinner

The amendment was lost 5 - 8.

Stallard/Paki Paki

Lost

The original motion remained the substantive motion and was put and carried.

Resolved CL/2023/157

***That the Council***

- 1. Receives the report Governance Structure Review (R27853) and its attachments (1974015928-1230, 1974015928-1231, 1373411589-804, 1522493403-1647 and 1982984479-6368); and***
- 2. Requests the Chief Executive to present a high-level six-monthly report to Council on progress in each of the following activity areas: environment and regulation, infrastructure, and community services; and***
- 3. Approves that the following two taskforces be established and confirms the proposed Terms of Reference for each that are attached to this report (R27853):***
  - Climate Change Taskforce (1974015928-1231)***
  - City Centre Playspace Taskforce (1974015928-1230); and***
- 4. Confirms that the membership of the Climate Change Taskforce will be:***
  - Councillor Aaron Stallard (Chair)***
  - Councillor Matthew Bengé***
  - Councillor Mel Courtney***

- ***Councillor Rachel Sanson***
  - ***Mayor Nick Smith; and***
5. ***Confirms that the membership of the City Centre Playspace Taskforce will be:***
- ***Councillor James Hodgson (Chair)***
  - ***Councillor Pete Rainey***
  - ***Councillor Kahu Paki Paki***
  - ***Councillor Campbell Rollo; and***
6. ***Adopts the Taskforce Protocols (1373411589-804) as guidance for the members and external participants of taskforces; and***
7. ***Agrees that external participants appointed to taskforces are not members appointed under the Local Government Act 2002 as outlined in the Taskforce Protocols.***
8. ***Notes the guidance prepared on liaison councillor roles and information protocols (1522493403-1647, 1982984479-6368); and***
9. ***Notes that the Delegations Register will be updated to reflect the confirmed changes from the Governance Structure Review (R27853)***
10. ***Agrees that in May 2024, Council further considers its governance arrangements so as to allow them to evolve over this triennium***
- .

His Worship the Mayor/Courtney

Carried

The meeting was adjourned from 11.48a.m until 11.54a.m.

## **10. Notification of Plan Change 29**

Document number R27805, agenda pages 88 - 117 refer.

Group Manager Environmental Management, Mandy Bishop and Acting Manager Environmental Planning, Dennis Bush-King took the report as read and answered questions on alignment of the e-Plan with regulatory requirements, use of plain English in the e-Plan, the minimum requirements of what would be acceptable as a submission, support for

submitters by the Friend of Submitters, influence and effect of submissions on the process, and the composition of the hearings panel.

Ms Bishop and Mr Bush-King answered questions on the importance of Plan Change 29 for Nelson, which had been guided by the Resource Management Act, National Standards and Nelson's own requirements and the consequences of densification in Nelson. They clarified papakāinga development provisions and the exclusion of mandatory parking requirements for property development.

Resolved CL/2023/158

***That the Council***

- 1. Receives the report Notification of Plan Change 29 (R27805) and its attachment (539570224-14803); and***
- 2. Agrees to proceed with Plan Change 29 subject to the correction of any minor errors that the Chief Executive considers necessary for the purpose of clarity and technical correctness; and***
- 3. Endorses the content of the Section 32 Evaluation Report (539570224-14803) for Plan Change 29 subject to the correction of any minor errors the Chief Executive considers necessary for the purpose of clarity and technical correctness; and***
- 4. Approves public notification of Proposed Plan Change 29 in accordance with Clause 5 of Schedule 1 to occur on 11 August 2023; and***
- 5. Notes that at its meeting on 4 May 2023 Council agreed that Plan Change 31 would be notified alongside Plan Change 29; and***
- 6. Agrees that the date for the close of submissions on Plan Change 29 and 31 is 27 working days after public notification which would be on 19 September 2023; and***
- 7. Agrees to establish a mixed, three-person Hearings Panel comprising an Independent Chair, Deputy Mayor O'Neill-Stevens and Councillor Brand to hear and recommend on submissions received in relation to Plan Changes 29 and 31.***

His Worship the Mayor/Sanson

Carried

The meeting was adjourned from 1:12p.m until 2.00p.m.



## 11. Standing Orders Review 2023

Document number R27576, agenda pages 118 - 211 refer.

Group Manager Strategy and Communications, Nicky McDonald and Team Leader Governance, Robyn Byrne, took the report as read and answered questions on the Chair's discretion to determine the time allowed for public forums at Council meetings.

The Nelson City Council Standing Orders were amended to correct minor editorial errors.

Resolved CL/2023/159

### ***That the Council***

- 1. Receives the report Standing Orders Review 2023 (R27576) and its attachments (1982984479-5561 and 1373411589-873); and***
- 2. Agrees to the inclusion of the provisions providing the ability for members to attend meetings via audio- or audio-visual link (Standing Order 13.7 – 13.14); and***
- 3. Declines to adopt the use of a casting vote for the Chair (Standing Order 19.3); and***
- 4. Selects Standing Order 22.2: Option A as the default for speaking and moving motions; and***
- 5. Approves electronic archiving of meeting papers (Standing Order 29.2) commencing for business papers from 10 October 2022; and***
- 6. Adopts, in accordance with Clause 27, Schedule 7 of the Local Government Act 2002, the amended Nelson City Council Standing Orders (1373411589-873); and***
- 7. Updates the Delegations Register to note that the following committees do not have a Public Forum:***
  - a. Chief Executive Employment Committee***
  - b. Audit Risk and Finance Committee***
  - c. District Licensing Committee***
  - d. Tenders Committee***

O'Neill-Stevens/Sanson

Carried

**12. He Tātai Whetū implementation - approving changes to funding allocations**

Document number R27816, agenda pages 212 - 218 refer.

Group Manager Strategy and Communications, Nicky McDonald and Policy Adviser, Ailish Neyland took the report as read and answered a question regarding the consent of the Department of Internal Affairs for changes to the allocated funding.

Resolved CL/2023/160

***That the Council***

- 1. Receives the report He Tātai Whetū implementation - approving changes to funding allocations (R27816); and***
- 2. Approves reallocating \$50,000 from the Arts Relief Package and \$100,000 from the Creative Tourism Initiative, to provide \$150,000 to Arts Council Nelson to support its transition to an Arts Development Agency; and***
- 3. Agrees that Arts Council Nelson/the Arts Development Agency is the appropriate agency to implement the Creative Tourism Initiative and Arts Relief Package; and***
- 4. Notes that the He Tātai Whetū/Arts and Creativity Strategy Taskforce is considering the best use of the Arts Relief Package funding and will recommend a refreshed approach to a future Council meeting; and***
- 5. Notes the incorporation of a mapping exercise of current and future arts and creativity assets, within the arts hub investigation approved as part of the Annual Plan 2023/24.***

O'Neill-Stevens/Rainey

Carried

**13. Amendment to Terms of Reference for Regional Pest Management Joint Committee**

Document number R27813, agenda pages 218 - 227 refer.

Group Manager Environmental Management, Mandy Bishop and Environmental Programmes Adviser, Richard Frizzell, took the report as read and answered questions on the process to change the Regional Pest Strategy to deal with feral cats at specific locations, and the possible making of a bylaw.

Resolved CL/2023/161

***That the Council***

- 1. Receives the report Amendment to Terms of Reference for Regional Pest Management Joint Committee (R27813) and its attachment (596364813-7363); and***
- 2. Notes that an amendment to the Terms of Reference for the Regional Pest Management Joint Committee (596364813-7363) was approved by Tasman District Council at its meeting on 20 July 2023, subject to agreement by Nelson City Council; and***
- 3. Approves an amendment to the Terms of Reference for the Regional Pest Management Joint Committee (596364813-7363) to include consideration of feral cats in the limited review of the Tasman Nelson Regional Pest Management Plan 2019-2029, by the addition of a fourth bullet point under 3. Areas of Responsibility, matters the review will be limited to considering, as follows:***
  - Identification of additional site led control areas for feral cat management including the use of Biosecurity Act Pest Agent Provisions.***

Sanson/Stallard

Carried

**14. Nelson Festivals Trust End of Year Report - 2022/23**

Document number R27748, agenda pages 228 - 290 refer.

Nelson Festival Trust Executive and Artistic Director Lydia Zanetti and Trustee Sarah Yarrow spoke to their presentation and answered questions on the availability of ongoing committed long-term funding for the festival and the sustained growth of community-led events.

Resolved CL/2023/162

***That the Council***

- 1. Receives the report Nelson Festival Trust End of Year Report - 2022/23 (R27748) and its attachments (1511110536-760, 1511110536-761 and 1511110536-759)***

Sanson/Courtney

Carried

**Attachments**

1 1982984479-6461 Nelson Arts Festival Presentation

Video link [Nelson Arts Festival](#)

## 15. The Effectiveness of the Compliance Strategy 2020

Document number R27831, agenda pages 291 - 385 refer.

Group Manager Environmental Management, Mandy Bishop took the report as read and answered questions on the alignment of the Compliance Strategy 2020 with national and regional guidelines and on the use of drones for enforcement.

Resolved CL/2023/163

### ***That the Council***

1. ***Receives the report The Effectiveness of the Compliance Strategy 2020 (R27831) and its attachments (756385493-50372 and 756385493-52701); and***
2. ***Notes officers propose to remove the annual review of the effectiveness of the Compliance Strategy from the Long-Term Plan performance measures to review the Strategy by 2025, then as required after that.***

His Worship the Mayor/Brand

Carried

## 16. Tāhunanui Beach Unbudgeted Expenditure Request

Document number R27841, agenda pages 386 - 429 refer.

Group Manager Community Services, Andrew White, Manager Parks and Facilities, Hannah Curnow and Team Leader Parks, Sarah Clarke, took the report as read and answered questions on the availability of Government funding for remediation and provision of budget for remediation in the Long Term Plan, the likelihood that other sites were similarly contaminated with sawdust, the timing of testing for contaminants since the sawdust was first exposed, whether tests were done for the presence of pentachlorophenol (PCP) and if more testing was needed, contamination of dioxin leachate in the sand, the availability of suitable persons to test and remediate the contamination, compliance with regulatory requirements, and continued access to the carpark.

Resolved CL/2023/164

### ***That the Council***

1. ***Receives the report Tāhunanui Beach Unbudgeted Expenditure Request (R27841) and its attachments (310955630-8811 and 310955630-8812); and***

2. ***Allocates up to \$100,000 of unbudgeted expenditure to prepare a plan of short-term and long-term actions to mitigate the effects and risks arising from sawdust material placed at Tāhunanui Beach in the 1960s; and***
3. ***Allocates up to \$350,000 of unbudgeted expenditure towards short term actions to mitigate the effects and risks arising from sawdust material placed at Tāhunanui Beach in the 1960s; and***
4. ***Notes that the Mayor has written to the Minister and Chief Executive of Ministry for the Environment, providing a copy of this report and advising that Council will subsequently seek funding assistance from the Government's Contaminated Sites Remediation Fund.***

Rollo/Sanson

Carried

## **17. Exclusion of the Public**

Jane Sheard and Lindsay Coll of Nelmac Limited were in attendance for Item 2 of the Confidential agenda to answer questions and, accordingly, the following resolution is required to be passed:

Resolved CL/2023/165

### ***That the Council***

1. ***Confirms, in accordance with sections 48(5) and 48(6) of the Local Government Official Information and Meetings Act 1987, that Rob Gunn, Jane Sheard and Lindsay Coll of Nelmac Limited remain after the public has been excluded, for Item 2 of the Confidential agenda (Nelmac Limited final Statement of Intent 2023/24), as they have knowledge relating to Nelmac that will assist the meeting.***

Paki Paki/Stallard

Carried

Recommendation

### ***That the Council***

1. ***Excludes the public from the following parts of the proceedings of this meeting.***
2. ***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:**

<b>Item</b>	<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Particular interests protected (where applicable)</b>
<b>1</b>	<b>Council Meeting - Confidential Minutes - 6 July 2023</b>	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"> <li>• Section 7(2)(a) To protect the privacy of natural persons, including that of a deceased person</li> <li>• Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities</li> <li>• Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</li> </ul>
<b>2</b>	<b>Nelmac Limited final Statement of Intent 2023/24</b>	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"> <li>• Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities</li> </ul>
<b>3</b>	<b>August 2022 Extreme Weather Event Recovery - Land purchase</b>	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"> <li>• Section 7(2)(g) To maintain legal professional privilege</li> <li>• Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</li> </ul>

The meeting went into confidential session at 03.49p.m. at which time Councillor Sanson left, and resumed in public session at 4.22p.m.

## Karakia Whakamutanga

### 18. Restatements

It was resolved while the public was excluded:

**1 CONFIDENTIAL: Nelmac Limited final Statement of Intent 2023/24**

4. Notes that the final Nelmac Limited Statement of Intent (1511110536-735) will be made publicly available on Council's website within one month as per legislation; and
5. Agrees that the decision on the final Nelmac Limited Statement of Intent (1511110536-735) be made publicly available; and
6. Notes that the Report (R27822) requires redacting, and once redacted, will be made publicly available.

**2 CONFIDENTIAL: August 2022 Extreme Weather Event Recovery - Land purchase**

10. Agrees that the Report (R27691) and its attachment 1590798627-642 remain confidential.

There being no further business the meeting ended at 4.23p.m.

Confirmed as a correct record of proceedings by resolution on (date)

Resolved



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## Minutes of a meeting of the

### Nelson City Council

### Te Kaunihera o Whakatū

**Held in the Council Chamber, Floor 2A, Civic House, 110 Trafalgar Street, Nelson on Thursday 17 August 2023, commencing at 9.01a.m.**

- Present: His Worship the Mayor N Smith (Chairperson), Councillors M Anderson, M Benge, T Brand, M Courtney, J Hodgson, K Paki Paki, P Rainey, C Rollo, R Sanson, T Skinner and A Stallard
- In Attendance: Chief Executive (N Philpott), Group Manager Infrastructure (A Louverdis), Governance Adviser (K Libeau) and Assistant Governance Adviser (A Bryce)
- Apology: An apology has been received from Councillor R O'Neill-Stevens

## Karakia and Mihi Timatanga

### 1. Apologies

Resolved CL/2023/169

#### ***That the Council***

- 1. Receives and accepts an apology from Councillor R O'Neill-Stevens.***

Courtney/Paki Paki

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

There was no public forum.

#### 5. Confirmation of Minutes - 23 June 2023

Document number R27887, late items agenda pages 2 - 4 refer.

Resolved CL/2023/170

***That the Council***

- 1. Confirms the minutes of the meeting of the Council, held on 23 June 2023, as a true and correct record.***

His Worship the Mayor/Courtney

Carried

#### 6. Draft Traffic and Parking Bylaw - Deliberations Report

Document number R27450, agenda pages 4 - 76 refer.

Group Manager Infrastructure, Alec Louverdis, and Team Leader Transport Activity Management, Drew Bryant, took the report as read. They outlined that the majority of submissions received were in regards to the long term parking of motorhomes and the ability to park on berms. They confirmed the officers' recommendation included the removal of clause 39 to allow for long term parking of motorhomes.

During discussion about long term parking of motorhomes Mr Louverdis and Mr Bryant answered questions on the availability of alternate measures to manage motorhome parking in the Traffic and Parking Bylaw where there was a safety hazard, whether the provisions of the Land Transport Act had previously successfully been applied to move vehicles, whether the motorhomes to be regulated under the initial clause 39 were inhabited or uninhabited, whether a night light was required when parked on the road overnight, the efficacy of traffic and parking bylaws used around New Zealand and the bylaw review requirements.

In response to questions Mr Bryant advised that contrary to the current bylaw provisions, the proposed bylaw would prohibit parking on berms unless a specific area was exempted. He also clarified that certain wheeled recreational vehicles with a wheel diameter below the threshold could be used on footpaths, subject to bylaw restrictions. It was noted that this clause should only apply to urban areas and clause 37.1 was amended to reflect this.

The meeting adjourned from 10:25a.m. until 10:33a.m.

During discussion on clause 38 which would prohibit parking a vehicle for the purpose of advertising a good or service; promoting a candidate for election; or advertising, offering or displaying the vehicle for sale, the

difficulty for enforcement officers to differentiate between a situation where a vehicle was parked on the side of the road for the purpose of advertising or a situation where the vehicle was parked on the side of the road for another reason and due to having advertising on the vehicle would be caught by the bylaw. It was agreed that this clause be removed from the proposed bylaw.

His Worship the Mayor Hon Dr Smith moved the amended officer's motion, seconded by Councillor Rainey.

*That the Council*

1. *Receives the report Draft Traffic and Parking Bylaw - Deliberations Report (R27450) and its attachments (1862260321-57986 and 1862260321-57989); and*
2. *Approves amendments to the Draft Traffic and Parking Bylaw 2023 (1862260321-57989) including:  
  
the addition of the words "in an urban area" to clause 37.1(a); and*
3. *Approves amendments to the Draft Traffic and Parking Bylaw 2023 (1862260321-57989) including:  
  
removal of Clause 38; and*
4. *Delegates authority to make any minor changes to the Draft Traffic and Parking Bylaw 2023 (1862260321-57989) to the Chief Executive; and*
5. *Adopts the Traffic and Parking Bylaw 2023 (1862260321-57989) effective from 3 November 2023; and*
6. *Updates the Officer Delegations Register to reflect the provisions under Clause 28 (temporary discontinuance or restriction of parking spaces).*

The implications of including the powers Waka Kotahi had delegated to Council to manage a section of State Highway between Peace Grove Car Park and the Annesbrook roundabout were discussed and it was proposed to delete clauses 5.1(b) and 5.2 from the bylaw.

Councillor Rollo, seconded by Councillor Benge proposed an amendment to reflect removing the delegated Waka Kotahi powers. The amendment was put, and a division was called.

The meeting adjourned from 12:05p.m. until 12:20p.m.

Amendment

*That the Council*

1. Receives the report Draft Traffic and Parking Bylaw - Deliberations Report (R27450) and its attachments (1862260321-57986 and 1862260321-57989); and
2. Approves amendments to the Draft Traffic and Parking Bylaw 2023 (1862260321-57989) including:  
  
the addition of the words "in an urban area" to clause 37.1(a); and
3. Approves amendments to the Draft Traffic and Parking Bylaw 2023 (1862260321-57989) including:  
  
removal of Clause 38; and
4. Approves a further amendment to the Draft Traffic and Parking Bylaw 2023 (1862260321-57989) to remove clause 5.1(b) and 5.2; and
5. Delegates authority to make any minor changes to the Draft Traffic and Parking Bylaw 2023 (1862260321-57989) to the Chief Executive; and
6. Adopts the Traffic and Parking Bylaw 2023 (1862260321-57989) effective from 3 November 2023; and
7. Updates the Officer Delegations Register to reflect the provisions under Clause 28 (temporary discontinuance or restriction of parking spaces).

The amendment was put and a division was called:

<u>For</u>	<u>Against</u>	<u>Abstained/Interest</u>
Cr Bengé	Cr Smith	
Cr Brand	(Chairperson)	
Cr Courtney	Cr Anderson	
Cr Paki Paki	Cr Hodgson	
Cr Rollo	Cr Rainey	
Cr Skinner	Cr Sanson	
	Cr Stallard	

The amendment was equal 6 – 6, therefore the motion was lost.

Rollo/Benge

Lost

The original motion remained the substantive motion. The motion was put in parts and a division was called.

Resolved CL/2023/171

***That the Council***

- 1. Receives the report Draft Traffic and Parking Bylaw - Deliberations Report (R27450) and its attachments (1862260321-57986 and 1862260321-57989); and***
- 2. Approves amendments to the Draft Traffic and Parking Bylaw 2023 (1862260321-57989) including:***

***the addition of the words "in an urban area" to clause 37.1(a); and***

The motion was put and a division was called:

<u>For</u>	<u>Against</u>	<u>Abstained/Interest</u>
Cr Smith	Cr Bengé	
(Chairperson)	Cr Brand	
Cr Anderson	Cr Skinner	
Cr Courtney		
Cr Hodgson		
Cr Paki Paki		
Cr Rainey		
Cr Rollo		
Cr Sanson		
Cr Stallard		

The motion was carried 10-3.

- 3. Approves amendments to the Draft Traffic and Parking Bylaw 2023 (1862260321-57989) including:***  
***removal of Clause 38; and***
- 4. Delegates authority to make any minor changes to the Draft Traffic and Parking Bylaw 2023 (1862260321-57989) to the Chief Executive; and***
- 5. Adopts the Traffic and Parking Bylaw 2023 (1862260321-57989) effective from 3 November 2023; and***
- 6. Updates the Officer Delegations Register to reflect the provisions under Clause 28 (temporary discontinuance or restriction of parking spaces).***

His Worship the Mayor/Rainey

Carried

**Karakia Whakamutanga**

There being no further business the meeting ended at 12:43p.m.

Confirmed as a correct record of proceedings by resolution on (date)

Resolved

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Attachment 1 - Proposed Saxton Field AMP capital budgets 8Aug2023

Area	Project	Asset Owner	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	10 year total
			Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	2024-34
Saxton Oval	Saxton Oval Pavilion Renewals	NCC	3,383	3,383	3,383	30,000	3,383	3,383	3,383	50,000	3,383	3,383	107,062
Saxton Oval	Saxton Oval Pavilion - IT renewals	NCC					37,950					41,745	79,695
Saxton Stadium	Saxton Stadium Renewals	NCC	27,000	27,000	27,000	27,000	27,000	27,000	27,000	27,000	57,000	27,000	300,000
Saxton Stadium	Saxton Stadium - basketball hoops	NCC	25,000	10,000	580,000								615,000
Saxton Stadium	Saxton Stadium IT hardware renewals	NCC		16,500					18,150				34,650
Saxton Stadium	Saxton Stadium - seating renewal	NCC		20,000						30,000			50,000
Saxton Stadium	Saxton Stadium - Lighting renewal	NCC	5,000	100,000									105,000
Saxton Field	Hard surface renewals	NCC						211,356		200,000		700,000	1,111,356
Saxton Field	Netball surface renewal	NCC				211,356							211,356
Saxton Field	Renewal Saxton hockey turf #1	NCC				31,703	422,712						454,415
Saxton Field	Renewal Saxton hockey turf #2	NCC	52,839		422,712								475,551
Saxton Field	Renewals: Athletics Track	NCC				21,136	369,873						391,009
Saxton Field	Saxton Oval surface renewal	NCC				20,000		288,400					308,400
Saxton Field	Saxton Oval cricket block renewal	NCC						105,678					105,678
Saxton Field	Renewals - drainage	NCC				5000				400,000			405,000
Saxton Field	Lighting renewals - street lights	NCC				30,000			30,000			30,000	90,000
Saxton Field	Renewals: Furniture	NCC				50,000							50,000
Saxton Field	Renewals: Services	NCC			50,000								50,000
Saxton Field	Renewal: Minor assets	NCC							50,000				50,000
Saxton Field	Renewal: Signs	NCC										20,000	20,000
Saxton Field	IT hardware renewals	NCC		15,000									15,000
Saxton Field	Saxton Field General Development	NCC	15,852	15,852	15,852	15,852	15,852	15,852	15,852	15,852	15,852	15,852	158,517
Saxton Field	Accessibility	NCC		21,136		21,136		21,136		21,136		21,136	105,678
Saxton Field	Saxton Entrance development	NCC	105,678										105,678
Saxton Field	Tree planting	NCC	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	50,000
Saxton Field	Walkways/cycleways - new	NCC		150,000		150,000		150,000					450,000
Saxton Field	Play facilities	NCC	20,000	211,356			15,000	250,000					496,356
Saxton Field	Saxton Oval Media tower	NCC	26,420					316,805					343,225
Saxton Field	Harakeke Green irrigation and subsurface drainage	NCC		450,000									450,000
Saxton Field	Harakeke Green car park and paths	NCC						105,678	1,100,000				1,205,678
Saxton Field	Harakeke Green cricket wicket blocks	NCC			52,839								52,839
Saxton Field	Harakeke Green toilets and pavilion	NCC									84,542	29,907	114,449
Saxton Field	Champion Green - pavilion	TDC								52,839	542,445		595,284
Saxton Field	Outdoor basketball court and landscaping in front of stadium	NCC			50,000	30,000							80,000
Saxton Field	Irrigation - Bells Island wastewater	NCC	15,000		150,000								165,000
Saxton Field	Baseball diamond	TDC	150,000							10,000	807,000		967,000
Total			451,171	1,045,226	1,356,785	648,182	896,769	1,500,287	1,249,384	811,826	1,515,222	894,022	10,368,876

NDOCS-196698121-50136

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**Report Title:** Mayor's Report  
**Report Author:** Hon Dr Nick Smith - Mayor  
**Report Number:** R27917

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**1. Purpose of Report**

- 1.1 To acknowledge the death of former Nelson City Councillor Seddon Marshall, who served on Council for 33 years.
- 1.2 To agree in principle to a cost-sharing package with the Government to support recovery work from the August 2022 extreme weather event.
- 1.3 To consider a change in the membership of the Community Housing Acceleration Taskforce.

**2. Recommendation**

***That the Council***

- 1. Receives the report Mayor's Report (R27917) and its attachment/s (1118544611-7258); and***
- 2. Acknowledges with a minute's silence the death of Seddon Marshall, who served on Nelson City Council for 33 years; and***
- 3. Agrees in principle to a cost-sharing package with the Government to support the recovery work from the extreme weather event of August 2022, subject to an officer's report detailing the implications and future cost to Council; and***
- 4. Notes there will be additional costs to Council for up to 14 buyouts of properties where the cost to repair exceeds their value; and***
- 5. Instructs Council officers to prepare a report for the 19 October Council meeting on the next steps required to finalise the funding agreement with the Government; and***

6. ***Receives an update on Plan Change 29 including an extension to the submission timeframe.***
7. ***Agrees that Councillor Matty Anderson replace Deputy Mayor Rohan O'Neill-Stevens on the Community Housing Acceleration Taskforce, subject to Council approving the proposed revised Terms of Reference for the taskforce (R27788) on today's agenda.***

### 3. Discussion

#### Death of Seddon Marshall

- 3.1 Former Nelson City Councillor Seddon Marshall died on 26 August 2023, aged 86 years. First elected in 1968, Seddon went on to serve Nelson for 11 terms or 33 years under five mayors – Trevor Horne, Roy McLennan, Peter Malone, Philip Woollaston and Paul Matheson.
- 3.2 Seddon first stood for Council after getting into a public fight with then Mayor Doug Strawbridge over sewage being discharged into the river. The Mayor challenged Seddon, through the paper, to stand for Council if he thought he could do better. Seddon accepted the challenge, through the paper, stood and was elected as the youngest candidate at that time.
- 3.3 Seddon never forgot why he stood for Council and was a driving force behind many infrastructure projects including the water treatment plant and the Maitai Dam. Seddon also served for many years as the Council Representative on the Nelson Regional Airport Authority and as the Council Director on Nelmac.
- 3.4 Seddon was a lead advocate for a complex development project at Nelson Regional Airport, without whom it would not have been completed. The list of Council roles Seddon held during his 11 terms stretches over two and-a-half pages.
- 3.5 He was also Deputy Mayor under Peter Malone. A Council staff member recalled for me last week that after one particularly outrageous board meeting, Mayor Malone was taken aside and asked how anyone could possibly control Seddon. The Mayor smiled and said: "Seddon is like a horse that has bolted. I don't try to stop him; I don't stand in front of him. Rather, I just hang on for the ride and do my best to guide him roughly in the direction I want to go."
- 3.6 When Seddon first joined Council, Nelson was looking at building a new library, just as it is today. He played a key role in that project, which resulted in the Elma Turner Library being officially opened in February 1990. As part of this work, Seddon visited libraries across New Zealand – and in Australia while he was there on other business – to bring back lessons for Nelson.



## Item 7: Mayor's Report

- 3.7 In another parallel with today, Council's funds were stretched early in Seddon's tenure by the flood of 1970. He recalled that the flood repairs cost \$1 million, which he said was also the total rate take at that time.
- 3.8 Seddon Marshall, by his length of service, seniority of roles and force of personality, had more influence on this city than any other Councillor in the past 50 years.
- 3.9 I ask for everyone to observe a minute's silence in remembrance of Seddon's extraordinary service to Nelson.

### **Storm recovery cost-sharing package offer**

- 3.10 Storm recovery work continues to dominate my work and I wish to acknowledge the huge number of recovery projects Council staff are advancing. The largest part of my role has been trying to secure additional Government support to help affected residents and to offset the cost to ratepayers. This work has involved extensive lobbying through letters, phone calls and meetings in Wellington and Nelson with Parliamentarians, Ministers and Government officials.
- 3.11 I have been particularly frustrated by the extensive support offered to North Island communities affected by Cyclone Gabrielle and the Auckland rainfall events when the equivalent support was not being offered in Nelson.
- 3.12 My key issues were:
  - 3.12.1 Rental relief for families whose alternative housing insurance had expired and were facing a large increase in mortgage costs for their damaged home as well as high rents in a tight market for their alternative accommodation. An accommodation allowance was being made available to North Island families in this situation but not those in Nelson, even though our event was six months earlier.
  - 3.12.2 Finding a solution for homeowners whose properties are so damaged or at risk of damage that the cost of repair exceeds the value of the property. These families are in limbo with few options on a way forward. The Government had offered 50% support to North Island Councils in this situation, to buy out those property owners but had previously declined to engage on this same matter here.
  - 3.12.3 Council has responsibly proposed remediating 18 landslides on our own land by not just restoring the land but building back better. I sought in May and was declined in June Government support for 50% of the cost of the betterment portion, equal to \$6 million.
  - 3.12.4 The Tāhunanui Slump is a unique and particularly difficult, ongoing challenge for Nelson, affecting 120 properties. EQC did a good job in installing and monitoring piezometers and

## Item 7: Mayor's Report

inclinometers but withdrew support for ongoing monitoring. This needs to occur to help us manage the risk in future events.

- 3.12.5 We have major infrastructure projects in areas badly affected by the August 2022 storm and to improve resilience, we – like other areas – need support for these projects. The Government's announced \$6 billion National Resilience Plan for Cyclone Gabrielle and the Auckland floods, excluded support for Nelson.
- 3.12.6 I have also been lobbying for support for a rain radar for the region. The lack of this technology means we are less able to manage these increasingly frequent and unpredictable events. The curvature of the earth means the Wellington rain radar is only able to provide limited information. Tens of millions are being spent on studies and consultants on climate change adaptation when this technology is one of the important practical adaptation tools we need.
- 3.12.7 The one-year anniversary of our August 2022 storm event provided a platform to highlight the inconsistencies in the Government's support for North Island communities compared with Nelson. This triggered a re-engagement by Government Ministers and officials. I want to acknowledge the work of our Council recovery team and Department of the Prime Minister and Cabinet staff in working through the detail of our issues.
- 3.13 The Government subsequently committed up to \$12.3 million to support Nelson's recovery from the August 2022 extreme weather event (see a letter from Hon Grant Robertson, dated 31 August 2023: Attachment 1 1118544611-7258). This commitment includes:
  - 3.13.1 Up to \$6 million as a 50% contribution to support the buyout of up to 14 properties that have been severely affected as a result of the August 2022 weather event, where the landslide risk is too high for those property owners to return to their homes and the cost to mitigate is prohibitive. These properties are akin to properties affected by the North Island Weather Events in January and February 2023 that are described as Category 3.
  - 3.13.2 Investment of up to \$6 million for the betterment of slips on Council-owned land that are affecting residential properties.
  - 3.13.3 A lump sum of \$300,000 to monitor the Tāhunanui Slump, which will cover a period of 10 years at \$30,000 per annum.
  - 3.13.4 A commitment that an accommodation allowance will be available to families experiencing acute financial hardship because they are paying a mortgage on a home they cannot live in and their insurance-funded support to cover the cost of a rental property has run out.
- 3.14 I am relieved that Government has come on board with this package, which offers Nelson the equivalent level of support offered to

## Item 7: Mayor's Report

communities in the North Island affected by Cyclone Gabrielle and the Auckland floods.

- 3.15 For the Nelson families still in limbo after the August 2022 storm, this package offers a way forward including an accommodation allowance in the short term and a possible buyout of their uninhabitable property.
- 3.16 The \$6 million for the betterment of Council slips reduces the forecast cost to ratepayers as we had made the decision to proceed with this work regardless of any Government support. However, this cost saving will be offset by the extra cost of the potential buyouts of up to 14 properties affected by slips on private land.
- 3.17 Council officers are concerned about the precedent and risks of these buyouts. There will be additional costs for removing buildings and making these properties safe as well as ongoing liability. We will also need to have strict criteria around who is eligible, to ensure these costs are manageable for ratepayers. Council officers are right to highlight these risks but I cannot find any alternative solution for these property owners. It is difficult for our Council to refuse this support when other Councils in a similar predicament are doing so.
- 3.18 Council needs to determine the risk and purchase methodologies for the potential buyout of the 14 properties and finalise a draft funding agreement with the Crown. I propose asking Council officers to prepare a report on these matters for the 19 October Council meeting including the likely cost to Council of accepting this offer and any liabilities that could accompany a buyout of these properties.
- 3.19 I propose that, subject to the Staff report and the terms of the funding agreement being acceptable, we agree in principle to accept this package from the Government.

### **Plan Change 29**

- 3.20 On 10 August 2023, Council received and approved the notification of Proposed Plan Change 29, agreeing the date for the close of submissions would be 19 September 2023.

*Resolved CL/2023/158*

*That the Council*

*1. Receives the report Notification of Plan Change 29 (R27805) and its attachment (539570224-14803); and*

*2. Agrees to proceed with Plan Change 29 subject to the correction of any minor errors that the Chief Executive considers necessary for the purpose of clarity and technical correctness; and*

*3. Endorses the content of the Section 32 Evaluation Report (539570224-14803) for Plan Change 29 subject to the correction of any*

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*minor errors the Chief Executive considers necessary for the purpose of clarity and technical correctness; and*

*4. Approves public notification of Proposed Plan Change 29 in accordance with Clause 5 of Schedule 1 to occur on 11 August 2023; and*

*5. Notes that at its meeting on 4 May 2023 Council agreed that Plan Change 31 would be notified alongside Plan Change 29; and*

*6. Agrees that the date for the close of submissions on Plan Change 29 and 31 is 27 working days after public notification which would be on 19 September 2023; and*

*7. Agrees to establish a mixed, three-person Hearings Panel comprising an Independent Chair, Deputy Mayor O'Neill-Stevens and Councillor Brand to hear and recommend on submissions received in relation to Plan Changes 29 and 31.*

- 3.21 The public has expressed significant concern about Plan Change 29, the effect on their neighbourhoods, the complexity of the documentation and the timeframe for submissions.
- 3.22 Elected Members heard many concerns and questions at the Nelson Market on 2 September and, as a consequence, a decision was made to hold a public meeting on Thursday 7 September at the Trafalgar Centre.
- 3.23 The public meeting was attended by more than 350 people with broad opposition to Plan Change 29. The most common concern was the multi-storey developments of up to six storeys being able to be built in residential areas close to boundaries with no public notification. Other concerns were around the complexity of the information, the provision of infrastructure, the heritage changes and the additional hazard provisions.
- 3.24 There was a lack of knowledge among the public about the extent of intensification detailed in the Nelson Tasman Future Development Strategy (FDS) approved by the previous Council in September 2022, largely replicated in Plan Change 29. This disconnect between the Council and community over Plan Change 29 has occurred, in my view, because of three factors:
  - 3.24.1 The FDS discussion tended to be high level and strategic, with a focus on the balance of greenfield vs intensification rather than the public being engaged on the detailed effect of intensification on specific neighbourhoods.
  - 3.24.2 The controversy over the proposed Maitahi Bayview development meant less attention was given to the detail of intensification effects in the FDS. It was easy to present intensification as a strategic alternate to the Maitahi proposal without realising the scale of implications for Nelson's inner suburbs.
  - 3.24.3 The Council has also, following the FDS, taken quite a cautious view of the risks of climate change and sea level rise, opting not

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to allow more intensification of housing in those areas and therefore increasing the need to intensify in other areas.

- 3.25 The decision to extend the submission timeframe and the support of the Friend of Submitters to 31 October was well received by the public at the meeting. The decision was made by the Chief Executive in consultation with His Worship the Mayor and Councillors, under specific powers of the Resource Management Act allowing extensions.
- 3.26 There has not been time since last Thursday's meeting to confirm the details of the extra neighbourhood engagement that is needed to respond to the concerns raised by the public. I intend to table a supplementary report on how we use the extra time between now and 31 October for an enhanced process of neighbourhood engagement on Plan Change 29.

### **Community Housing Acceleration Taskforce Membership**

- 3.27 The Community Housing Acceleration taskforce and its membership was established on 10 December 2022. The current Terms of Reference were approved by Council on 15 December 2022, identifying the role and powers of this elected member group.
- 3.28 A Council staff report proposing revised Terms of Reference (R27788) is due to be considered at the meeting today. These revised terms include engagement with other stakeholders concerned with housing vulnerability to assess and provide recommendations to Council regarding opportunities to support existing and potential community services.
- 3.29 Councillor Matty Anderson has a particular interest in and experience with people experiencing housing vulnerability including homelessness. Deputy Mayor Rohan O'Neill-Stevens has picked up additional responsibilities with Local Government New Zealand and other Council roles that have increased his workload. I propose Councillor Anderson replace Deputy Mayor O'Neill-Stevens on the Community Housing Acceleration Taskforce if the proposed revised Terms of Reference are approved. This proposal has come about in consultation with both Elected Members.

## **4. Options on the Storm recovery cost-sharing package**

- 4.1 Council has the option of agreeing in principle to the August 2022 extreme weather event cost-sharing package with the Government or not agreeing. Option 1 (agree in principle) is recommended.

<b>Option 1: Agree in principle to cost-sharing package</b>	
Advantages	<ul style="list-style-type: none"><li>• Sends a strong signal to the affected families that Council and Government are working together to help them find a way forward.</li></ul>

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	<ul style="list-style-type: none"><li>• Enables staff to work on a draft funding agreement with the Government to unlock the \$12.3 million offered.</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• Will require additional unbudgeted expenditure to meet Council's share of the buyout costs and other related expenses, a total yet to be determined.</li></ul>
<b>Option 2: Do not agree in principle to the cost-sharing package</b>	
Advantages	<ul style="list-style-type: none"><li>• No additional unbudgeted expenditure required at this time.</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• Affected families remain in limbo.</li><li>• Loss of offered Government funding.</li></ul>

## 5. Conclusion

- 5.1 The Government has responded positively to requests for funding support to help Nelson recover from the August 2022 extreme weather event. This Government offer has come in the form of a cost-sharing package worth \$12.3 million. This funding will offset the cost to ratepayers of remediating slips on Council-own land to a better standard than required to provide more resilience, enable a continuation of monitoring of the Tāhunanui Slump and help Council potentially buy out residential properties from owners who cannot return to their homes due to landslide risk for which the cost to mitigate is prohibitive.

## 6. Next Steps

- 6.1 If the recommendation to agree in principle passes, staff will work on a report for the 19 October Council meeting including the likely cost to Council of accepting this offer, any liabilities that could accompany a buyout of these properties and the practical methodologies for the potential buyout of up to 14 properties.

## Attachments

Attachment 1: 1118544611-7258 August 2022 storm recovery funding support letter from Hon Grant Robertson [📄](#)

<b>Important considerations for decision making</b>
<p><b>Fit with Purpose of Local Government</b></p> <p>This decision has a direct effect on our role as the local authority responsible for representing the interests of Nelson property owners who are potentially eligible for support for through the storm recovery cost-sharing package offered by the Government. Council has already committed to the additional expenditure required to repair the slips on Council-owned land to a standard higher than required, and will ensure the continued monitoring the Tāhunanui Slump, both issues that are included in the cost-sharing package.</p>
<p><b>Consistency with Community Outcomes and Council Policy</b></p> <p>The August 2022 extreme weather event has been a major focus of Council, and this decision is directly related to progressing a resolution for those families most severely affected by this major event who have been left in limbo.</p>
<p><b>Risk</b></p> <p>Risks associated with this decision include the prospect that there are potentially more properties involved than Council is currently aware of. In addition, Council's contribution to the cost-sharing package requires a commitment from Council that may be subject to public engagement, the outcome of which cannot be predicted. The risk and purchase methodologies in the draft-funding agreement are still to be determined.</p>
<p><b>Financial impact</b></p> <p>Council's contribution to this cost-sharing package, should it be agreed, is unbudgeted and yet to be determined.</p>
<p><b>Degree of significance and level of engagement</b></p> <p>The Government has signalled its willingness to contribute to a cost-sharing package that now requires Council to decide whether it will contribute its proposed share. Due to the likely financial impact, this is potentially of high significance and Council may choose to undertake a Special Consultative Procedure to seek feedback from the Nelson community on whether Council should contribute its half share of this proposed cost-sharing agreement.</p>
<p><b>Climate Impact</b></p> <p>There is no effect on climate change from deciding whether to agree in principle to the cost-sharing package.</p>
<b>Inclusion of Māori in the decision making process</b>

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No engagement with Māori has been undertaken in preparing this report.

### **Legal context**

In relation to recommendations 3, 4 and 5 the legal context and implications will be covered in the officer's report.

### **Delegations**

This is a matter for Council to consider.



## Hon Grant Robertson

MP for Wellington Central

Minister of Finance

Minister for Sport and Recreation

Minister for Cyclone Recovery

Leader of the House



31 August 2023

Hon Dr Nick Smith  
Mayor  
Nelson City Council  
[mayornick@ncc.govt.nz](mailto:mayornick@ncc.govt.nz)

Tēnā koe Hon Dr Smith

### **Funding to support recovery from August 2022 weather event**

I want to emphasise that as a Government we recognise the impact of the August 2022 storm on the Nelson community and on particular residents who remain out of their homes 12 months after the event itself. I also want to recognise your strong advocacy on behalf of your community.

Given the circumstances Nelson faces and this Government's commitment to help support you and contribute to the broader recovery process, Ministers have agreed the nature of the support that we can provide. The level of support we can provide is based on representations from you and the information you have provided, most recently to Cyclone Recovery Unit officials on Thursday 24 August.

We will make a commitment to:

- support buyouts of up to 14 properties, that have been severely impacted as a result of the August 2022 weather event—where the landslide risk is too high for those property owners to return to their homes and the cost to mitigate is prohibitive. These properties are akin to properties impacted by the North Island Weather Events in January and February 2023 that are described as Category 3. The Government will contribute 50 percent to the net cost of the buyout to a cap of \$6 million,
- investment of up to \$6 million for betterment of 16 slips on council-owned land that are affecting residential properties, and
- a lump sum payment of \$300,000 to monitor the Tāhunanui slump, which will cover a period of 10 years at \$30,000 per annum.

The Cyclone Recovery Unit will work with your officials to implement this assistance.

In addition, the Ministry of Social Development is progressing an accommodation allowance for the small number of households experiencing acute financial hardship because they remain out of their houses, are paying a mortgage on that house and their insurance paid support for rent has run out.

As with many councils, there are other initiatives you will want to progress, including the replacement of storm water systems at an estimated \$20 million. This is not an initiative the Government can commit to at this time, but it may potentially be suitable for future National Resilience Plan (NRP) funding, should the fund be expanded.

The initiatives the Government is committing to will result in a direct investment by the Government of up to \$12.3 million. The certainty that can now be provided to your communities is, in my view, of significant value and will provide certainty for severely affected homeowners.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Grant Robertson', with a stylized, cursive script.

Hon Grant Robertson  
**Minister for Cyclone Recovery**

CC Hon Keiran McAnulty, Minister for Local Government  
Hon Barbara Edmonds, Associate Minister for Cyclone Recovery

## Term Sheet – Nelson City Council funding for residential property buyouts and betterment of slips

This term sheet outlines key terms for the proposed Crown funding to the Nelson City Council (Council) for:

- buyouts of 14 properties that have been severely impacted as a result of the August 2022 weather event—where the landslide risk is too high for those property owners to return to their homes and the cost to mitigate is prohibitive,
- investment of up to \$6 million for betterment of 16 slips on council land that are affecting residential properties, and
- Tāhunanui slump monitoring.

Status: This term sheet is not binding on the parties. If accepted by the Council, this term sheet will be replaced by a funding agreement (referred to in the table below as the “Agreement”). In agreeing this term sheet, each party acknowledges that the positions and outcomes described in this term sheet are the basis on which each party agrees to proceed with preparation of the Agreement.

Nelson City Council	
Topic	Key Terms
Purpose of the funding package	The Crown has agreed to provide a funding package for the Nelson City Council in support of the region’s recovery from the August 2022 weather event.
<b>Buyout of residential properties</b>	
Crown funding for buyout of residential properties	<p>The Crown will pay 50% of the net aggregate cost of up to 14 properties purchased by the Council (up to a maximum aggregate of \$6 million) that are:</p> <ul style="list-style-type: none"> <li>- a residential property or the residential portion of a mixed-use property; and</li> <li>- impacted by the August 2022 weather event where there is an intolerable risk to life, and it is not feasible to mitigate that risk.</li> </ul> <p>The net aggregate cost is:</p> <ul style="list-style-type: none"> <li>- the total cost to the Council of purchasing the [up to] 14 properties LESS Any insurance and EQC proceeds related to the properties.</li> </ul>
Methodologies	<p>The Council is responsible for the risk methodology to inform buyout decisions.</p> <p>The Council will use the purchase methodology they determine for the purchase of the properties.</p> <p>The Council will work with North Island Weather Event-affected Councils to ensure consistency of policy and approach when implementing the buyout.</p> <p>The Council will notify the Crown of both the risk and purchase methodologies and they will be attached to the Agreement.</p>
Transaction costs	The transaction costs of purchasing a residential property are the reasonable valuation, engagement, and legal costs of the vendor and the Council in relation to the sale and purchase.
Maximum aggregate Crown	The Crown has accepted the cost estimates are appropriate for the completion of the respective projects.

## Item 7: Mayor's Report: Attachment 1

funding for buyouts	<p>The maximum aggregate amount of Crown funding for buyout of residential properties that the Crown will pay is \$6 million, representing a 50 percent share of the total cost of purchasing up to 14 properties, less any insurance and EQC proceeds.</p> <p>The risk of cost overruns to be borne by the Council.</p>
Other Council responsibilities	<p>The Council will:</p> <ul style="list-style-type: none"> <li>• communicate and engage with the affected property owners;</li> <li>• assess and determine which residential properties that were impacted by the August 2022 weather event present an intolerable risk to life and it is not feasible to mitigate that risk;</li> <li>• administer the overall programme for the purchase of properties, including all matters related to the sale and purchase agreements. The Council will bear all contract and enforcement risk with respect to those agreements;</li> <li>• manage the insurance claims that are assigned to the Council;</li> <li>• take ownership of the land purchased and be responsible for all costs associated with the management of that land (including demolition. In turn, the Council may retain any revenues from the ongoing use of the land or its resale (where non-residential uses remain viable);</li> <li>• comply with the invoicing, wash up and related procedures regarding the delivery of Crown funding. These procedures will be attached to the Agreement; and</li> <li>• report to the Crown on an ongoing basis in accordance with the reporting requirements that will be attached to the Agreement.</li> </ul>
<b>Risk mitigation projects</b>	
Crown betterment funding to support remediation of slips	<p>The Crown will commit \$6 million of National Resilience Plan funding towards the betterment portion of costs of remediating slips on Council land.</p> <p>The Council had 18 significant slips on its land affecting private residences. The Council has indicated that 16 of these are able to be remediated to the standard prior to the event and made more resilient to the impacts of events of a similar or worse scale. Total costs are estimated to be \$17 million.</p> <ul style="list-style-type: none"> <li>• Of the total \$17 million, \$5 million is for reinstatement. The Council will pay 100 percent of this amount.</li> <li>• The cost of building in resilience is estimated to be \$12 million. The Crown will contribute 50 percent of this cost (\$6 million). The Council will cover the remaining \$6 million of the betterment portion, bringing the total Council contribution to \$11 million for remediating slips on Council land.</li> </ul> <p>Funding will be released upon the slip remediation projects meeting the eligibility and project assessment criteria adopted for the National Resilience Plan fund.</p>
Monitoring of Tāhunanui Slump	<p>The Crown will commit up to 10 years funding for monitoring the Tāhunanui Slump at \$30,000 a year, paid in a lump sum of \$300,000.</p>

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	This will enable measurements, using specialised equipment which included measuring the movement of the water table, to continue for up to 10 years.
Maximum Crown funding of risk mitigation projects	<p>The Crown has accepted the cost estimates are appropriate for the completion of the respective projects, with amounts capped as follows:</p> <ul style="list-style-type: none"> <li>• 50 percent share of the betterment of 16 slips on Council-owned land at a cost of \$6 million.</li> <li>• Up to 10 years funding for monitoring the Tāhunanui Slump at \$30,000 a year, paid in a lump sum of \$300,000.</li> </ul> <p>The risk of cost overruns to be borne by the Council.</p>
<b>Other matters</b>	
Timelines	<p>The parties will coordinate on timings for the buyout process and risk mitigation projects, and the processes will get underway as soon as possible.</p> <p>Upon Council agreement to the term sheet, the Crown will prepare the Funding Agreement.</p>
Uncertain information	The parties understand that the information on which this term sheet is based are estimates and may be subject to change. Any changes in the estimates will not be grounds to re-negotiate the percentage for buying properties or the amount of funds for betterment, to be funded from the National Resilience Plan.
Drawdown of funding subject to approval and assurance processes	Crown funding will only be able to be drawn down on the basis of appropriate planning documentation including a business case, assurance processes, commercial terms and conditions and agreed milestones.
Statutory functions	Nothing in this arrangement will restrict, influence or otherwise limit compliance with statutory duties or exercise of functions or powers.
Publicity	The parties will co-ordinate on the timing of public announcements regarding the proposed Crown funding.

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REPORT R27870

## Draft Significance and Engagement Policy for consultation

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### 1. Purpose of Report

- 1.1 To adopt a Draft Significance and Engagement Policy for consultation in at the same time as the Long Term Plan 2024-2034 consultation process in March/April 2024.

### 2. Summary

- 2.1 Council is required to prepare and adopt a Significance and Engagement Policy and a summary of the Policy must be included in the Long Term Plan.
- 2.2 Staff are recommending several amendments to the existing Policy. A Draft Policy, including proposed amendments, is contained in Attachment 1 (839498445-14234) to this report for Council's consideration. Staff consider the amendments are substantial enough to warrant consultation and recommend that the consultation is undertaken in parallel with the Long Term Plan 2024-2034 consultation process.

### 3. Recommendation

***That the Council***

- 1. Receives the report Draft Significance and Engagement Policy for consultation (R27870) and its attachment (839498445-14234); and***
- 2. Agrees that the proposed amendments to the existing Significance and Engagement Policy, outlined in paragraph 5.1 of this report (R27870), are sufficiently substantial to require public consultation; and***
- 3. Adopts the Draft Significance and Engagement Policy in Attachment 1 (839498445-14234) for public consultation in accordance with sections 76AA, 82 and 82A of the Local Government Act 2002; and***

- 4. *Agrees that the consultation on the Draft Significance and Engagement Policy (839498445-14234) will occur at the same time as the Long Term Plan 2024-2034 consultation process; and***
- 5. *Agrees that His Worship Mayor Hon Dr Smith and the Chief Executive be delegated authority to approve any minor amendments required to the Draft Significance and Engagement Policy (839498445-14234) prior to it being made available for public consultation.***

#### **4. Background**

- 4.1 The Local Government Act 2002 (LGA 2002) requires that Council has a Significance and Engagement Policy, and a summary of it must be included in the Council's Long Term Plan.
- 4.2 Many decisions Council makes affect our community on a daily basis. The higher the level of significance of the decision, the more important it generally is for Council to engage with the community to understand the community's views and preferences prior to making these decisions.
- 4.3 The Significance and Engagement Policy has four key functions. It lets Council and the community know:
  - 4.3.1 How Council determines the degree of significance of matters – to assist in deciding the level of engagement needed with the community
  - 4.3.2 When the community can expect to be engaged in decision making processes
  - 4.3.3 How engagement is likely to occur – for minor decisions the community may be informed of the decision, whereas for more significant decisions, Council's would normally undertake more in-depth engagement
  - 4.3.4 What Council's strategic assets are – these are the critical assets Council needs to retain to deliver on its outcomes.
- 4.4 Staff have undertaken an assessment of the existing Significance & Engagement Policy to see if it meets current best practice. Several amendments are recommended to the Policy. These were outlined to Council at a workshop on 23 June 2023, where elected members provided feedback to staff, which has been incorporated into the Draft Policy contained in Attachment 1.

## **5. Discussion**

### **Proposed amendments**

- 5.1 Staff are recommending the following key amendments to the existing Significance and Engagement Policy:
- 5.1.1 General improvements to the wording of the Policy to make it easier to read and more user friendly
  - 5.1.2 Amendments to the Introduction paragraph to better explain the purpose of the Policy
  - 5.1.3 Amendments to the criteria for assessing significance
  - 5.1.4 Amendments to the sections on determining significance, community engagement, and on the relationship between engagement and significance (including the associated diagram)
  - 5.1.5 Amendments to the section on engagement with Māori and local iwi to better reflect the legislative requirements
  - 5.1.6 Adding a further reason in the Community Engagement section that Council will not consult the public when making a decision to reflect situations where Council is required by central government or legislation to do something (please note this matter has been added since the workshop)
  - 5.1.7 Adding a definition of “significant” from the legislation
  - 5.1.8 Amendments to Schedule 1 to reflect the changes in criteria for assessing significance
  - 5.1.9 Amendments to Schedule 2 to reflect changes to strategic assets due to the Affordable Waters reform and the formation of Infrastructure Holdings Ltd and the transfer of Council’s shareholdings in Port Nelson and Nelson Airport to the new company.

### **Consultation Process**

- 5.2 When adopting or amending a Significance and Engagement Policy, Council must generally consult. The exception is when Council considers, on reasonable grounds, it has sufficient information about community interests and preferences to enable the purpose of the Policy to be achieved. Staff recommend that Council consults on the Draft Policy given the substantive amendments proposed and that this be undertaken at the same time as the Long Term Plan 2024-2034 consultation process next year. The consultation process for the Draft Policy will be decided when the Long Term Plan consultation approach is adopted.



## 6. Options

<b>Option 1: Adopt the Draft Significance and Engagement Policy for consultation at the same time as the Long Term Plan 2024-2034 consultation process (Recommended option)</b>	
Advantages	<ul style="list-style-type: none"> <li>Provides the Council with the opportunity to make minor amendments at the meeting.</li> <li>Undertaking the consultation at the same time as the Long Term Plan process provides efficiencies for Council processes and for potential submitters.</li> <li>Meets the requirements of the LGA 2002.</li> <li>Provides the community with the opportunity to provide feedback to Council on the proposed amendments.</li> <li>Allows Council to consider feedback and make changes at the same time as adopting the final Policy and including a summary of it in the Long Term Plan 2024-2034.</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>Council would not have an opportunity to make major amendments to the documents, if it considers they are needed prior to public consultation.</li> </ul>
<b>Option 2: Amend the Draft Significance and Engagement Policy prior to consultation</b>	
Advantages	<ul style="list-style-type: none"> <li>If Council considers that the Draft Policy does not meet its needs or the needs of the community, Council can request staff to make further amendments before releasing it for public consultation.</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>Use of further staff time to undertake the amendments and report back to Council.</li> </ul>
<b>Option 3: Adopt the Draft Significance and Engagement Policy for consultation occurring in October/November 2023</b>	
Advantages	<ul style="list-style-type: none"> <li>Provides the Council with the opportunity to make minor amendments.</li> <li>Meets the requirements of the LGA 2002.</li> <li>Provides the community with the opportunity to provide feedback to Council on the proposed amendments.</li> <li>Allows Council to consider feedback and make changes before adopting the final Policy and including it in the Long Term Plan 2024-2034.</li> </ul>

## Item 8: Draft Significance and Engagement Policy for consultation

Disadvantages	<ul style="list-style-type: none"><li>• Undertaking the consultation separate from the Long Term Plan process is less efficient for Council processes and potentially for submitters who may wish to present to Council on both processes.</li><li>• Risks consultation fatigue by the public.</li><li>• Council would not have an opportunity to make major amendments to the documents, if it considers they are needed prior to public consultation.</li></ul>
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### 7. Conclusion

- 7.1 The Draft Significance and Engagement Policy incorporates amendments to improve the existing Policy. It provides a good basis for public consultation. Staff recommend that the Draft Policy is adopted and approved for public consultation.

### 8. Next Steps

- 8.1 Council will undertake the consultation process at the same time as the Long Term Plan 2024-2034 consultation process. Staff will then prepare the final Policy for adoption in late June 2024.

**Author:** Susan Edwards, Principal Adviser - Annual and Long Term Planning

**Authoriser:** Nicky McDonald, Group Manager Strategy and Communications

### Attachments

Attachment 1: 839498445-14234 Draft Significance and Engagement Policy [↓](#)

<b>Important considerations for decision making</b>
<b>Fit with Purpose of Local Government</b> <p>Adopting a Draft Significance and Engagement Policy for consultation enables public input into Council's democratic decision-making processes. The Significance and Engagement Policy is a key document for staff use to help enable Council to consult appropriately with the public on various matters.</p>
<b>Consistency with Community Outcomes and Council Policy</b> <p>A summary of the final Significance and Engagement Policy will be incorporated into the Long Term Plan 2024-2034 before adoption in June 2024. Consulting on the Draft Policy is consistent with the community outcome "Our Council provides leadership and fosters partnerships, a regional perspective, and community engagement".</p>
<b>Risk</b> <p>Adopting the Draft Policy is considered low risk, as Council will consider the views of the public before making its final decisions. The proposed process is in line with the requirements of the LGA 2002. There is a risk that some members of the public might object to the final decisions that Council makes or challenge the process. Ensuring a robust consultation process and explaining the reasons for decisions will help mitigate this risk.</p>
<b>Financial impact</b> <p>There is limited financial impact from the decision to consult on the Draft Policy. The consultation costs will be covered in the existing Strategy and Administration Team budgets.</p>
<b>Degree of significance and level of engagement</b> <p>The decisions sought in this report have been assessed as having a low to moderate level of significance, as the community will have an opportunity to provide feedback before a final policy is adopted.</p>
<b>Climate Impact</b> <p>The decisions in this report will have no impact on the ability of Council to proactively respond to the impacts of climate change now or in the future.</p>
<b>Inclusion of Māori in the decision making process</b> <p>No engagement with Māori has been undertaken in preparing this report.</p>

Item 8: Draft Significance and Engagement Policy for consultation

**Delegations**

This is a matter for Council.

**Significance and Engagement Policy**

Library



## Draft Significance and Engagement Policy



839498445-14234 Draft Significance and Engagement Policy

## Significance and Engagement Policy

### 1. Purpose of this policy

- 1.1. Many decisions Council makes affect our community on a daily basis. The more significant the decision, the more important it is for Council to engage with the community to understand the community's views and preferences prior to making the decision.
- 1.2. This Significance and Engagement Policy lets both Council and the community know:
  - The degree of significance attached to particular matters and the decisions Council makes on them
  - How and when the community can expect to be engaged in Council's decision-making processes
  - The form and extent of the engagement likely to take place before a particular decision is made
  - Council's strategic assets, as a decision concerning transfer of ownership or control of a strategic asset to or from Council must be explicitly provided for in the Long Term Plan.

### 2. Introduction

- 2.1. The Local Government Act 2002 states that one role of a Council is to enable democratic local decision-making and action by, and on behalf of, communities. Council consults or engages on a wide range of specific matters which lead to decisions. This Policy explains how Council will decide the degree of significance of a matter, the types of matters on which the community will be engaged during the decision-making process and when the community can expect Council to make a decision on its behalf.
- 2.2. There are many informal ways that Council engages with the community during its everyday business which helps to inform it on community views. There are also decisions that Council makes which require a more structured form of engagement. This is partly because of the importance or significance of a matter to the wider community, or to groups within the community.
- 2.3. Section 3 of this policy explains how Council decides the degree of significance of a matter. Sections 4-8 explain how and when the community's views will be sought on a matter, given the degree of significance of the matter.

### 3. Determining Significance

- 3.1. Every decision by Council has a degree or level of significance, as significance is assessed on a continuum – ranging from day-to-day matters where the decision is of low importance and low significance, through to critical decisions of high significance.
- 3.2. Determining the significance of a matter is an exercise of judgment based on criteria Council has identified as important to its community (refer to Schedule One).

## Significance and Engagement Policy

- 3.3. An assessment of the degree of significance of proposals and decisions, and the appropriate level of engagement, will be considered in the early stages of a proposal before decision-making occurs.
- 3.4. Council will take into account the following criteria when assessing the degree of significance of proposals and decisions or whether they have significant consequences, and therefore the appropriate level of engagement to undertake:
  - Whether the asset is a strategic asset as listed in Schedule Two of this policy, and whether the proposal or decision involves the transfer of ownership or control of the strategic asset
  - The impact on levels of service provided by Council or the way in which services are delivered
  - The degree of impact on Council's debt or the level of rates it charges and Council's financial capacity, including its debt and rates limits
  - Whether the decision is reversible and the likely impact on future generations
  - The impact on the community, how many people are affected and by how much
  - Any past history of the issue generating wide public interest within the community or whether there is a reasonable expectation that it would generate this interest now
  - Whether the decision or action flows from, or promotes, a decision or action that has already been taken by Council or furthers a community outcome, policy or strategy, and the degree to which the community's views are known.
- 3.5. It may be that only one of the criteria applies, but to such a high degree that the decision will be considered of high significance. Conversely, several criteria may be applicable, but to only a low degree, and therefore the decision will be considered to have a lower degree of significance. Each Council decision will be preceded by a staff assessment of the degree of significance of the decision, for Council's consideration. Schedule One of this policy sets out how the criteria will be used to assess the degree of significance of a matter.
- 3.6. Once Council has decided what level of significance a matter has, it will consider how it should engage with its community.
4. **Engagement with Māori and local Iwi**
- 4.1. The Crown has made certain legislative requirements for local government to engage with Māori to facilitate their participation in council decision-making processes. The Local Government Act 2002 requires councils to:
  - Establish and maintain processes to provide opportunities for Māori to contribute to council decision-making processes
  - Consider ways to foster the development of Māori capacity to contribute to council decision-making processes
  - Provide relevant information to Māori to enable them to contribute, in a timely manner.

## Significance and Engagement Policy

- 4.2. Aside from the legislative context, there are compelling reasons for Council and iwi/Māori to work together, and not all engagement with iwi/Māori is driven by statute. Iwi constitute a unique and defining part of the Whakatū community and region, and hold a wealth of knowledge about the cultural, natural, physical and social landscape, and are also key contributors to the region's economic development.
- 4.3. Council's engagement with Māori and iwi aligns with the Treaty principles of partnership, protection and participation. Council will:
- Implement the intent of the Local Government Act 2002
  - Work to improve Māori and iwi participation in Council's decision-making processes
  - Implement the Statement on Fostering Māori Participation in Council Decision-Making
  - Provide sufficient information to Māori and iwi to enable their effective and genuine participation in decision-making
  - Endeavour to engage Māori and iwi early in decision-making processes.
- 4.4. Council will take into account its obligations as outlined under legislation including, Te Tau Ihu Claims Settlements, Resource Management Act, and all other relevant Acts. Council will also consider National Policy Statements, and will honour all engagement and relationship agreements developed with Māori and iwi as they relate to its decision-making processes.

## 5. Community Engagement

- 5.1. The ways engagement can take place are varied and will generally be in proportion to the significance of the matter being considered. So, a decision relating to a matter with a higher degree of significance is likely to result in a higher level of engagement with the community, compared with a decision of lower significance.
- 5.2. There may be situations where Council does not engage with the community on highly significant matters. For example, where
- Council already has a good understanding of the community's views and preferences
  - The matter is confidential
  - If there is a legal or Government policy requirement for Council to do something e.g. the directive for Council to fluoridate its water supplies and the decision by the Government to transfer the three waters services from councils into a new water entity.

### Special Consultative Procedure

- 5.3. There are times when Council will use a formal consultation process - the Special Consultative Procedure. This is a structured process outlined in legislation and supported by case-law.
- 5.4. Council must use the Special Consultative Procedure outlined in the Local Government Act 2002 for some plans and processes, such as adopting the Long Term Plan or bylaws.



## Significance and Engagement Policy

### Engagement on Other Matters

- 5.5. When engaging on other matters, which do not require the Special Consultative Procedure, there are no explicit statutory or legal rules regarding community engagement processes. The Local Government Act 2002 gives local authorities the ability to determine the engagement process on a case-by-case basis, as is considered appropriate for their communities.
- 5.6. Council may decide it will use the Special Consultative Procedure or similar process if the matter is of high significance, or it may choose a different form of consultation. In instances where significance is judged to be moderate, engagement with the community could involve consulting through an advisory committee or focus group, public meetings, or surveys.
- 5.7. When Council decides that a matter is of low to moderate significance, or in instances where it is considered that the views of the community are already known, it may make a decision on behalf of the community. Following making the decision Council may then inform the community of the outcome e.g. through publication on the Council website or social media channels, through the Council's own delivered newsletter (Our Nelson), by working with local media to publicise the announcement or through any other appropriate means.

### 6. Principles of Engagement

- 6.1. Engagement with the community is always in proportion to the significance of the matter being considered. In situations where engagement takes place, other than simply providing information to the community, we will:
  - Seek a range of views on the matter
  - Ask for views early in the decision-making process so that there is enough time to engage, and for the range of views to be considered properly
  - Listen to and consider views in an open and honest way
  - Respect all points of view
  - Provide information that is clear and easy to understand
  - Consider different ways in which the community can share views with Council
  - Ensure that the engagement process is efficient and cost effective.

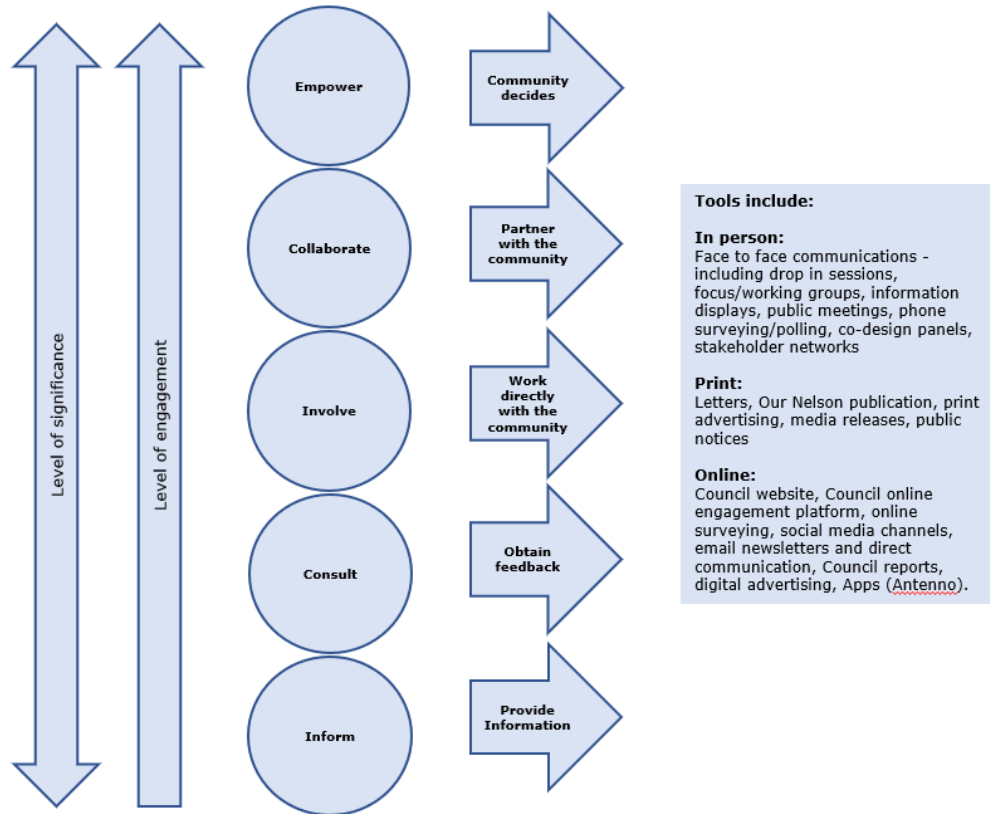
### 7. Matching Engagement to Significance

- 7.1. Once Council has decided the degree of significance of an issue, it will consider how to engage with the community or interested groups. Different types of engagement occur along a continuum from simply providing information to the community for matters of low significance (e.g. advising a change to rubbish collection days) to a major consultation process for matters of high significance (e.g. when considering changing the electoral voting system). The exact form and extent of consultation and engagement will be determined by Council on a case-by-case basis, considering the degree of significance of the matter and any statutory considerations.

## Significance and Engagement Policy

7.2. Below is an illustration of how Council will approach its community engagement.

**Level of significance helps determine the level of engagement and tools used.**  
**The engagement and tools used may vary from one matter to another depending on a range of factors.**



## 8. Information Provided to the Community

8.1. When conducting any engagement or consultation process in relation to matter of medium or high significance, Council will provide:

- Clear information on what is being proposed and why it is being proposed
- Sufficient information on which to provide meaningful feedback
- The advantages and disadvantages of each option being considered
- What impacts, if any, will occur if the proposal goes ahead
- How the community can provide its views
- The timeframe for completing the community engagement or consultation
- How submitters and participants can learn about the outcome.

## Significance and Engagement Policy

### 9. Question about this Policy

- 9.1. If you have any questions about this policy or concerns about the way Council has engaged on a matter, please contact us at [enquiry@ncc.govt.nz](mailto:enquiry@ncc.govt.nz).

### 10. Definitions Used in this Policy

Community	A group of people living in the same place or having a particular characteristic in common. Includes iwi, interested parties, affected people and key stakeholders.
Decisions	Refers to all the decisions made by or on behalf of Council including those made by officers under delegation. (Management decisions made by officers under delegation during the implementation of Council decisions will not be deemed to be significant).
Engagement	The process of seeking information from the community to inform and assist decision-making. There is a continuum of community engagement from informing through to involving and empowering the community to make decisions.
Matter	A matter, in the context of this policy, refers to a topic on which Council is seeking feedback about over a period of time, prior to making a decision.
Significance	As defined in section 5 of the LGA 2002 in relation to any issue, proposal, decision, or other matter that concerns or is before a local authority, means the degree of importance of the issue, proposal, decision, matter, as assessed by the local authority, in terms of its likely impact on, and likely consequences for: <ul style="list-style-type: none"> <li>(a) The current and future social, economic, environmental or cultural wellbeing of the district or region;</li> <li>(b) Any persons who are likely to be particularly affected by, or interested in, the issue, proposal, decision, or matter;</li> <li>(c) The capacity of the local authority to perform its role, and the financial and other costs of doing so.</li> </ul>
Significant	As defined in section 5 of the LGA 2002, in relation to any issue, proposal, decision, or other matter, means that the issue, proposal, decision or other matter has a high degree of significance.

### Significance and Engagement Policy

Strategic Asset	<p>As defined in section 5 of the LGA 2002 in relation to the assets held by the local authority, means an asset or group of assets that the local authority needs to retain if the local authority is to maintain the local authority's capacity to achieve or promote any outcome that the local authority determines to be important to the current or future well-being of the community, and includes:</p> <ul style="list-style-type: none"> <li>(a) any asset or group of assets listed in accordance with section 76AA(3) by the local authority; and</li> <li>(b) any land or building owned by the local authority and required to maintain the local authority's capacity to provide affordable housing as part of its social policy; and</li> <li>(c) any equity securities held by the local authority in— <ul style="list-style-type: none"> <li>(i) a port company within the meaning of the Port Companies Act 1988:</li> <li>(ii) an airport company within the meaning of the Airport Authorities Act 1966</li> </ul> </li> </ul>
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## Significance and Engagement Policy

### Schedule One: Criteria used to Assess the Degree of Significance of Matters Considered by Council

Criteria	Lower Significance	Moderate Significance	Higher Significance
Whether the asset is a strategic asset as listed in Schedule Two of this policy, and whether the proposal or decision involves the transfer of ownership or control of the strategic asset.	The decision does not impact on Council's ownership or control of the asset.	The decision does not impact on Council's ownership or control of the asset.	The decision involves the sale or transfer of a strategic asset or control of a strategic asset. This will also involve a LTP amendment if not already provided for in the LTP.
The impact on levels of service provided by Council or the way in which services are delivered.	There is a low level of change to services but no change to the levels of service stated in the Long Term Plan and no change to the way in which services are delivered.	There is a medium level of change to services but no change to the levels of service stated in the Long Term Plan and no change to the way in which services are delivered.	There is a major and/or long term change to levels of service for a significant activity or there is a change in the way in which a significant activity is delivered. This will also involve a LTP amendment to change the LTP Levels of Services.
The degree of impact on Council's debt or the level of rates it charges and Council's financial capacity, including its debt and rates limits.	The impact is of a medium to low level. There is a low impact on capital or operational expenditure. The financial transaction has a minor value compared to rates revenue.	The impact is of a high to medium level in the short or long term. There is a moderate impact on capital or operational expenditure. The financial transaction has a moderate value compared to rates revenue.	The impact is major and/or long term in terms of either debt levels or rates. There is a high impact on capital or operational expenditure. The financial transaction has a high value compared to rates revenue.

**Significance and Engagement Policy**

Criteria	Lower Significance	Moderate Significance	Higher Significance
Whether the decision is reversible and the likely impact on future generations.	The decision applies for a short term or is reversible. If reversible, the impact on future generations would be low.	The decision applies for the medium term or is difficult to reverse, and/or, there is a moderate impact on future generations.	The decision applies for a longer term or is irreversible and would impact negatively on future generations to a high degree.
The impact on the community, including how many people are affected and by how much.	Low impact on sections or all the community.	Medium impact on sections or all the community.	Major impact on sections or all the community.
Any past history of the issue generating wide public interest within the community or whether there is a reasonable expectation that it would generate this interest now.	There is no history of the matter generating wide or intense interest, or there is no reasonable expectation of the matter generating wide or intense interest.	There is some history of the matter generating public interest in general or within particular sectors, or there is neither a low likelihood of the matter generating wide and intense public interest.	There is a history of the matter generating wide and intense public interest or there is a reasonable likelihood of the matter generating wide and intense public interest.
Whether the decision or action flows from, or promotes, a decision or action that has already been taken by Council or furthers a community outcome, policy or strategy, and the degree to which the community's view are known.	The decision or action is consequential to, or promotes, a decision or action already taken by Council, or the views of the community on the matter are known.	The decision or action relates to previous decisions. Community views are known or somewhat known through previous consultation.	The matter is considered significant according to other criteria in this list, and the community has not been previously consulted on the matter.

## Significance and Engagement Policy

### Schedule Two: List of Strategic Assets

The Local Government Act 2002 definition of a strategic asset is outlined in the definitions section of this Significance and Engagement Policy.

Council considers the list of assets outlined below are "strategic assets", however not all decisions made regarding them will be significant. For example, the road network is a strategic asset but the purchase or sale of small land parcels that make up the network may not amount to a significant decision.

- Water supply catchments and supply network as a whole for the duration of Council's control and responsibility for the water supply activity
- Wastewater network as a whole for the duration of Council's control and responsibility for the wastewater supply activity
- Stormwater network as a whole for the duration of Council's control and responsibility for the stormwater supply activity
- Flood protection network as a whole
- Council's Land transport network as a whole
- Shareholding in the Infrastructure Holdings Ltd
- Shareholding in Nelmac Ltd.



**Effective Date:** Add date

**Legal compliance:** In accordance with section 76AA of the Local Government Act 2002

**Approved by:** Council add date

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**REPORT R27847**

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## **Navigation Safety Policies and Harbour Safety Management System**

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

- 1.1 To adopt:
- a) The Harbour Safety Policy in alignment with the Port and Harbour Marine Safety Code (Attachment 1, 1940938042-1672)
  - b) The Harbour Safety Management System and associated policies (Harbour Safety Plan - Attachment 2, 1940938042-1678, Harbour Safety Management System Manual - Attachment 3, 1940938042-1651, Harbour Operational Policies - Attachment 4, 1940938042-1777, and Nelson Harbour Hot Work Policy - Attachment 5, 1940938042-1956).
- 1.2 To note the findings of the 2023 Port and Harbour Marine Safety Code external review (Attachment 6, 1940938042-1980).

### **2. Summary**

- 2.1 Following the 2021 Port and Harbour Marine Safety Code review finding, the provision of Harbourmaster services has been returned to Nelson City Council from Port Nelson Limited. A Harbourmaster and Deputy Harbourmaster were appointed in July 2022.
- 2.2 The Harbourmasters office has developed a Safety Management System that has been found compliant with the Port and Harbour Marine Safety Code by an external review. The review panel recommended that the Safety Management System be adopted by Council to recognise the Council's responsibility for navigational safety.
- 2.3 The reason for this is that the Council is exposed to a high level of risk if there were to be a maritime incident with Nelson's harbour waters. A Safety Management System, and all the procedures and systems that this entails, is a means to ensure such risks are appropriately and proportionately managed.



### **3. Recommendation**

#### ***That the Council***

- 1. Receives the report *Navigation Safety Policies and Harbour Safety Management System (R27847) and its attachments (1940938042-1672, 1940938042-1678, 1940938042-1651, 1940938042-1777, 1940938042-1956, 1940938042-1980); and***
- 2. Approves the following:**
  - *Harbour Safety Policy (Attachment 1, 1940938042-1672);***
  - *Harbour Safety Management System Harbour Safety Plan (Attachment 2, 1940938042-1678);***
  - *Harbour Safety Management System Manual (Attachment 3, 1940938042-1651);***
  - *Harbour Operational Policies (Attachment 4, 1940938042-1777);***
  - *Nelson Harbour Hot Work Policy (Attachment 5, 1940938042-1956); and***
- 3. Receives the *Port and Harbour Marine Safety Code external review report (Attachment 6, 1940938042-1980); and***
- 4. Agrees to make the *Harbour Safety Policy and Harbour Safety Management System documents publicly available on the Nelson City Council website (Harbourmaster page) and referenced in other relevant documents such as the Long-Term Plan.***

### **4. Background**

- 4.1 Under the Maritime Transport Act, regional councils have the responsibility for navigational safety within their regional waters. Councils are also empowered to appoint a Harbourmaster to ensure international, national, and regional rules are complied with.
- 4.2 The Maritime Transport Act 1994 (Section 33X) enables the regional councils to delegate the harbourmaster function to a port company. This practice was historically commonplace in New Zealand; however, the commercial priorities of a Port may not always align with the navigational safety responsibilities of regional councils. As of 2021, Nelson was amongst the last regions to maintain an agreement under Section 33X with Port Nelson Limited (PNL).

## Item 9: Navigation Safety Policies and Harbour Safety Management System

- 4.3 The Port and Harbour Marine Safety Code 2004 (the Code) is a tripartite arrangement between regional councils, port companies and Maritime New Zealand. The Code is intended to assist parties to work together to manage the safety of marine activities in New Zealand's ports and harbours. The Code for each region is externally reviewed on a three yearly cycle and is overseen by a Code Secretariat, executive, and working group.
- 4.4 Following Nelson's 2021 Code review, several measures were put in place including bringing the Office of Harbourmaster inside the Council. In May 2023, Nelson was reviewed by a Code Review Panel that found Nelson City Council and Port Nelson Limited to be compliant with the Code. Recommendations included the adoption of the Harbour Safety Policy, Safety Management System and associated policies by Council.

### **5. Discussion**

- 5.1 It is the intention of the Harbourmaster office to continually strive for increased levels of navigational safety, keeping Council informed and up to date of associated risk and the effectiveness of the Harbour Safety Management System.
- 5.2 Where the Code relates to safe management of shipping activities, it is recognised that our waters are a shared space. Council has an obligation to ensure that activities are risk assessed and managed to ensure navigational safety. A key focus for the Harbourmaster office, on behalf of Council, is to ensure commercial and recreation activity occur safely through engagement, consultation, education and if required enforcement of relevant regulations.
- 5.3 The oversight of navigational safety includes holding commercial operators (including Port Nelson Limited) to account and working collaboratively to ensure operations are conducted as safely as reasonably practicable in the interests of all parties, including the Nelson public.
- 5.4 Shipping activity occurs across regional boundaries and the Nelson Harbourmaster proposes to manage Tasman Bay shipping activity outside of Port Nelson pilotage limits, as this historically has had little or no oversight. The Nelson Harbourmaster has worked with the Tasman Harbourmaster to identify and survey ship anchorage sites. There is a proposed memorandum of understanding (MOU), between Nelson City Council and Tasman District Council on the management of shipping and contingencies for emergency response.
- 5.5 The rationale for management by the Nelson Harbourmaster is based on existing relationships with Port Nelson Limited (who we would draw on for resources in the event of an emergency in Tasman Bay), existing communication with ships and ships agents and the existence of the Safety Management System presented here. Tasman District Council are undertaking a review of their harbourmaster services and will respond to the proposed MOU once the outcome of their review is known.

## Item 9: Navigation Safety Policies and Harbour Safety Management System

- 5.6 The existence of a coherent Safety Management System enables Nelson to manage shipping and progress to a fees and charges structure to maintain the Safety Management System. Any income from fees and charges would be used to improve navigational aids for regional waters, utilising synthetic and virtual aids to navigation technologies (for example, synthetically marking anchorage locations on electronic charts and marking current hazards with 'virtual' beacons).

### **6. Options**

- 6.1 Council can either adopt the policies and safety management system or not adopt and seek changes to the documents. Officers recommend adopting the navigation safety policies and safety management system for the following reasons:
- a) To demonstrate ownership of Council's responsibility for navigational safety.
  - b) For transparency on how navigational safety is managed.
  - c) To enable inclusion of all stakeholders in the SMS with a view to identifying and managing risk.
  - d) To demonstrate that navigational safety is considered and is appropriately resourced.
  - e) For accountability that all reasonable steps are being taken to ensure navigational safety.

### **7. Conclusion**

- 7.1 Nelson City Council has taken significant steps over the last 18 months to increase the capacity to manage navigational safety for the region.
- 7.2 The Harbourmasters office has developed a Safety Management System and policies that have been found compliant with the Port and Harbour Marine Safety Code by an external review.
- 7.3 Work is ongoing to operationalise the Safety Management System and associated policies.
- 7.4 The Safety Management System will mature and benefit from further integration into Council systems, including recording of incidents and regular involvement from and reporting to Council.

### **8. Next Steps**

- 8.1 Inclusion of Safety Management System documentation on the newly developed Nelson City Council Harbourmaster website page.
- 8.2 Review the Navigation Safety Bylaw (218) 2019 to ensure it is relevant and up to date, including the matters currently managed by Harbourmaster Directions.

## Item 9: Navigation Safety Policies and Harbour Safety Management System

- 8.3 Continue the work with Tasman District Council on consistent management of shipping activities.
- 8.4 Plan and work towards all areas for improvement identified in the Code external review.

**Author: Stuart Whitehouse, Harbourmaster**

**Authoriser: Mandy Bishop, Group Manager Environmental Management**

### **Attachments**

- Attachment 1: 1940938042-1672 - Harbour Safety Policy [↓](#)
- Attachment 2: 1940938042-1678 - Harbour Safety Plan [↓](#)
- Attachment 3: 1940938042-1651 Nelson Harbourmaster Safety Management System Manual [↓](#)
- Attachment 4: 1940938042-1777 - Nelson Harbour Operational Policies [↓](#)
- Attachment 5: 1940938042-1956 - Nelson Harbour Hot Work Policy [↓](#)

## **Important considerations for decision making**

### **Fit with Purpose of Local Government**

The management of maritime safety within Nelson regional waters is a statutory obligation under the Maritime Transport Act. The ownership of this responsibility is key to ensuring our waters are safe, clean and we can promote thriving commercial and recreational sectors.

### **Consistency with Community Outcomes and Council Policy**

Council has made commitments in the Long Term Plan that navigational safety is delivered to meet all legislative requirements as well as to maintain a current and enforceable navigation safety bylaw. The recommendations in this report contribute towards Council meeting those obligations.

### **Risk**

Shipping activities introduce high to very high levels of risk to a region. Nelson is a complex harbour, with a narrow entrance and a large tidal range. The consequence of shipping related incidents has potential to be in the major to extreme rating. An integrated Harbour Safety Management System with a well-resourced Harbourmaster office are key controls to monitor, educate, direct, and enforce regulations as required.

The Safety Management System presented for adoption is the first step to continual improvement in levels of navigational safety. Transparency and involvement of Council are the foundation of the Harbour Safety Management System.

### **Financial impact**

There are no immediate financial implications with these recommendations.

The review of the Navigation Safety Bylaw (218) 2019, will propose a schedule of fees and charges for shipping related activities. This may provide a mechanism to recover costs for the development and maintenance of the Safety Management System. Primarily, the activities to be charged would be shipping anchorage, pilot exemption certification and hot work permitting.

The proposed MOU with Tasman District Council intends to establish fees and charges for navigation safety. This income would be utilised for maintenance of the Safety Management System and to enhance aids to navigation for the regions.

With increased levels of engagement and oversight of shipping activities (for example, hot work inspections), further resource may be sought in the next Long Term Plan. The summer months present a busier time for on the water engagement and presence. This is a critical role in mitigating boating and shipping conflicts through education, intervention and if required enforcement.

Maritime New Zealand Safer Boating funding for 22/23 and 23/24 has been received to employ two summer interns. This enables us to fulfil our minimum crewing requirements for the Harbourmaster vessel and maintain our 24/7 function with two fulltime employees. It is possible that Maritime New Zealand will not continue to fund the resourcing of our summer internship roles beyond 23/24.

### **Degree of significance and level of engagement**

The adoption of the policies and safety management system is of low significance to the wider community as these documents demonstrate Council's expected compliance with the national Port and Harbour Marine Safety Code. There is ongoing engagement and consultation with industry on how the Harbour Safety Management System is operationalised.

### **Climate Impact**

The increasing trend to extreme weather events (flooding) has a direct impact on shipping activities. The Harbour Safety Management System identifies areas of increased risk due to these events and ensures mitigating measures are adopted. For example, the increased sedimentation within the Maitai Channel (Approach to Dixon Basin-marina) presents challenges of more regular dredging and limited access for larger fishing vessels.

**Inclusion of Māori in the decision making process**

No engagement with Māori has been undertaken in preparing this report. The Harbourmaster office is working towards better engagement with Iwi for maritime safety matters and emergency response.

**Delegations**

This is a matter for Council.



## Nelson City Council Harbour Safety Policy

**April 2023**

1940938042-1672 - Nelson Harbour Safety Policy



Harbour Safety Policy

## **1. Purpose**

- 1.1. The Nelson City Council (Council) Harbour Safety Policy outlines the commitments and responsibilities towards maintaining maritime safety that the Council will use. The Policy:
- Provides a framework to ensure the Council meets its statutory and regulatory commitments within the waters of our region.
  - Guides processes by which the harbourmaster is to undertake duties to maintain maritime safety within the waters of our region.

## **2. Context**

- 2.1. The Nelson Harbour is at the heart of the Nelson Community, both in location and spirit. Sitting within the Harbour is the hub of commercial maritime activity, Port Nelson.
- 2.2. The Port and Harbour Marine Safety Code 2020 (The Code) sets down a national voluntary standard for marine safety and the prevention of marine pollution in the operation of ports and harbours in New Zealand.
- 2.3. The statutory powers in the Maritime Transport Act 1994 (MTA) and other relevant legislation are the foundation for the roles, relationships and activities that are integral to achieving that standard.
- 2.4. Council is committed to participating in the Port and Harbour Marine Safety Code (2020) in a tripartite agreement with Maritime New Zealand (MNZ) and Port Nelson Limited (PNL).

## **3. Policy Principles**

- 3.1. The Policy introduces principles that will help guide Council to maintain maritime safety. The principles are:
- Use the Code and its supporting guidelines as a standard against which the NCC will measure itself and be measured by others.
  - Ensure that the relevant assets of the harbour are managed safely.
  - Enforce Bylaws and Harbourmaster Directions appropriately.
  - Ensure that staff are properly trained for emergencies and contingencies.
  - Identify measures to address conflicts of interest.
  - Adequately resource the management of maritime safety in the harbour.

## **4. Scope**

- 4.1. The area of jurisdiction is defined within the Navigation Bylaws and the Port and Harbour Marine Safety Code application assessment for Nelson and Tasman Bay (The Code area).

## **5. Nelson City Council Commitments**

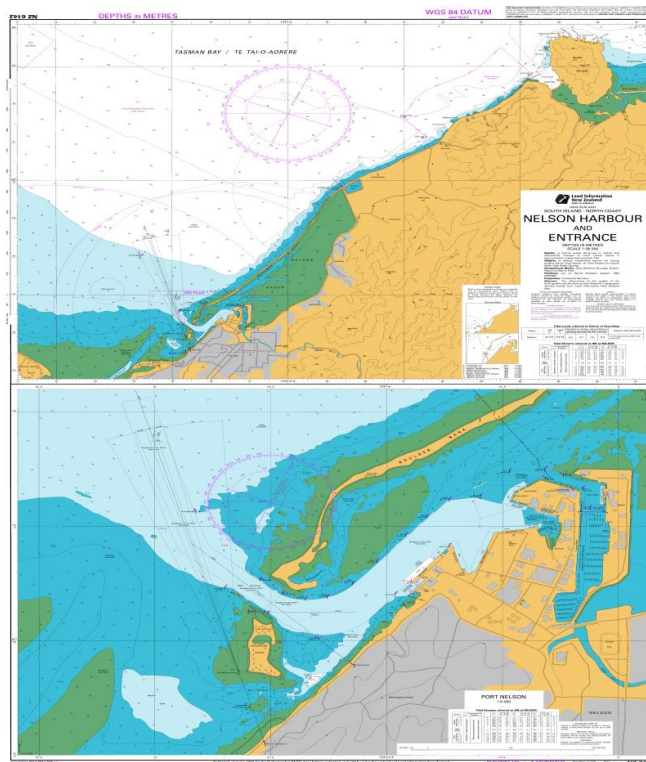
### **5.1. The Council agrees to:**

- Appoint a Harbourmaster office and provide resources to ensure a 24/7 response capability.
- Establish, fund, and maintain an effective Harbour Safety Management System that is consistent with requirements and guidelines of the Port and Harbour Marine Safety Code.
- Conduct regular risk assessments to ensure the risk profile of the harbour is properly understood and that all identified risks are being controlled as far as is reasonably practical.
- Regularly review navigation Bylaws and Harbourmaster Directions to ensure these instruments are fit for purpose and align with the requirements of statute.
- Routinely engage with key stakeholders including Maritime New Zealand, Port Nelson Ltd, Shipping and Fishing Companies to develop and maintain a shared understanding of maritime risks as relate to shipping in the harbour and regional waters.
- Encourage compliance among all harbour users with Navigation Bylaws, Harbourmaster Directions, the Maritime Transport Act 1994 and the associated maritime rules. A specific emphasis is placed on Maritime Rules Part 90 (Pilotage) and 91 (Navigation Safety).
- Remove sunken, derelict, or abandoned ships and other obstructions that are, or may become, an impediment to maritime safety.
- Ensure the provision of aids to navigation within harbour limits and code application areas as necessary to ensure safe navigation through the region's waters.
- Provide harbour users with relevant information to support maritime safety in the region.
- Provide opportunity for all harbour users to engage with the Harbourmaster and contribute to understanding risk in the harbour.
- Provide professional advice to the Council as required regarding any form of development affecting navigational safety within Nelson regional waters,
- Develop and maintain an Incident Management System to record all maritime safety incidents that occur and the response actions of the Harbourmaster.
- Maintain a Harbour Safety Plan that defines in detail the actions and activities the Harbourmaster undertakes to manage risk in the harbour.

## **6. References and relevant legislation**

- 6.1. [Maritime Transport Act 1994](#)
- 6.2. [Port and Harbour Marine Safety Code](#)
- 6.3. [Nelson City Council Navigation Safety Bylaw 2019 \(No 218\)](#)
- 6.4. [Maritime Rules Part 90: Pilotage](#)
- 6.5. [Maritime Rules Part 91: Navigation Safety Rules](#)

DRAFT



## HARBOUR SAFETY PLAN

Implementation of Nelson's Harbour Marine Safety  
Management System

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## Part 1: Introduction

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### 1.1 Purpose

This Harbour Safety Plan defines individual responsibilities at Nelson City Council for maritime safety in the Tasman Bay Code Application Area in accordance with the Memorandum of Understanding between Nelson City Council and Port Nelson Ltd (PNL) and (*in draft at time of writing*) MoU between Nelson City Council and Tasman District Council.

It summarises the processes and documents that comprise the Nelson City Council Marine Safety Management System.

It describes how the Nelson City Council Marine Safety Management System (Nelson City Council Marine SMS) functions in conjunction with Harbour stakeholders, Nelson City Council equipment and infrastructure. It also describes how marine risks are monitored, and how their associated controls are reviewed and improved.

### 1.2 Responsibility

The Nelson Harbourmaster is the Designated Person and reports directly to the Nelson City Council General Manager- Environmental Management, however, has a direct line of communication with the Chief Executive on matters relating to the management of maritime safety.

Responsibility for implementation of the Nelson City Council Marine SMS, monitoring potential sources of marine risk, and monitoring the effectiveness of the Nelson City Council Marine SMS rests with the Harbourmaster, assisted by the Deputy Harbourmaster.

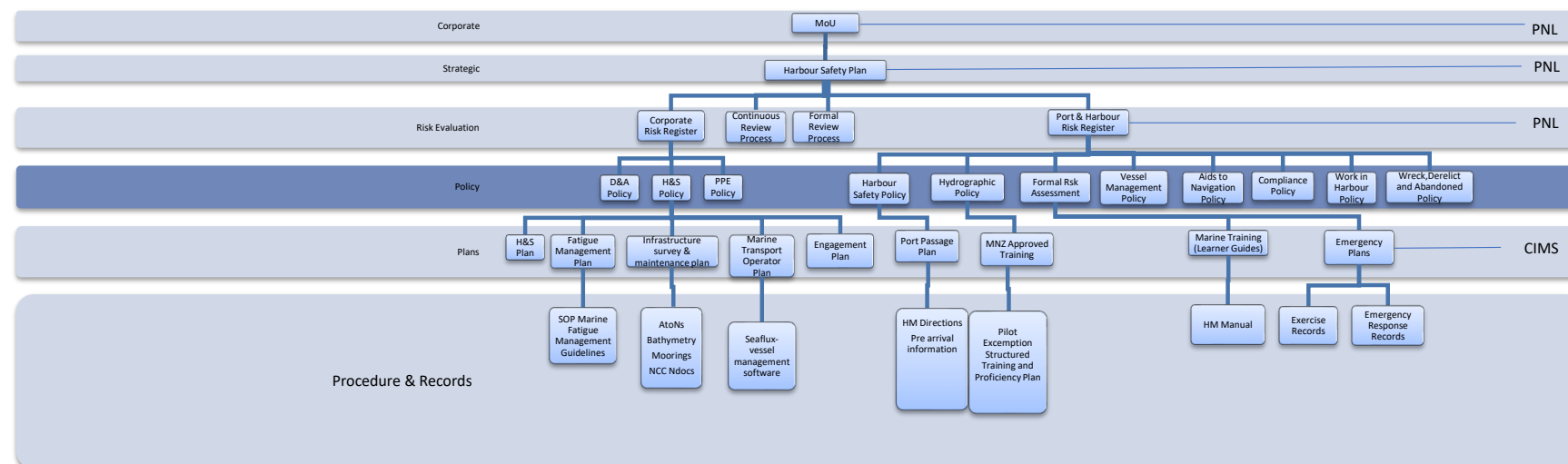
The Harbourmaster is responsible for promoting consistency with the Port & Harbour Marine Safety Code and working collaboratively with Port Nelson Limited, Maritime New Zealand (MNZ), Tasman District Council, Nelson City Council staff, and other Harbour stakeholders, such that there is a shared understanding of marine risk in the Tasman Bay Code Application Area.

The Harbourmaster is responsible for the survey, maintenance and record keeping of Harbourmaster vessel and related Nelson City Council assets.

The Harbourmaster is responsible for maintaining training and certification records for all marine staff.

All Nelson City Council Harbours staff are responsible for their compliance with all relevant regulations and the Nelson City Council Navigation Safety Bylaw 218 in the performance of their roles. They are also responsible for their adherence to the Policies, Plans and Procedures contained within the Nelson City Council Marine SMS and for the timely reporting and recording of incidents, near misses and sources of risk.

## Part 2: Diagram of the Nelson City Council Marine SMS



## Part 3: Description of the Nelson City Council Marine SMS

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### 3.1 Overview

The Nelson City Council Marine SMS functions concurrently with the Port Nelson Limited SMS, Harbour stakeholder SMS, and MNZ regulation and guidance.

A diagram depicting the structure and componentry of the Nelson City Council Marine SMS is located on page three. Each component has auditable documents and records.

It is arranged over six functional levels:

1. Corporate
2. Strategic
3. Risk Evaluation
4. Policy
5. Plans
6. Procedure and Records

### 3.2 Functional Levels

#### 3.2.1 Corporate

The Memorandum of Understanding (MoU) between Nelson City Council and Port Nelson Limited defines the responsibilities and functions of the two organisations with respect to the management of marine risk and the provision of marine services in line with their statutory obligations under the Maritime Transport Act 1994, Health & Safety at Work Act 2015, and consistent with the Port & Harbour Marine Safety Code 2020 (hereafter known as the Code).

It also defines and illustrates the Tasman Bay Code Application Area.

#### 3.2.2 Strategic

This Harbour Safety Plan serves as the strategic level Marine SMS document for Nelson City Council.

#### 3.2.3 Risk Evaluation

Nelson City Council monitors the level of risk in marine operations through the risk evaluation process. The process also informs the appropriate level of response to any identified sources of risk.

Risk is evaluated in two ways – **formal review** and **continuous review**.



### Formal Review

1. Annual Code Joint Self-Assessment  
The Port and Harbour Risk Register (PHRR) and the entire Marine SMS are reviewed holistically to measure performance against the Code standard.
2. Code Peer Review  
The componentry and cohesiveness of the Harbour SMS are reviewed three yearly by an external panel of Code peers to measure performance against the Code standard.
3. Document Review  
Each SMS component document is assigned a formal review period. Prior to the due date, the document is formally reviewed by the Harbourmaster or suitably qualified Nelson City Council staff appointed by the Harbourmaster, and a record made of the date of the review and any changes made.
4. Formal Risk Assessments  
In line with Marine Policies, formal operational risk assessments are conducted for any operations where risk may be significantly raised for any reason.

### Continuous Review

1. Nelson City Council Incident Reporting System  
Detailed in the Nelson City Council Health & Safety Management Plan.
2. Port & Harbour meetings  
Scheduled meetings between Nelson City Council Harbourmaster and Nelson City Council Marine Operations Manager.
3. Nelson Harbour Safety Group meetings  
Scheduled meetings with Harbour stakeholders; including Port Nelson Limited Marine Operations Manager, local MNZ representatives, commercial users, and recreational users.
4. Port Nelson Limited Marine team meetings  
Scheduled meetings between Port Nelson Limited Marine Operations Manager, Specialist Pilot, Marine Superintendents, and wider members of the Marine Department who operate floating plant.
5. Nelson City Council Health & Safety representatives' meetings.
6. Nelson City Council internal memos and communications.

All risk sources that are observed through either Formal Review or Continuous Review are recorded and shared between Port & Harbour using the Reports section of the PHRR.

### The Port & Harbour Risk Register (PHRR)

The PHRR is a shared document between Port Nelson Ltd and Nelson City Council. It comprises:

1. The Code application area
2. Tasman Bay Code application assessment
3. Areas – geographical zones within the Code application area
4. Vessels – classes of vessels that operate within the Code application area
5. Risk sources – categories of potential causes of events (incidents)
6. Events – categories of event (incident) are defined, and specific events are listed covering all possible interactions between vessels, the environment and infrastructure within each geographical zone within the Code application area.
7. Consequence – the worst-case consequence for each event is considered on a scale of 1 – 5 for each of the following perspectives:
  - a. People
  - b. Environmental harm
  - c. Financial cost
  - d. Reputational harm
8. Controls – all available controls are listed including regulation, policy, plans, procedures, infrastructure, and equipment.
9. Reports – all reported incidents, near misses, and recorded potential risk sources are recorded in the PHRR, along with the events to which they relate, the relevant controls, and any changes or additions to controls brought about by the report.
10. Harbour recreational boating risk assessment.

### 3.2.4 Policy

Policies within the Nelson City Council Marine SMS are:

1. Harbour Safety Policy
2. Vessel Management
3. Hydrography
4. Aids to Navigation
5. Wrecks
6. Derelict and Abandoned Vessels
7. Works in Harbour
8. Compliance

Supporting policies to the Nelson City Council Marine SMS are:

1. Health & Safety Policy
2. PPE Policy
3. Drug & Alcohol Policy

### 3.2.5 Plans

The following plans form part of the Nelson City Council Marine SMS:

1. Port Passage Plan (Port Nelson Limited) – this contains:
  - a. Procedural requirements for compulsory pilotage vessels and pilot exempt vessels, including vessel classes
  - b. Pilot boarding requirements
  - c. Navigational and manoeuvring information
  - d. Towage information – tug specifications
  - e. Aids to Navigation – information on lights, beacons, buoys
  - f. Nelson Harbour Radio – reporting procedures, traffic, and weather information
  - g. Bathymetry – latest surveys available of the area
  - h. Infrastructure – specifications on berths, fendering and mooring capacities.

The Port Passage Plan can be viewed as a complete document or may be accessed via the [Port Nelson Limited website](#) .
2. Shipping Management Plan.
3. MNZ Approved Training Plans – comprising Pilot Exemption Certification (PEC) Training and PEC Proficiency Plans
4. Marine Training Plans – comprising all Learner Guides for marine based roles within the Council.
5. Survey and Maintenance plans for infrastructure and equipment – these include:
  - a. Marine Transport Operator Certificate (Part 19) survey and maintenance plans for all Nelson City Council owned and operated floating plant (part of MOSS).
  - b. Survey and maintenance schedules of all Nelson City Council owned berths and mooring equipment.
  - c. Survey and maintenance schedules of Nelson City Council owned Aids to Navigation (AtoNs).
  - d. Survey and maintenance schedules of Nelson City Council owned communications equipment and environmental sensors.
  - e. Survey and maintenance schedules of PPE.
  - f. Bathymetric survey schedules and records.
6. Emergency Response Plan – Nelson City Council consider emergency scenarios and how the region can prepare for events (exercises and planning). Plans for integration of the Harbours team into an existing CIMS framework or to coordinate an incident are being worked through with the Harbour stakeholders. The Harbours team can integrate with the New Zealand Government Coordinated Incident Management System (CIMS).

Development of a schedule of exercises involving multiple agencies is being worked on.

As part of Nelson City Council's duties as a PCBU, the following plans support the Nelson City Council Marine SMS:

1. Health & Safety Plan
2. Fatigue Risk Management Plan

### 3.2.6 Procedure and Records

The following Standard Operating Procedures (SOPs), training records, survey records and maintenance records form part of the Nelson City Council Marine SMS:

1. Operating Procedures and Guidelines
  - a. SOP Navigation Safety Notices
  - b. SOP Pilot Exemption Certificates- examination, annual review, and renewal
  - c. SOP AtoN's failure
  - d. SOP Applications for maritime events
  - e. SOP HM vessel operations
  - f. SOP Marine Fatigue Management Guidelines
2. Training and certification records

Records are maintained electronically by the Harbourmaster on Seaflux: vessel management software.
3. Survey and maintenance records of marine plant.

Records are maintained by the Harbours team on Seaflux.
4. [Navigational Safety Notices](#). Procedure is in Nelson City Council Promap.
5. [Abandoned Vessels](#). Procedure is in Nelson City Council Promap.
6. Emergency Response Records
7. Drill and Exercise Records

## Part 4: Document Control & Review

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### 4.1 Overview

All Policies, Plans and Procedures that comprise the Nelson City Council Marine SMS are assigned a document owner and a formal review period.

Controlled copies of the most recent versions of each document are stored on Nelson City Council Ndocs.

Amendments to controlled documents must be approved by the document owner prior to storing in the above location.

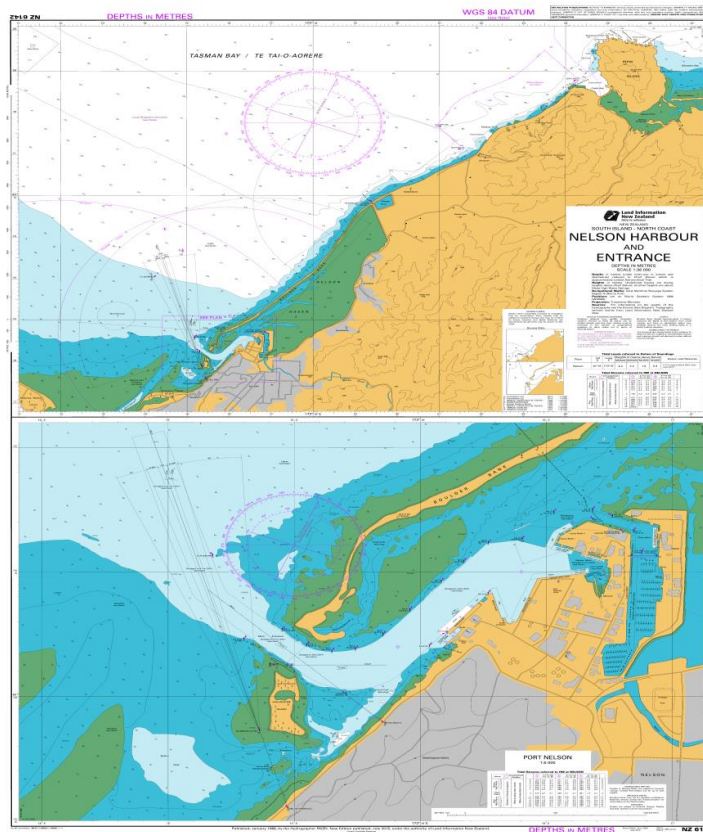
### 4.2 Review & Amendment Record

Date	Amendment	Author/reviewer	Document owner
Dec 2022	New document published	Stuart Whitehouse	Harbourmaster
March 2023	Updates re. Nelson City Council/Tasman District Council MOU	Stuart Whitehouse	Harbourmaster



## Nelson Harbourmaster Safety Management System Manual

Nelson Harbourmaster



An overview of Nelson's Safety Management System for managing Navigational Safety within Nelson's regional waters

### RECORD OF AMENDMENTS

1940938042-1651 Nelson Harbourmaster Safety Management System Manual Rev 4

0

<b>RECORD OF AMENDMENTS</b> <b>It is certified that the amendments detailed below have been included in this copy of the publication</b>			
<b>Amendment No.</b>	<b>Amended section</b>	<b>Paragraph No.</b>	<b>Brief description of amendment</b>
2022/1	3	3.8	Addition of season wind information. SW
2022/2	All		Nelson City Council responsibility for HM function
2022/3	Appendix 1		Nelson City Council Port Nelson Limited Organisational chart
2022/4	Appendix 3		Add Code application risk analysis zone maps
2022/5	3	3.8	Update Port Nelson Limited ship movement table (from Port Nelson Limited doc: QM-MAR-056 SOP)
2023/1	2	2.8	Remove reference to Duty Pilot as delegated HM
2023/2	3.7	Table 3.2	Update Nelson tides (2022/23 LINZ Almanac) add HAT and LAT. Various updates re. Nelson City Council
2023/3	2	2.2	Harbourmaster delegations from Nelson City Council updated following legal review (addition of wreck/abandoned vessels)
2023/4	3	Table 3.1	Update title- Parameters changed to Guideline.
2023/5	2	2.2	Addition of HM Sub delegations (Oil Spill)- NCC CEO

v.4	18/08/2023	Review and submit for Council approval	PC	SW	
0	20/11/2020	Issued for Use	MPE	TBU	AHO
A	23/10/2020	Issued for Comment	MPE	TBU	MPE
Revision	Date				
Management responsibility:		Harbourmaster			
Document No.:					
NDOCS-1940938042-1651					
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**ABBREVIATIONS**

<b>Abbreviation</b>	<b>Meaning</b>
<b>ASD</b>	Azimuth Stern Drive
<b>AtoN</b>	Aid to Navigation
<b>CCA</b>	Customs Controlled Area
<b>CE</b>	Chief Executive
<b>CIMS</b>	Coordinated Incident Management System
<b>DPA</b>	Designated Person Ashore
<b>DOC</b>	Department of Conservation
<b>E</b>	East
<b>ECDIS</b>	Electronic Chart Display and Information System
<b>ERP</b>	Emergency Response Plan
<b>GM</b>	General Manager
<b>H&amp;S</b>	Health and Safety
<b>HSMS</b>	Health and Safety Management System
<b>HSWA</b>	Health and Safety At Work Act
<b>ID</b>	Identification
<b>IMDG</b>	International Maritime Dangerous Goods Code
<b>IMO</b>	International Maritime Organisation
<b>ISO</b>	International Standards Organisation
<b>LOA</b>	Length Over All
<b>m</b>	Metre
<b>MoC</b>	Management of Change
<b>MoU</b>	Memorandum of Understanding
<b>MNZ</b>	Maritime New Zealand
<b>MPX</b>	Master Pilot Exchange
<b>MTA</b>	Maritime Transport Act
<b>MTOC</b>	Maritime Transport Operators Certificate
<b>MTOP</b>	Maritime Transport Operations Plan
<b>Nelson City Council</b>	Nelson City Council
<b>PHMSC</b>	Port and Harbour Marine Safety Code
<b>Port Nelson Limited</b>	Port Nelson Limited
<b>RORO</b>	Roll On Roll Off
<b>S</b>	South
<b>SMS</b>	Safety Management System
<b>SOLAS</b>	Safety of Life At Sea Convention
<b>SOP</b>	Standard Operating Procedure
<b>UKC</b>	Under keel clearance

Abbreviation	Meaning
VHF	Very high frequency radio

**DEFINITIONS**

<b>Definition</b>	<b>Meaning</b>
<b>A1045</b>	IMO Resolution – Pilot Transfer Arrangements
<b>Code</b>	Port and Harbour Marine Safety Code
<b>Competence</b>	Ability to apply knowledge and skills to achieve intended result
<b>Corridor</b>	Areas on each side of the track that represent the planned navigable area for a specific vessel. A corridor is associated with a leg and is defined by its width to port and starboard (in metres) from the track. A corridor represents a normal operation.
<b>Harbour</b>	Harbour, in the context of the Code, refers generally to an area of enclosed or coastal waters where ships can shelter, and includes natural and artificial harbours. Councils use their bylaws to define harbour areas within their regional waters for the purposes of regulating maritime activity.
<b>Hazard</b>	Something with the potential for harm
<b>MTOC</b>	Maritime Transport Operators Certificate - A certificate issued by the Director under Maritime Rule 19.22
<b>MTOP</b>	Maritime Transport Operator Plan - Plan required by rule 19.41
<b>May</b>	Used where alternatives are equally acceptable.
<b>Nelson Harbour</b>	Means that area of coastal waters within the Nelson region shown in Nelson Navigation Safety Bylaws Map 2 that is landside of the pilotage limit line and the Nelson City boundary and includes all the waters of Nelson Haven and Waimea Inlet within the City boundary
<b>Nelson Pilotage Area</b>	That area described in Maritime Rule Part 90, being that area bounded by the seaward arc of a circle radius 3 miles, centred on the Boulder Bank old lighthouse (41°15.3' S, 173°15.9' E) and shown in Nelson Navigation Safety Bylaws Map 2.
<b>No Go Area</b>	non-navigable geographical areas defined by a safety contour and/or polygon.
<b>Objective</b>	Result to be achieved. Objectives in this context relate to Port and Harbour Marine Safety
<b>Operator</b>	Organisation or person who holds (or will hold) the Maritime Transport Operator Certificate In relation to a ship, means to sail or use the ship, or cause or permit the ship to sail, be used, or be in any place, whether or not the person is present with the ship; and operating, operation, and operator have corresponding meanings
<b>Pilot</b>	A maritime pilot duly licenced in accordance with Maritime Rule Part 90
<b>Policy</b>	Short statement of intentions and direction of an organization as formally expressed by its top management
<b>Port</b>	Port refers to an area of land or water (often within a larger harbour area) used for berthing and servicing of ships, and for the loading and unloading of goods or passengers. This includes mooring buoys and associated facilities.
<b>Port Nelson Operational Area</b>	Means that area of the harbour which is taken up by berths or wharves under the operational control of Port Nelson Ltd, or any other commercial operation, and includes the slipway basin, and slipway and the fishing wharf which parallels Vickerman Street.
<b>Port and Harbour Marine Safety</b>	Port and harbour marine safety covers activities associated with the safe movement of ships entering, leaving and navigating within ports and harbours.
<b>Risk</b>	The chance that someone or something will be affected (positively or negatively) by the hazard, and is the product of the likelihood of a hazard occurring and the severity of the consequence
<b>Risk Management</b>	The coordinated activities required to reduce risk to an acceptable level

Definition	Meaning
<b>Management System</b>	The set of interrelated or interacting elements of an organization to establish policies, and objectives and processes to achieve those objectives. The system elements include the organization's structure, roles and responsibilities, planning and operation.
<b>Monitoring</b>	Process of determining the status of a system
<b>Safety Contour</b>	Bathymetric line (in metres) referred to the chart datum and defined by the vessel maximum draft plus the expected reduction of UKC due to vessel motion.
<b>Safety Margin</b>	The area between the edges of the corridors and the no go areas, available as reserve in case of unplanned circumstances. The safety margin can also be the reserve speed over ground between the speed limit and the max planned speed.
<b>Shall</b>	Used where a provision is mandatory
<b>Should</b>	Used where a provision is preferred
<b>Standard Route</b>	Defined routes used by piloted or pilot exempt vessels.
<b>Track</b>	The line that connects all waypoints and includes radiused turns through waypoints.
<b>Waypoint Table</b>	A numbered list of waypoints and legs including latitude, longitude, true course, distance, turn radius, corridor port and starboard of track, planned speed and max speed. The waypoint table should be in a format compatible for direct entry into a vessel's ECDIS.

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## 1.0 INTRODUCTION

The Nelson Harbour is at the heart of the Nelson community, both in location and spirit. Sitting within the Harbour is the hub of commercial maritime activity, Port Nelson.

### 1.1 Port and Harbour Marine Safety Code

The Port and Harbour Marine Safety Code (2020) sets down a national voluntary standard for marine safety and the prevention of marine pollution in the operation of ports and harbours in New Zealand. The statutory powers in the Maritime Transport Act 1994 (MTA) and other relevant legislation are the foundation for the roles, relationships and activities that are integral to achieving that standard.

Nelson City Council and Port Nelson Limited undertook a full review of their respective safety management system (SMS) to ensure compliance with the latest revision of the Port and Harbour Marine Safety Code (the Code).

### 1.2 Shared Responsibility

The safety management of Port Nelson and Approaches is jointly managed by Nelson City Council (Nelson City Council) and Port Nelson Limited, as spelled out in the MOU. Nelson City Council has Harbour Authority for the waters and harbours within its jurisdiction (the Nelson Region). Nelson Harbour is located within the waters of the Nelson Region. Port Nelson is located within the waters of Nelson Harbour. The limits of these jurisdictions are shown in Navigation Safety Bylaw (no.218) 2019. Also refer to Appendix 3.

Nelson City Council appoint a Harbourmaster who manages the Safety Management System. This involves working with Port Nelson and stakeholders in Nelson and neighbouring districts.

### 1.3 Purpose

The purpose of the Harbour safety management system (SMS) is to:

- a) Provide a safe operating environment within the harbour and wider regional waters.
- b) Identify all risks and establish safeguards to ensure that all identified risks are managed so far as is reasonably practicable
- c) Continuously improve safety management skills of all personnel, including preparation for emergencies related to both safety and environmental protection

### 1.4 Objectives

The Harbour SMS's primary objectives are to provide a framework that facilitates:

- Systematic management and continuous improvement
- Consistent risk management practices
- Clear allocation of responsibilities across all stakeholders
- Compliance with applicable legislation, rules, regulations, codes and guidelines
- Identifying and applying good practices

### 1.5 Compliance

The following legislation was considered in preparing the SMS:

- Maritime Transport Act (MTA)
- Maritime New Zealand's (MNZ) Maritime and Marine Protection Rules
- Health and Safety at Work Act
- Radiocommunications Act
- Local Government Act
- Port Companies Act
- Nelson Navigational Safety Bylaw 218

### 1.6 Development

The SMS is a living system. The risk assessment shall be regularly updated as existing risks evolve and new hazards are identified, evaluated and controls implemented. As understanding of marine risk evolves, so will Nelson City Council's response to it. This can often directly lead to a revision of the safety management system. There are also scheduled events, such as audits, verifications and management reviews and risk reviews. These events also create opportunities to revise the SMS and support continuous improvement in marine safety.

### 1.7 Conflicts of Interest

Port Nelson Limited is jointly owned by the Nelson City Council and the Tasman District Council. The Harbourmaster is appointed and employed by Nelson City Council. With the separation of role of the Harbourmaster from Port Nelson Limited and appointment of a Maritime Operations Manager by Port Nelson Limited, potential conflicts of interest between commercial interests and navigational safety have



been minimised. Nelson City Council Harbourmaster works closely with Marine Operations and Pilots to monitor known risk and identify any emerging risks.

Responsibilities between Nelson City Council, Port Nelson Limited are clarified in the MOU. Broadly speaking Port Nelson Limited has responsibility for managing maritime safety within the port's limits. The Harbourmaster has overall responsibility for maritime safety in the broader waters of the region, which includes the harbour and port limits.

### 1.8 Leisure Users

The standard of conduct for commercial, recreational craft and swimmers in Nelson Harbour is documented in the Navigation Safety Bylaws No: 218. This document is consistent with the Maritime Transport Act 1994 and Maritime Rule Part 91, but also takes into account the special requirements and uses of the Nelson region. The Harbourmaster maintains these Bylaws and has primary responsibility for enforcing the Bylaws, which includes directing recreational craft if required.

### 1.9 Promulgation

This document is shared with the following people:

- Nelson City Council Harbours team
- General Manager Environmental (Nelson City Council)
- Port Nelson Limited's GM Operations
- Port Nelson Limited's Maritime Operations Manager
- Nelson City Council Website (upon adop)

## 2.0 ORGANISATION

This section describes the Harbourmaster's specific responsibilities and the responsibilities of those stakeholders directly involved in Harbour safety.

### 2.1 Roles and Responsibility

The Harbourmaster has overall responsibility and accountability for effectiveness of the Harbour SMS and compliance with the Code. He has direct access to the Port Nelson Limited and Nelson City Council's Chief Executives for matters regarding the SMS and compliance with the Code. The following table provides a brief overview of the responsibilities of key personnel in complying with the Code:

TABLE 2-1: ROLES AND RESPONSIBILITIES

Position	Roles & Responsibilities
<b>Chief Executives</b>	<p>The Chief Executives (CE) have ultimate responsibility for ensuring the Nelson Harbour is operated safely, efficiently and in a manner consistent with the content and objectives of the Code. The CEs have the following responsibilities:</p> <ul style="list-style-type: none"> <li>• Provide visible support for the Code and its application in Nelson Harbour</li> <li>• Reporting the results of risk management and annual joint assessment to their Boards</li> <li>• Support the Designated Persons in the execution of their roles</li> <li>• Ensures appropriate resources are made available in support of the Harbour's safety system</li> </ul>
<b>Harbourmaster</b>	<p>The Harbourmaster is Nelson Harbour's Code Designated Person and is responsible for navigational safety in the Nelson region and carrying out the day to day functions and management of that office as delegated by the Nelson City Council. He or she also ensures:</p> <ul style="list-style-type: none"> <li>• The Harbour SMS is functioning effectively</li> <li>• The Harbour SMS is independent of commercial interests</li> <li>• A collaborative working arrangement with relevant port personnel exists</li> <li>• Coordination and integration of the port operator's SMS within the Harbour SMS</li> </ul>
<b>Marine Operations Manager</b>	<p>The Marine Operations Manager is the port's Code Designated Person. He or she reports to the Chief Executive on the implementation of the SMS and promotes compliance with the Code. He or she has the following responsibilities:</p> <ul style="list-style-type: none"> <li>• Conducts a port risk assessment</li> <li>• Ensures that the port's SMS is complete and functioning effectively</li> <li>• Leads Port Nelson Limited's marine team to operational excellence</li> <li>• Manages Port Nelson Limited's marine operations, ensuring a high standard of safety is achieved, assets are properly maintained, and systems are robust.</li> <li>• Ensures a safe and effective port security system is maintained</li> </ul>

### 2.2 Harbourmaster

The Harbourmaster shall ensure that the Nelson Harbour SMS is functioning effectively and independently of commercial interests. The Harbourmasters shall work collaboratively with relevant port personnel, in particular with the Port Operations Team, and coordinate the integration of Port Nelson Limited's SMS into the wider Harbour SMS. The Harbourmaster has overarching responsibility for ensuring maritime safety within Nelson Harbours and the wider waters of Nelson region. Further detail on Harbourmaster's roles and responsibilities are provided in their position description. The organisational structure is provided in Appendix 1.

The Nelson City Council Harbourmaster and deputy Harbourmaster currently has the following delegations by Nelson City Council under the Maritime Transport Act 1994:

S.33F(1)(a),(b),(c),(g),(h) and (i) Harbourmasters' general powers

Section 33I(1)(a) Harbour works

Section 33J Removal of wrecks

Section 33L Removal of abandoned ships

S.33P Infringement Notices

The Nelson City Council Harbourmaster (Stuart Whitehouse) also holds Delegations under the MTA from MNZ:

S.48 Power to set, conduct and administer examinations and tests

S.60(2) Power to direct a pilot be taken on board a ship

S.200(7) Power to approve a person to erect or place a navigational aid

Sub-Delegations under the MTA from Nelson City Council CEO:

Sections: 270(1), 272, 272(3), 275(1)(a), 275(1)(b), 275(2), 396(1), 396(2), 396(3)(a)- Powers in relation to marine protection documents and audit/inspection of oil transfer sites.

Maritime Rule Part 130B: 130(B.5(2), 130B.10(3)(b)(iii)- Application and testing/review of oil spill contingency plans.

### 2.3 Appointing Harbourmasters

Harbourmasters have a critical maritime safety function. They have the authority to exercise operational powers to manage the safety of marine activities in the Nelson Region. Because Harbourmasters have significant powers of direction, Nelson City Council must be satisfied that they have appointed a suitably qualified, competent and medically fit person for the role.

Prior to appointment, a structured training plan shall be developed to ensure that the Harbourmaster is thoroughly inducted into their new role and a structured training plan developed to ensure they have the competencies required to be successful in this safety-critical role. Once appointed, the Harbourmaster should develop an annual continuous professional development program to ensure his or her competence is consistent with the evolving demands of the role.

When appointing a Harbourmaster, care shall be taken to avoid any potential conflicts of interest.

### 2.4 Enforcement Officers

Councils can give enforcement officers and authorised council officers some of the same powers as Harbourmasters. Police are already provided with some powers of a Harbourmaster by the MTA. Navigation Safety Enforcement Officers primary role is education. Enforcement actions require the approval of the Harbourmaster. The Harbourmaster shall be consulted in the selection, training and retention of Navigation Safety Enforcement Officers.

### 2.5 Developing and Enforcing Bylaws

Navigation Safety Bylaws are made to provide a general framework for the rules of navigation that apply to all marine craft in the Nelson region. When making Navigation Safety Bylaws the Harbourmaster shall ensure they are consistent with maritime rules.

### 2.6 Issuing Harbourmaster's Directions

The Harbourmaster may control the safe operation of vessels for the purpose of mitigating risks to maritime safety. In order to achieve this they may direct a vessel and/or related maritime activities to be conducted in accordance with the applications, purposes and requirements of a Harbourmaster's Direction. Such a Direction shall be in accordance with:

- Section 33F of the Maritime Transport Act 1994; and
- Section 48 and section 60A(2) of the Maritime Transport Act 1994, as delegated by the director to the Harbourmaster under section 444(2) of the Act and consented by the Minister of Transport under section 444(4) of the Act; and
- Maritime Rules; and
- Navigation Safety Bylaws

Harbourmasters may direct:

- When and how ships enter, depart or move within Nelson's waters
- The position, mooring and placement of marine craft
- The use of tugs and other forms of assistance
- How ships receive or discharge cargo
- How cargo is secured where there is a risk of it being lost overboard and becoming a navigational hazard

Under the MTA, the Director of Maritime NZ may delegate powers to harbourmasters so they can:

- Direct the Master of a ship to carry a pilot, irrespective of any requirement for compulsory pilotage, or whether they hold a pilotage exemption certificate (PEC)

- Approve certain aids to navigation.

#### **2.7 Participating in Panel Reviews**

The Harbourmaster may, from time to time, be requested to add his or her expertise to a Port and Harbour Marine Safety Panel Review. Participation in a Review Panel is an important contribution to national port and harbour safety and is an excellent vector for introducing improvements to Nelson's own Harbour. As such, any opportunity to contribute to a Panel Review should be taken.

### 3.0 NELSON HARBOUR

This section describes Nelson Harbour.

#### 3.1 Nelson Harbour Limits

Nelson Harbour Limits are the area of coastal waters within the Nelson region shown in Nelson Navigation Safety Bylaws Map 2 that is landside of the pilotage limit line and the Nelson City boundary and includes all the waters of Nelson Haven and Waimea Inlet within the City boundary.

Nelson Harbour Limit is an arc of 5 nautical miles centred on position 41° 17'S, 173° 12'E (eastern extremity of Rabbit Island). Maps illustrating geographic limits are provided in Appendix 3.

#### 3.2 Pilotage Limit

Pilotage is compulsory within the limits of the Nelson pilotage area for all tankers irrespective of size and for all other vessels of more than 40m in length, unless the master of a vessel holds a Pilotage Exemption Certificate.

Pilotage Limit is an arc of 3 nautical miles centred on position 41° 15.3'S, 173° 15.9'E (old lighthouse)

#### 3.3 Operating Limits

Port Nelson Operational Area Means<sup>1</sup> that area of the harbour which is taken up by berths or wharves under the operational control of Port Nelson Limited, or any other commercial operation, and includes the slipway basin, and slipway and the fishing wharf which parallels Vickerman Street but excludes the marina.

Port Nelson Limited have established the following weather and tidal condition guidelines for the safe navigation of visiting ships.

#### TABLE 3-1 VESSEL MOVEMENT GUIDELINES

VESSEL CLASS	DESCRIPTION	TIDAL CURRENT LIMIT (Kt)		TUGS	LINESMEN	WIND LIMIT (Kt)	MINIMUM SUKC
		FLOOD	EBB				
<b>A</b>	Car carriers LOA $\geq$ 199m All other vessels LOA $\geq$ 210m LOA $\geq$ 225m subject to formal risk assessment	1.0	0.5	2 in, 2 out Irrespective of manoeuvrability	4 in, 4 out	Car carriers 20 knots LOA $\geq$ 225m 20 knots All other vessels 25 knots Subject to tug and thruster power	1.2m static
<b>B</b>	181m < LOA < 210m	1.0	0.5	2 in, 2 out Irrespective of manoeuvrability	4 in, 4 out	25 knots Subject to tug and thruster power	10% of deepest draft
<b>C</b>	130m $\leq$ LOA $\leq$ 180m 7.5m $\leq$ Draft < 8.5m Tankers any draft	1.5	1.0	2 in, 2 out Subject to manoeuvrability	4 in, 4 out	25 knots Subject to tug and thruster power	10% of deepest draft
<b>D</b>	130m $\leq$ LOA $\leq$ 180m Draft < 7.5m Excludes tankers	2.0	1.0	2 in, 2 out Subject to manoeuvrability	4 in, 4 out	25 knots Subject to tug and thruster power	10% of deepest draft
<b>D2</b>	80m $\leq$ LOA < 130m Draft < 7.5m	2.5	1.5	1 in, 1 out Subject to manoeuvrability	4 in, 2 out	30 knots Subject to tug and thruster power	10% of deepest draft
<b>D3</b>	LOA < 80m Draft < 7.0m	2.5	2.5	Subject to manoeuvrability	2 in, 2 out	30 knots Subject to tug and thruster power	10% of deepest draft

### 3.4 Approaches

#### 3.4.1 Outer Leading Light Beacons

From the vicinity of the pilot boarding place, the leading light beacons, guide vessels along the outer dredged channel in a direction of 164.7°

- Front lead depicted by white triangle mounted point up on piles, by night, directional white, red, green sector light (41° 16.2'S, 173° 15.4'E)
- Rear lead depicted by white triangle mounted point down, by night, fixed blue neon) 3 25 cables South-South-East of front lead)

Trees on Haulashore Island can partially obscure the rear leading light beacon from vessels approaching from northeast.

The dredged outer channel is 180 metres wide with shoals on either side near the entrance. The shoal on the northern side of the entrance is known as the "outer shoal". In bad weather and when the wind is against the tide this shoal produces waves which are dangerous to small craft.

#### 3.4.2 Inner Leading light Beacons:

The outer leading light beacons guide vessels onto the 135.4° line of the inner leading light beacons. Entering vessels make the turn from the outer leads to the line of the inner leading light beacons when about 3 cables from the main entrance (also referred to as the Cut)

- Front lead depicted by white triangle mounted point up, by night fixed neon green light (41° 16.2'S, 173° 15.4'E)
- Rear lead depicted by white triangle mounted point down, by night fixed neon green light (1.75 cables south-east of front lead).

The dredged inner channel (The Cut) is 150 metres wide and passes between south mole which extends Northwest from Haulashore Island on the South West side of the channel and Boulder Bank on the Northeast side of the channel. The port-hand side of the Cut is marked by a series of light beacons that provide a visual reference for vessels making the 95° turn into the main port operational area.

### 3.5 Anchorages

#### 3.5.1 Cruise Ship Anchoring Area

Cruise ships may be directed to anchor in the designated Cruise Ship Anchoring Area as shown on the so named map in Appendix 3.

#### 3.5.2 Explosives Anchorage

The Nelson City Council Navigation Safety Bylaws require the master of a vessel having on board, or intending to load, greater than 27kg of explosives must ensure that:

- i. The vessel remains within the explosive's anchorage outside the harbour entrance to be specified on each occasion by the Harbourmaster, and
- ii. No person loads or unloads explosives outside the explosive's anchorage, unless otherwise permitted by the Harbourmaster, and
- iii. The Harbourmaster is provided with the Dangerous Goods declaration for the explosives at least 48 hours prior to the loading or discharging. For weekend loading or discharging documentation shall be provided no later than 12 noon on the preceding Friday.

The above requirement do not apply to any vessel which:

- i. Is carrying less than 27kg of explosives, or
- ii. Is carrying, or intending to load, only explosives of Safety Ammunition Class 1.4S as defined under the Hazardous Substances (Classes 1 to 5 controls) Regulations 2001, or Fireworks of classes 1.3G, 1.4G or 1.4S as defined under the Hazardous Substances (Fireworks) Regulations 2001, in quantities which do not require a Hazardous Substance and New Organisms Approved Handler

### 3.6 Priority Use Areas

The Navigation Safety Bylaws identify Harbour areas that have areas assigned to named users who have been given priority of use over other users. These areas are illustrated in Appendix 3 Maps 3 - 6.

### 3.7 Tides and Currents

A current of about 0.2 knots sets generally westward along the seaward side of the Boulder Bank and across the main entrance to the port from east to west.

The normal duration of the ingoing and outgoing tidal streams is just over six hours but weather conditions may cause this to vary by more than an hour in either case.

In general the streams follow the dredged channels except at the entrance where they flow across the entrance setting to the southwest when flooding and to the northeast when ebbing. At the entrance they can attain a rate of three knots at spring tides; in the harbour they may attain a rate of one to two knots. The streams may be weak for a short period at slack water.

Eddies form continually off most berths, clockwise with an ingoing tidal stream and anticlockwise with an outgoing stream. They are caused by solid infill reclamation under the quays.

TABLE 3-1: NELSON TIDES

Tide	Detail
MHWS	4.32m
MHWN	329
MLWS	0.65m
MLWN	1.59m
Spring Range	3.67m
Neap Range	1.70m
Mean Sea Level	2.43m
HAT	4.74
LAT	0.20

### 3.8 Winds

**Summer:** characterised by overnight land breeze (SW) and daytime (thermal) sea breezes (NNW-NNE).

Summer sea breezes regularly reach 20-25kts. Combined with an ebb tide this creates significant wind against tide conditions in the cut- localised standing waves can reach 2-3m.

**Spring/Autumn:** characterised by SW/NW flows with associated frontal activity.

Port Nelson experiences strong localised SW flows after passage of low pressure and high pressure coming off the Tasman Sea. This creates a pressure differential between the West coast and Tasman Bay resulting in a 'gap wind'.

This can regularly reach 30-40kts and has significant effect on conditions in the pilotage area (wind against tide conditions).

With increasing La Nina conditions over recent years, Nelson receives SE-E flows increasingly (H pressure to S and L pressure to N). Easterly flows gust over the Richmond Ranges creating strong, localised offshore wind patterns. Winds dissipate offshore but are strongest with 2-3nm of the inner Harbour (pilotage area).

**Winter:** characterised by calmer winds with SW flow.

### 3.9 Hydrography

Port hydrography is described in the Port SMS.

The Harbourmaster is responsible for issuing Hydrographic Notifications to LINZ. MNZ should be copied into any notification given to LINZ. The detail required of this notification is contained in Section 7 of the MNZ Aids to Navigation guideline.

### 3.10 Berth Depths

Controlling depth is 7.6m in the main inside harbour channel at chart datum, and 8.1m in the outer channel at chart datum. Chart datum is the lowest expected tide level, on to which the tide gauge reading is added to give total depth at any time.

### 3.11 Aids to Navigation

The Harbourmaster has overarching responsibility for ensuring there is a safe system for assuring the functionality, availability, reliability, survivability and independence of Aids to Navigation (AtoN) in Nelson's waters.

#### 3.11.1 Port Aids to Navigation

Port Nelson Limited is responsible for providing and maintaining AtoN in the port and its approaches (the compulsory pilotage area) namely Code areas 3,4,5,6,7, as per Appendix 3- pilotage and haven code application zones. This responsibility extends to providing timely promulgation of notices and warnings where AtoNs are inoperative or out of position. Port Nelson Limited shall provide and maintain AtoNs in accordance with the Maritime New Zealand guideline 'Aids to Navigation Guideline'.

Port Nelson Limited keep a register of all AtoN in a planned maintenance system (Maximo) to ensure that AtoN are managed in a methodical and structured way, and in doing so meets the requirements the MNZ guidelines. Nelson's AtoN are grouped into two groups of priority in terms of maintenance or repair.



### 3.11.2 Harbour AtoN

Nelson City Council is responsible for providing and maintaining AtoN's in the areas outside of Port Nelson Limited zones. Presently these consist of recreational special and reserve zone buoys but will be extended to include Aids for managing shipping in Code area 1 (Tasman Bay) as per MOU between Nelson City Council and TDC (in draft March 2023).

TABLE 3-2: AtoN MAINTENANCE RESPONSE

IALA Category	AtoN Type	Availability	Response	Examples
<b>Category 1</b>	Considered to be of primary navigational significance	99.8%	Immediate	Any light essential for marking landfalls, primary routes, channels, waterways, dangers or the protection of the marine environment.
<b>Category 2</b>	Considered to be of navigational significance	99%	<24 hours	Lights that mark secondary routes and supplement marking of primary routes.
<b>Category 3</b>	Considered to be of necessary navigational significance	97%	Next working day	

### 3.11.3 Department of Conservation

The Department of Conservation (DOC) have responsibility for a number of AtoNs around recreational areas, e.g. marine reserves.

### 3.12 Port Facilities

Port facilities are described in the Port Nelson Limited SMS.

### 3.13 Removing Wrecks, Navigational Hazards and Abandoned Ships

As soon as possible after becoming aware of a wreck or danger to navigation, in or adjacent to Nelson Harbour, the Harbourmaster should assess the navigational risk to ships (including recreational vessels). This assessment may include analysis of AIS or other more informal means of establish vessel tracks. The following immediate controls should be considered to reduce navigational risk:

- Prompt placing of AtoN to mark the wreck
- Use of synthetic AtoN to mark the wreck
- Instructing harbour radio to promptly commence frequent VHF navigation warnings

The Harbourmaster should take reasonable efforts to contact the owner or agent of the wreck. Once in contact, the Harbourmaster shall notify the wreck's owner or agent to remove the wreck from the region within a specified time frame and in a satisfactory manner.

Where the owner or agent cannot be found or where the owner or agent has failed to remove all or part of the wreck within the specified time-frame, the Regional Council may:

- Take possession of the wreck
- Remove, destroy or dispose of the wreck
- Recover actual costs incurred in the removal of the wreck as a debt

The Harbourmaster, with delegation from the Regional Council may remove, or give direction for removing, any unauthorised or abandoned vessel from a berth, mooring or anchorage. The ability to remove, or give direction for removing, also applies to any vessel considered a navigational hazard. The costs of such action will be at the owner's expense.

In the event of a wreck, navigational hazard or abandoned vessel in the Tasman Bay Code application area 1 (TDC waters) then the Tasman District Council and TDC Harbourmaster are contacted. The Nelson City Council/TDC MOU proposes cross warranting Harbourmasters and Deputy Harbourmasters to facilitate this process.

## **4.0 HARBOUR SAFETY MANAGEMENT SYSTEM**

This section discusses the structure of the Harbour SMS.

### **4.1 Stakeholder Engagement**

The Harbourmaster should take appropriate steps to involve key stakeholders for identifying and understanding emerging and evolving Harbour risks, and when developing and maintaining the SMS. There is a Nelson Harbour Safety Group which meet quarterly, and invitations are extended to all stakeholders, commercial and recreational within the Nelson and neighbouring regions.

### **4.2 Code Application Assessment**

The Code Application Assessment is a form of risk assessment that determines where the Code will be applied within the Nelson region. The Harbourmaster revisited the Code Application Assessment in 2021 as part of the revision of the SMS. The review identified the need to manage shipping in the wider Tasman Bay (including Tasman District Council (TDC) regional waters). The Code application area was extended to include waters within a line from Farewell Spit to Cape Soucis. This is designed to facilitate the oversight of ships anchoring in Tasman Bay, whether awaiting Port Nelson berthage or sheltering from adverse weather. It is acknowledged that Tasman Bay provides sheltered anchorage, particularly from the Southerly and Westerly quarters. The Code application identified a need to designate anchorages in order to quantify and manage risk, along with development of response training and drills for an incident in the wider Tasman Bay code application area. It is acknowledged that a response will likely involve Port Nelson Limited resources and expertise so the Tasman Bay Code application area be managed by Nelson Harbourmaster in collaboration with TDC Harbourmaster and Port Nelson Limited.

The Tasman Bay Code application area receives cruise ship and superyacht traffic that currently have no pilotage requirement on Tasman side (Abel Tasman National Park). While a pilotage area is not considered appropriate, limiting areas of access for vessels consistent with Nelson pilotage limits (40metres) will be considered, but would require incorporation into TDC Navigational Safety bylaw. This may be managed by Harbourmaster Directions in the interim period.

### **4.3 Harbour Safety Policy**

The Harbourmaster has developed a Harbour Safety Policy to describe the Nelson City Council commitment to implementing the requirements of the Code. This policy is signed by the CE.

The Harbour Safety Policy statement should be placed in appropriate publications issued by the council such as annual reports, websites and LTPs to demonstrate the Council's commitment to the Code and maritime safety, and show the involvement of harbour and port users.

### **4.4 Harbour Safety Plan**

The Harbour Safety Plan defines individual responsibilities at Nelson City Council for maritime safety in the Tasman Bay Code Application Area in accordance with the Memorandum of Understanding between Nelson City Council and Port Nelson Limited and (in draft at time of writing) MoU between Nelson City Council and Tasman District Council.

It summarises the processes and documents that comprise the Nelson City Council Marine Safety Management System.

It describes how the Nelson City Council Marine Safety Management System (Nelson City Council Marine SMS) functions in conjunction with Harbour stakeholders, Nelson City Council equipment and infrastructure. It also describes how marine risks are monitored, and how their associated controls are reviewed and improved.

### **4.5 Memorandum of Understanding**

Port Nelson Limited and Nelson City Council have entered into an Agreement (MOU) Regarding management of navigational safety in the region.

### **4.6 Designated Person**

The Designated Person for all Harbour safety issues is the Harbourmaster.

### **4.7 Harbour SMS Content Maintained Elsewhere**

To avoid duplication, and reduce the opportunity for ambiguity, the following information is maintained solely in the Port's SMS:

- Pilotage
- Pilot training
- Marine services

Nelson Harbourmaster manages the Pilot Exemption Structured Training and Proficiency Plan.

#### 4.8 Document Control

The Harbourmaster administers the control of all Harbour SMS documents. Live documents are stored on Nelson City Council Ndocs system. Shared resources with Port Nelson Limited use a Harbours/Port Nelson Limited Teams site.

#### 4.9 Change Management

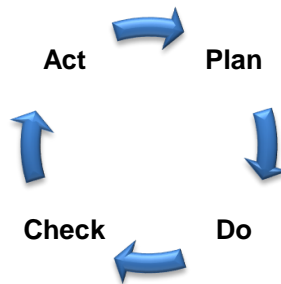
Change is inevitable within any harbour area. It arises from the need to respond and adapt to varying conditions. Modifications may be required prior to introducing new technology, port equipment, or operational policies and changes to organisational structure, formal stakeholder relationship or personnel. Whenever a change is made, the potential consequences of that change should be risk assessed before implementation. If a change is technically inappropriate, poorly executed, its risks poorly understood, or management fails to ensure communication to key personnel, accidents or other undesired consequences can result.

A formal and effective change management process is critical in preventing accidents and losses. A change management process is one of the most challenging aspects of implementing an SMS successfully. It requires organizational support, assignment of necessary resources, and a clear, defined process.

#### 4.10 Continuous Improvement

The continuous improvement process is an imbedded business process, from planning through to execution, as illustrated in Figure 4-1 below. The Harbourmaster seeks to reduce the number and severity of accidents and incidents within the Harbour through good stakeholder engagement and development of an enduring commitment to systematic, risk-based, Harbour management.

**Figure 4-1: Continuous Improvement Cycle**



#### 4.11 Review

The Harbourmaster shall review, and if appropriate, approve all changes to the SMS. This review shall be scheduled at least annually but may be more frequent if required by circumstances e.g. after an incident.

## **5.0 PILOT AND PILOT EXEMPTION TRAINING**

Port Nelson's compulsory pilotage (40 metres length overall) is the area bounded by the seaward arc of a circle, radius 3 miles, centred on Boulder Bank Old Lighthouse (41°15.3'S, 173°15.9'E). Port Nelson Limited is responsible for ensuring pilots and pilot-exempt masters are competent in their navigation safety-critical role, in accordance with Maritime Rules Part 90.

### **5.1 Pilot Training Program**

Port Nelson Limited maintains its Pilotage Licence / Certificate Structured Training Program and Proficiency Plan for Nelson Pilotage Area. The Harbourmaster should be consulted in each major revision of the Pilot Training Programme and Proficiency Plan before it is issued to MNZ for approval.

### **5.2 Pilot Exempt Masters**

MNZ administers Pilotage Exemption Certificate (PEC) processes, as defined in Maritime Rule Part 90 Sub Part D. Nelson City Council has developed a PEC program, in consultation with Port Nelson Limited pilots. An experienced Port Nelson Limited Pilot will examine PEC candidates in conjunction with the Nelson Harbourmaster and make a recommendation to MNZ. Annual reviews are conducted once evidence of pre-requisite transits is provided to the Harbourmaster. This is verified by Port Nelson Limited 'Jade' system which Nelson City Council Harbourmaster has access to.

Nelson City Council Harbourmaster is responsible for reviewing and ensuring the PEC program is fit for purpose and its management.

### **5.3 Report of Defects**

All ship defects that render navigation or manoeuvring equipment and systems inoperative or otherwise malfunctioning shall be reported to the Harbourmaster by the master as early as practicable but at least prior to the ship entering pilotage waters. The initial report may be made directly to the Harbourmaster, or to the local harbour control service (Nelson Harbour Radio) who shall contact the Harbourmaster, with a recommendation as to whether the Pilot or PEC Master consider the planned arrival or departure is safe and/or what additional actions are required to make the situation safe.

## 6.0 RISK MANAGEMENT

This section describes the Harbour risk management framework, interrelationship with the Port Nelson risk management system and describes how the Harbourmaster uses risk-based decision making to make fully informed decisions in regard to Harbour risk management.

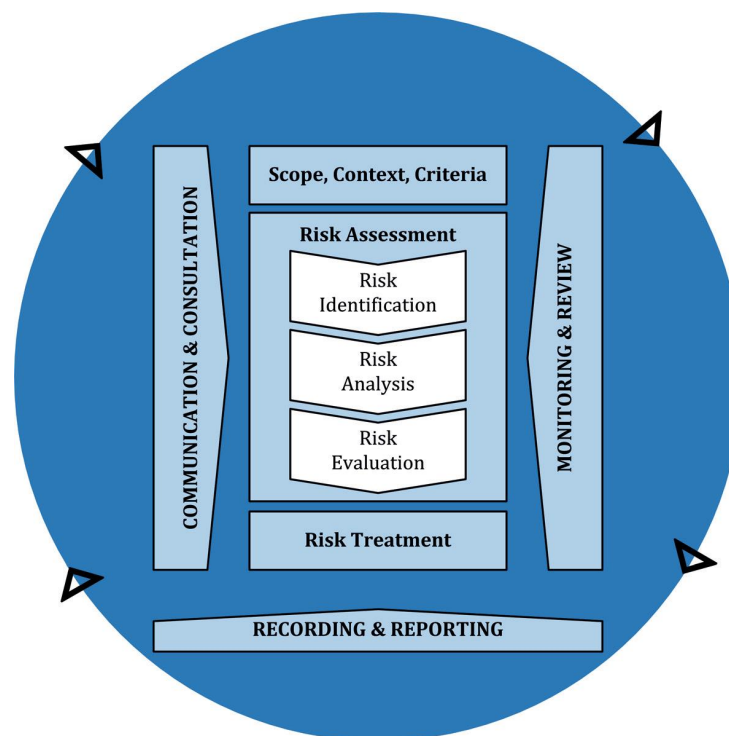
### 6.1 What is Risk?

The following are terms used by the Harbourmaster:

- Hazard may be defined as something with the potential for harm
- Risk is the chance that someone or something will be affected (positively or negatively) by the hazard, and is the product of the likelihood of a hazard occurring and the severity of the consequence
- Risk management is the coordinated activities required to reduce risk to an acceptable level

### 6.2 Risk Management Process

FIGURE 6-1: RISK MANAGEMENT



### 6.3 Risk Identification

Thorough risk identification is critical to effective marine risk management. If a hazard is not identified, it will not be assessed and may remain intolerably uncontrolled. The process used in identifying risk for Nelson Harbour shall be appropriate to the context, complexity and expected magnitude of risk. The risk identification process shall identify:

- What risks or opportunities are present
- Who or what may be affected
- Sources of risk, including those not under the Harbourmaster's control

### 6.4 Risk Analysis

Risk analysis is the process used to determine the level of risk. The level of risk is quantified by using the risk matrix to combine the risks worst credible consequence and likelihood of that consequence occurring. The risk rating matrix can be found in Appendix 2.

Assessment of consequence and likelihood is not an exact science, the Risk Matrix is a tool to guide assessment of risk and discussion so as to assist decision making. An experienced risk assessor should participate in risk assessment and reviews to help facilitate the process. The Harbourmaster utilises additional resource from Port Nelson Limited and Nelson City Council to review risk analysis and help identify

any blind spots. Internal audit of Harbours SMS within Nelson City Council has been conducted.

### 6.5 Risk Evaluation

Risk evaluation is the process of comparing the results of the above risk analysis with Port Nelson Limited's risk tolerance criteria (as illustrated in the risk matrix) to determine whether the risk is tolerable or not. Use the following table to evaluate marine risk:

TABLE 6-1: MARINE RISK EVALUATION

Risk Level	Acceptable	Action
Very Low	Yes	Acceptable risk and no further risk reduction required unless costs of risk treatment far outweighed by benefits achieved.
Low	Yes	Risk and associated controls must be monitored and maintained. Further risk treatment if required to meet changed regulatory or industry standards. Acceptable risk and no further risk reduction required unless costs of risk treatment far outweighed by benefits achieved.
Medium	Yes	Risk and associated controls must be monitored and maintained. Further actions are considered during risk review to reduce risk so far as is reasonably practicable (SFAIRP) - risk tolerable only if minimised SFAIRP. Benefit/cost type decision then to be made as to whether the risk treatments should be implemented.
High	No	Level of risk is unacceptable. Potential risk treatment options must be identified and implemented as a priority. Action required to reduce the risk in the short term (before next review). Existing risk and controls must be monitored and maintained.
Very High	No	Risk presents immediate and potentially uncoverable threat. Activity is not to be undertaken until risk reduction action has been taken.

Where a risk can have multiple consequences, i.e. safety, environment, financial or reputational, the higher consequence shall be used to determine the risk rating.

### 6.6 Risk Registers

The Port and Harbour Risk Register covers navigational safety aspects of the following marine risk groups:

- Marine operations outside of pilotage limits
- Recreational boating (and interactions with shipping)
- Moorings
- Marine events including temporary speed up liftings
- Wreck removal

This risk register is reviewed and updated at least annually. The review shall involve members of the Harbours operational team. The risk registers shall also be routinely updated following safety observations, hazard reports and incident investigations. A separate Recreational Risk Review has been completed and shared with the Harbour Safety Group. This shall be reviewed annually and assess incidents and growing trends in this sector and possible areas of conflict with shipping activities.

### 6.7 Consultation

The Harbourmaster is the designated person responsible for ensuring affected and interested parties have been consulted, as appropriate, throughout the risk management process. This is conducted by a Navigational Safety Survey and the Nelson Harbour Safety Group. The group hold quarterly meetings, but communications or relevant updates are completed as required and relevant.

## **7.0 EMERGENCY RESPONSE**

This section describes incident management and emergency response.

### **7.1 Incident Management**

The Harbourmaster shall investigate all significant incidents within Nelson waters. This will not aim to duplicate work conducted by MNZ or TAIC. Incident findings should become inputs into the Port and Harbour Risk Register. A log of incidents is kept by the Harbourmaster and where it impacts shipping activities these are recorded on the Port and Harbour Risk Register.

### **7.2 Vessel Emergency Response Plan**

In the event of an emergency on a vessel in Nelson waters, the Harbourmaster will coordinate and work with agencies to ensure a coordinated effort. This may involve establishing or integrating into an Incident Control Point (ICP- at incident), Emergency Operations Centre (EOC- Local) or Emergency Coordination Centre (ECC- Regional) as the situation requires.

The Harbourmaster works closely with Police SAR coordinators and are part of the Marine Rescue Group for an inshore SAR response. The Nelson Harbourmaster vessel is logged with RCCNZ as an asset for deployment in the event of a RCCNZ led response and have regular contact.

### **7.3 Drills and Exercises**

The Harbourmaster shall develop an annual program of drills and exercises to prepare for actual emergencies. The Harbourmaster shall assist in local and central government emergency response planning to ensure an integrated response to foreseeable emergencies. The Harbourmaster also participates in the wider Port Nelson Limited program of drills and exercises for the Port.

### **7.4 Emergency Event Logs**

All personnel involved in an emergency (including drills and exercises) shall maintain their own log of events. These logs shall be used to record all actions and conversations during an emergency. The information recorded in these logs shall be truthful and avoid subjective comment. These records are used during port-incident investigations and may be discoverable during a regulatory investigation.

### **7.5 Communications**

No communications shall be made to third parties during, after, or about an actual emergency or a drill. Any party requesting information shall be directed to the Nelson City Council Chief Executive.

### **7.6 Records**

At the completion of an emergency response or drill, Harbourmaster shall complete a debrief with participants involved in the response. The objective is to identify what went well and what can be improved. The Harbourmaster shall compile all emergency records, including any photos and video, into a single dossier which will be filed in the Nelson City Council archives.

## **8.0 COMMUNICATIONS**

Good communications are essential to the Harbour safety. This section describes routine communications.

### **8.1 Quarterly Code Compliance and Status Meeting**

Senior representatives of Port Nelson Limited, Nelson City Council and MNZ should meet with the Harbourmaster four times a year to discuss maritime time safety issues within the port limits. Senior representatives of Port Nelson Limited, Nelson City Council and MNZ should meet with the Harbourmaster four times a year to discuss maritime time safety issues within the port limits. The agenda of this meeting shall include:

- Changes in regulatory compliance
- Code compliance including MoU effectiveness and relationship with Harbourmaster's office
- Marine risk
- Marine incidents
- Results of audits, assessments and surveys
- Opportunities for improvement
- Emerging risks/new operations

The use of performance dashboards provide useful information on progress identify when and where improvement is needed. To assist with monitoring Harbour safety, appropriate key performance indicators should be selected, and reviewed annually.

### **8.2 Weekly Nelson City Council/Port Nelson Limited Meetings**

The Harbourmaster frequently meets with Nelson City Council/Port Nelson Limited representatives to discuss day-to-day operational matters. This is established as regular contact with Port Nelson Limited Maritime Operations Manager, Operations team and Nelson City Council Harbourmaster. These are weekly meetings as well as regular attendance at Port Nelson Limited Pilots (weekly) and Floating Plant meetings (bi-weekly).

### **8.3 Nelson Harbour Safety Group Meetings.**

The Harbourmaster arranges quarterly meetings with all interested parties in regional navigational safety. Invitations are sent out to all members of the maritime community. Regular attendees include Nelson City Council, Port Nelson Limited, MNZ, TDC Harbourmaster, Police, FENZ, Coastguard, Fishing companies, Tourism, Commercial Operators and Recreational groups. This is a forum to update the community on legislation, Code matters, incidents, learnings and identify emerging risks.

### **8.4 Recreation Club Meetings**

The Harbourmaster arranges ad hoc meetings with representatives from reactional user groups conducting activities within the port area and approaches when appropriate. For example, proposed changes in port use, changes to navigational channels or preparation for capital works such as dredging. These informal meetings should ensure communication of harbour activity that may impact on recreational activity, or where recreational activity has the potential to increase or change risk. Recreational clubs are invited and involved in Harbour Safety Group meetings and communications, actively contributing. This has helped establish direct communications and relationships, for example, between Port Nelson Limited Pilots and Nelson Yacht Club to directly communicate activities.



## 9.0 MONITORING

System reviews are used to examine the effectiveness of the Harbourmaster's office against documented policies, procedures, standards, objectives and performance indicators. This section describes the key elements of these processes.

### 9.1 SMS Review

The Harbourmaster shall complete an annual review of the Harbour SMS. Additional reviews may be scheduled if there is a significant change to regulations, codes of practice or if shortcomings are identified following an accident or incident. The SMS review shall consider:

- Compliance with relevant legislation, including the requirements of the Code
- Consistency with Port Nelson Limited's SMS and Harbour SMS
- Progress towards achieving objectives

System reviews should identify:

- Areas for improvement
- Areas for reduced risk
- Areas of deficiency
- Actions on deficiencies
- Areas of potential similar deficiencies
- Formal resolution of deficiencies

The frequency of these periodic reviews is included in the table below:

TABLE 9-1: PERIODIC REVIEWS

Element	Frequency
Code Joint Self-Assessment	Annual
Nelson Harbour SMS	Annual
MOU	Annual
Nelson Port and Harbour Risk Assessment	Annual
Emergency Procedures (Marine)	Annual
Pilot Training Programme & Proficiency Plan	Annual
Passage/Pilotage Plan	Annual
Aids to Navigation	Annual
Dredging and Hydrography	6 monthly
MTOP	Annual

### 9.2 Joint Self-Assessment

The Harbourmaster shall undertake an annual SMS self-assessment using the form distributed by the Code secretariat. The results of each annual self-assessment are provided to the Nelson City Council and Port Nelson Limited Chief Executives and boards. A summary of the assessment should also be provided to the PHMSC Secretariat for monitoring and reporting to the Code Steering Group.

## 10.0 REFERENCE DOCUMENTS

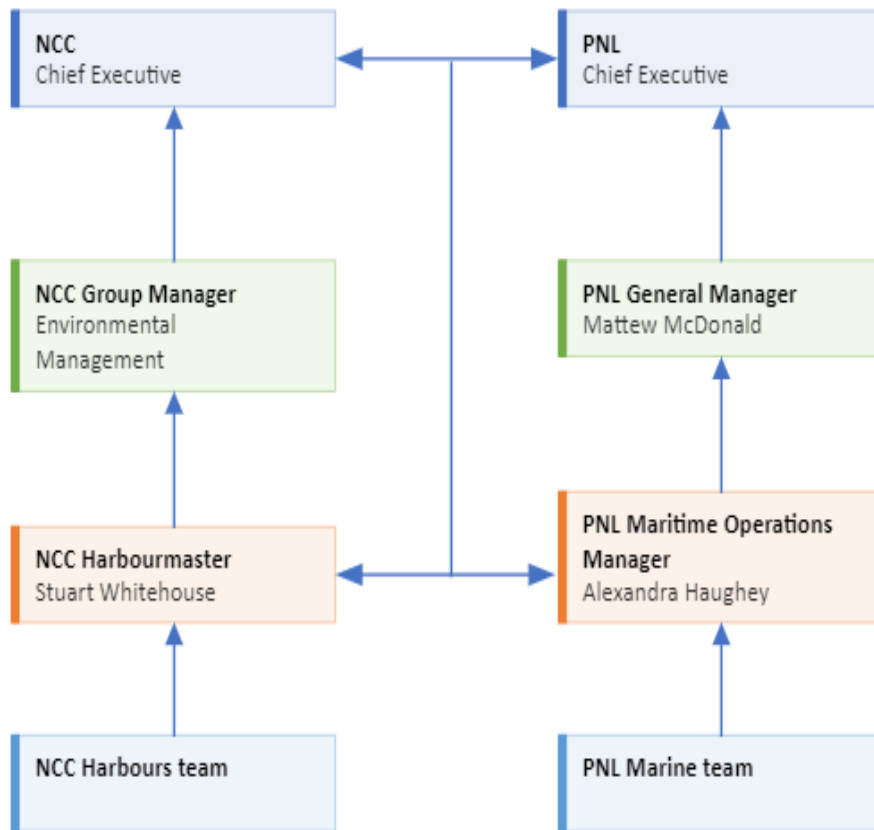
TABLE 10-1: REFERENCE DOCUMENTS

REFERENCE	DOCUMENT TITLE
NDOCS-1940938042-1678	Nelson City Council Harbour Safety Plan
NDOCS-1940938042-1687	Nelson City Council Harbourmaster SMS Manual
NDOCS-1940938042-1777	Nelson City Council Harbour Operational Policies
Seaflux software	Nelson City Council MOSS documents
<b>RELEVANT LEGISLATION/GUIDANCE</b>	
<b>Maritime Legislation</b>	
Maritime Transport Act 1994 (MTA)	
Ship Registration Act 1992	
Nelson City Council Navigational Safety Bylaw 218 (2019)	
<b>Maritime Rules</b>	
Part 19	Maritime Transport Operator – Certification and Responsibilities
Part 20	Operating Limits
Part 21	Safe Ship Management Systems
Part 22	Collision Prevention
Part 23	Operational Procedures and Training
Part 24A	Carriage of Cargoes – Dangerous Goods
Part 24B	Carriage of Cargoes – Stowage and Securing
Part 24C	Carriage of Cargoes – Specific Cargoes
Part 24D	Carriage of Cargoes – Convention Containers
Part 24E	Carriage of Cargoes – Offshore Containers
Part 25	Nautical Charts and Publications
Part 31	Crewing and Watchkeeping
Part 32	Seafarer Certification
Part 34	Medical Standards
Part 35	Approval of Training for Purposes of Part 32, Assessments and Examinations, and Industry Specific Certificates
Part 40C	Design, Construction and Equipment – Non-SOLAS Ships, Non-Passenger Ships
Part 41	Anchors and Chain Cables
Part 42A	Safety Equipment – Lifesaving Appliance Performance Standards
Part 42B	Safety Equipment – Fire Appliance Performance Standards
Part 43	Radio

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Part 44	Surveyor responsibilities and survey, certification, and maintenance for ships in maritime transport operations
Part 45	Navigational Equipment
Part 46	Surveys, Certification and Maintenance
Part 47	Load Lines
Part 48	Tonnage Measurement
Part 49	Ships' Lifting Appliances
Part 50	Medical Stores
Part 51	Crew Accommodation
Part 52	Maritime Labour Convention
Part 53	Pilot Transfer Arrangements and Ship-Helicopter Pilot Transfers
Part 73	Logbooks
Part 90	Pilotage
Part 91	Navigation Safety Bylaws
Part 100	Port Reception Facilities – oil, noxious liquid substances and garbage
Part 121B	Ship Design and Construction – Ships other than Oil Tankers
Part 122	Marine Protection Products – Oil
Part 123A	Documents – Oil
Part 123B	Documents (Record Books and Manuals)
Part 130A	Shipboard Marine Oil Spill Contingency Plans
Part 170	Prevention of Pollution by Garbage from Ships & Offshore Installations
Part 180	Dumping of Waste or Other Matter
Part 190	Mandatory Ships Routing
Part 300	Ballast Water Management
<b>International Maritime / Industry Codes and Guidelines</b>	
Various International Maritime Contractors Association (IMCA) Guidelines	
<b>Non-Maritime Legislation, Rules and Regulations</b>	
Employment Relations Act 2000	
Health and Safety at Work Act 2015 (HSAW)	
Health and Safety at Work (Hazardous Substances) Regulations 2017	
Resource Management (Marine Pollution) Regulations 1998	
<b>Other Codes and Standards</b>	
Maritime Labour Convention (MLC) 2006	

**APPENDIX 1: NELSON CITY COUNCIL/PORT NELSON LIMITED ORGANISATIONAL STRUCTURE**



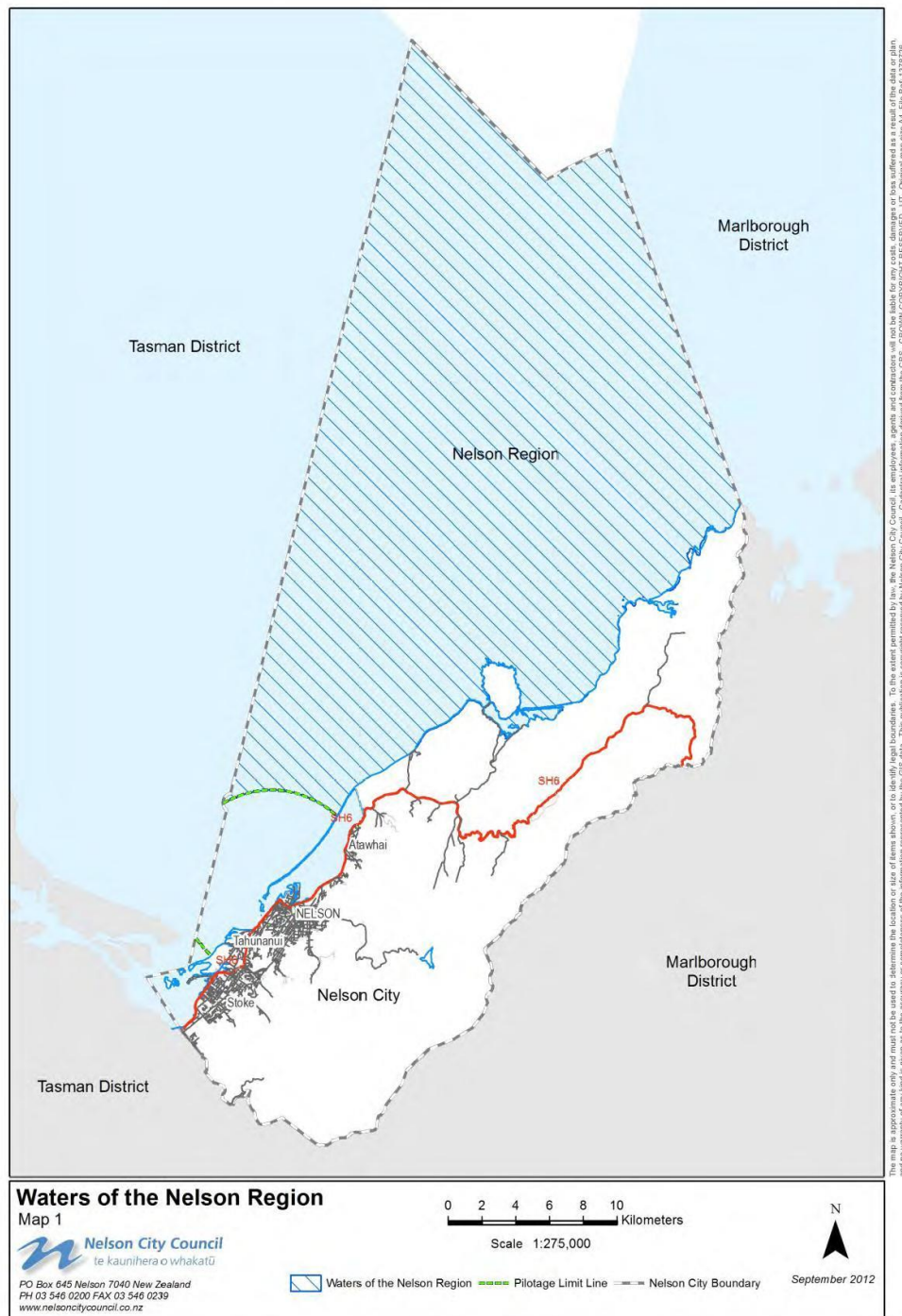
## APPENDIX 2: RISK MATRIX

CONSEQUENCE					
	Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
<b>Safety</b>	First aid injury (FAI) Injury requiring first aid treatment or less	Medical Treatment Injury (MTI) Injury requiring medical treatment	Lost Time Injury (LTI)/Serious Harm Injury requiring hospitalisation or full days off work.	Single Fatality (SF) or serious permanent disability	Multiple Fatality (MF)
<b>Environment</b>	Small amount of environmental damage controlled within the site	Limited environmental damage to low significance area without permanent effect; or exceeding a statutory or prescribed limit	Limited environmental damage recoverable within one year, or exceeding a statutory or prescribed limit repeatedly	Severe environmental damage requiring extensive rehabilitation; or exceeding a statutory or prescribed limit over 2-5 years	Persistent severe environmental damage; the damage will require > 5 years to rehabilitate; or the damage cannot be rehabilitated
<b>Financial</b>	Less than \$5,000 loss; or less than 4 hours lost production	\$5,000 - \$50,000 loss; or 4 hours – 2 days of lost production	\$50,000 - \$500,000 loss; or 2 days – 1-week lost production	\$500,000 - \$2M; or 1 week – 2 weeks lost protection	Greater than \$2M loss; or more than 2 weeks lost production
<b>Reputation</b>	Little internal or external attention; or a customer issue raised	Workforce attention; limited external attention; or a customer complaint	Repeated complaints; regulatory notification; or negative stakeholder, media or customer attention	Negative national media coverage; significant negative perception by shareholder or key stakeholder; or a customer disruption	Negative international media coverage; shareholder or key stakeholder outage; or loss of a key customer

LIKELIHOOD					
	Rare (1)	Unlikely (2)	Possible (3)	Likely (4)	Almost Certain (5)
<b>Identify the worst credible consequence of the risk then use this scale to rate Likelihood</b>	<ul style="list-style-type: none"> <li>Not expected to ever occur again</li> <li>Conceivable but only in rare circumstances</li> <li>Less than 10% chance of happening under these conditions</li> </ul>	<ul style="list-style-type: none"> <li>Could occur in your working life (1 in 33 years)</li> <li>Unlikely to occur under normal circumstances</li> <li>Around 10% chance of happening under these conditions</li> </ul>	<ul style="list-style-type: none"> <li>Could occur once in 10 years</li> <li>Could reasonably be expected to occur under normal circumstances</li> <li>Around 50% chance of happening under these conditions</li> </ul>	<ul style="list-style-type: none"> <li>Could occur several times in 5-10 years</li> <li>Likely to occur under normal circumstances</li> <li>Over 75% chance of happening under these conditions</li> </ul>	<ul style="list-style-type: none"> <li>May occur at any time or at least once per year</li> <li>Expected to occur under normal circumstances</li> <li>Over 90% chance of happening under these circumstances</li> </ul>

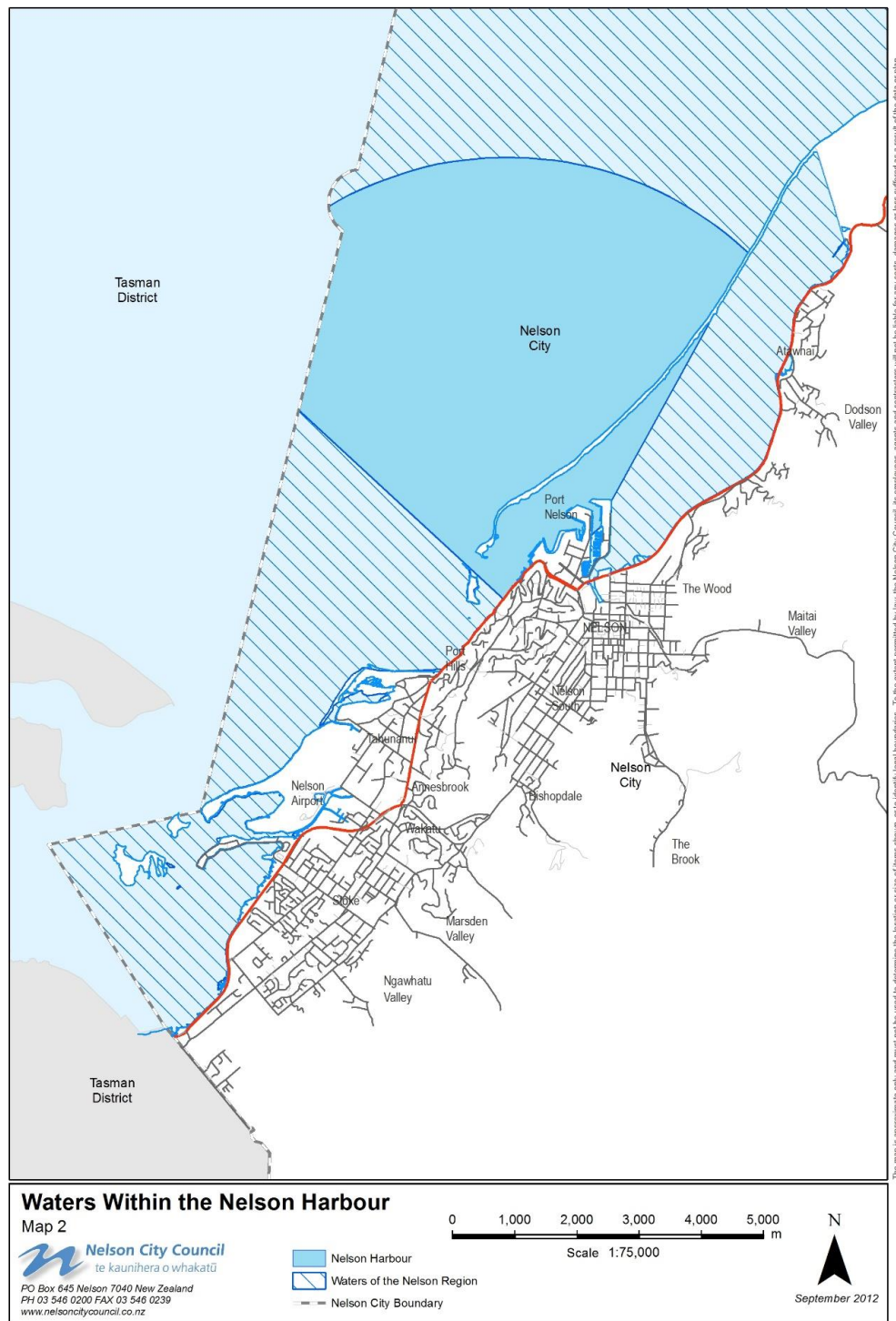
RISK MATRIX		CONSEQUENCE				
		Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
LIKELIHOOD	Almost certain (5)	Medium (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	Likely (4)	Medium (4)	Medium (8)	High (12)	High (16)	Very High (20)
	Possible (3)	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
	Unlikely (2)	Very Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
	Rare (1)	Very Low (1)	Very Low (2)	Low (3)	Medium (4)	Medium (5)

### APPENDIX 3: MAPS SHOWING VARIOUS JURISDICTIONAL LIMITS



Map 1 - Waters of Port Nelson and approaches out to Nelson City Council limit – From Bylaw no. 218

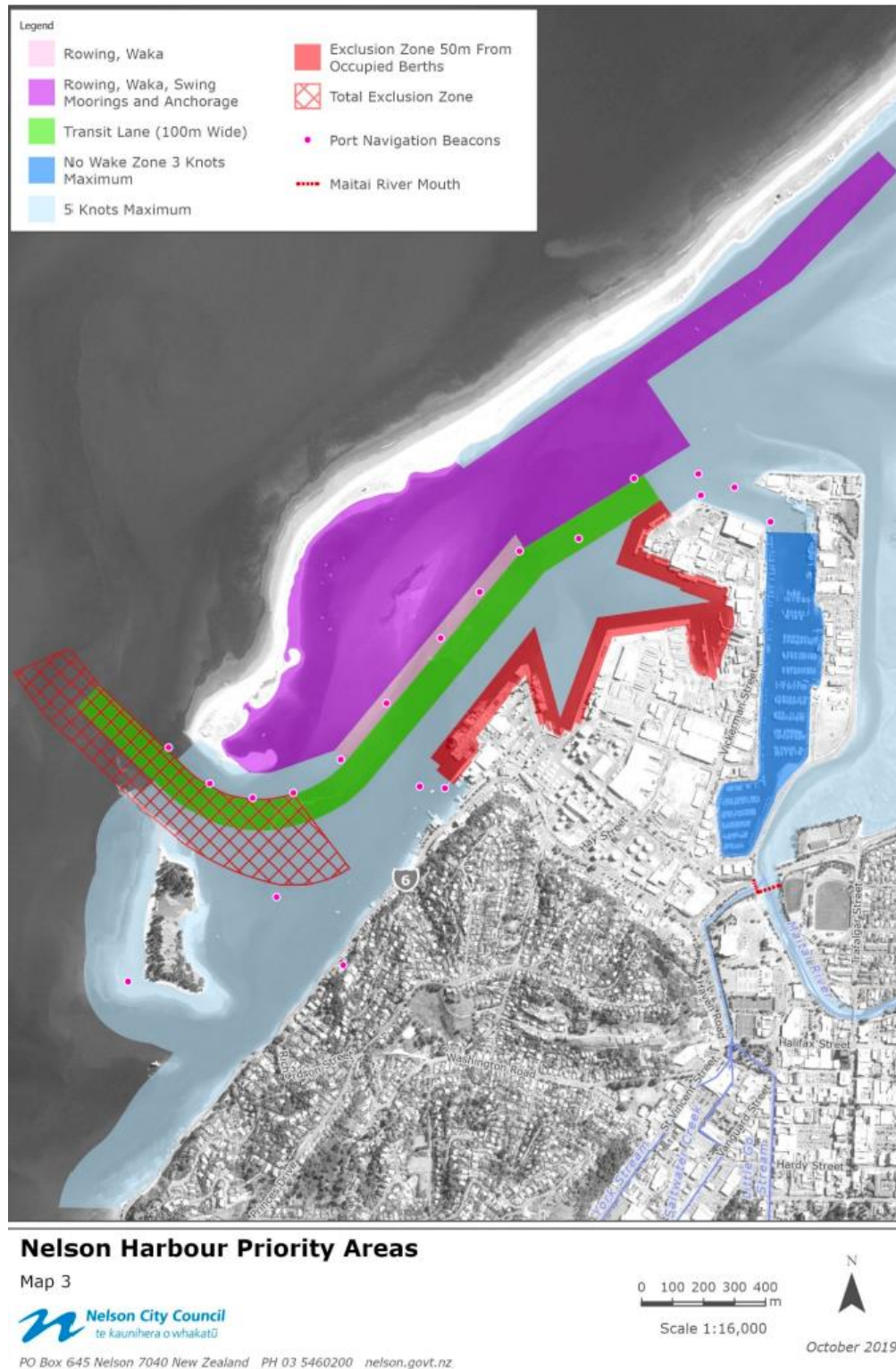
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Map 2 - Waters of Port Nelson and approaches out to Nelson City Council limit – From Bylaw no. 218

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Map 3 – Nelson Harbour Priority Area – From Bylaw no. 218

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Map 4 – Nelson Marina – From Bylaw no. 218

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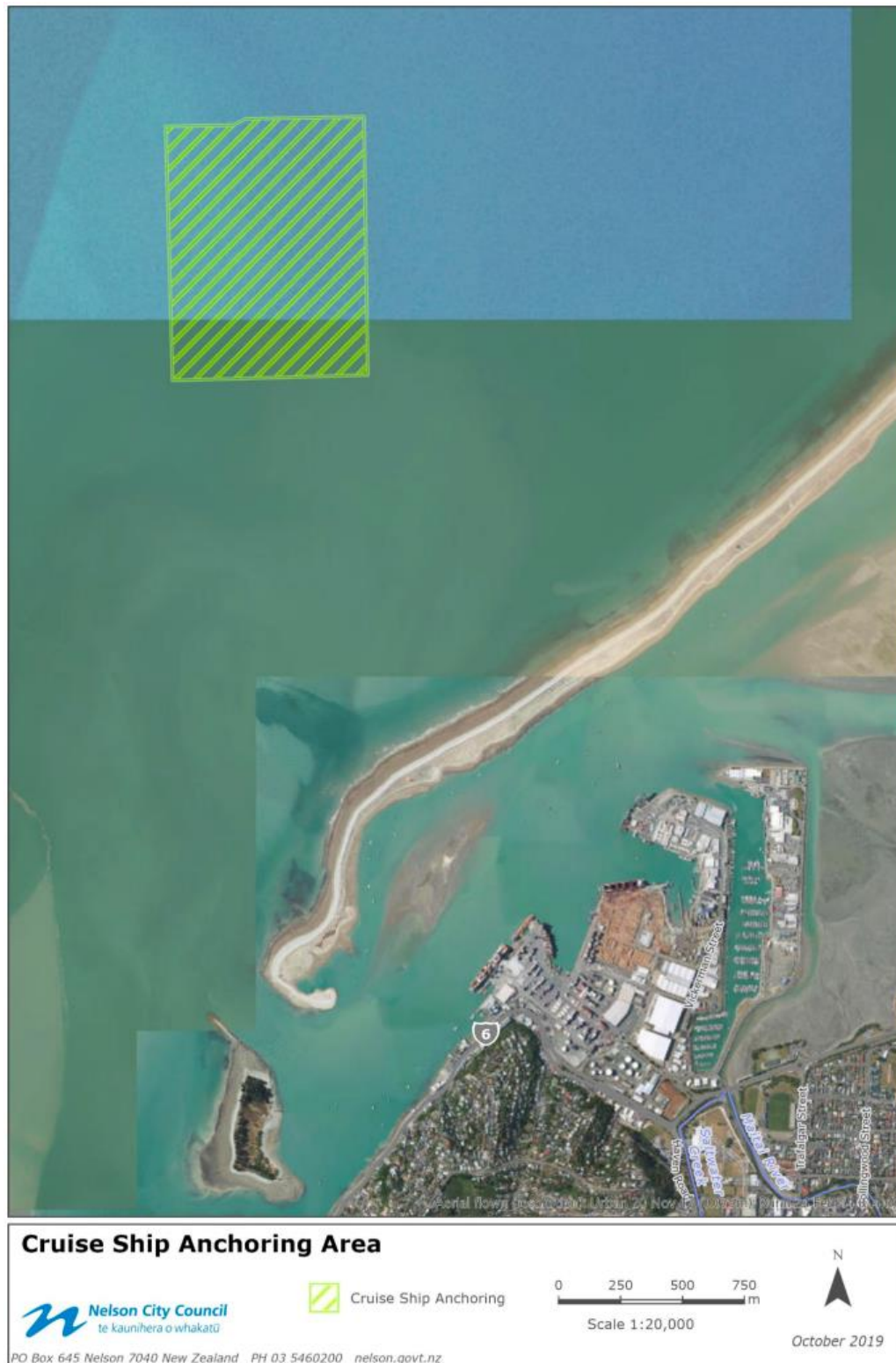
Map 5 – Tahunanui Beach Recreational Area – From Bylaw no. 218

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Map 6 – Monaco Activity Area – From Bylaw no. 218



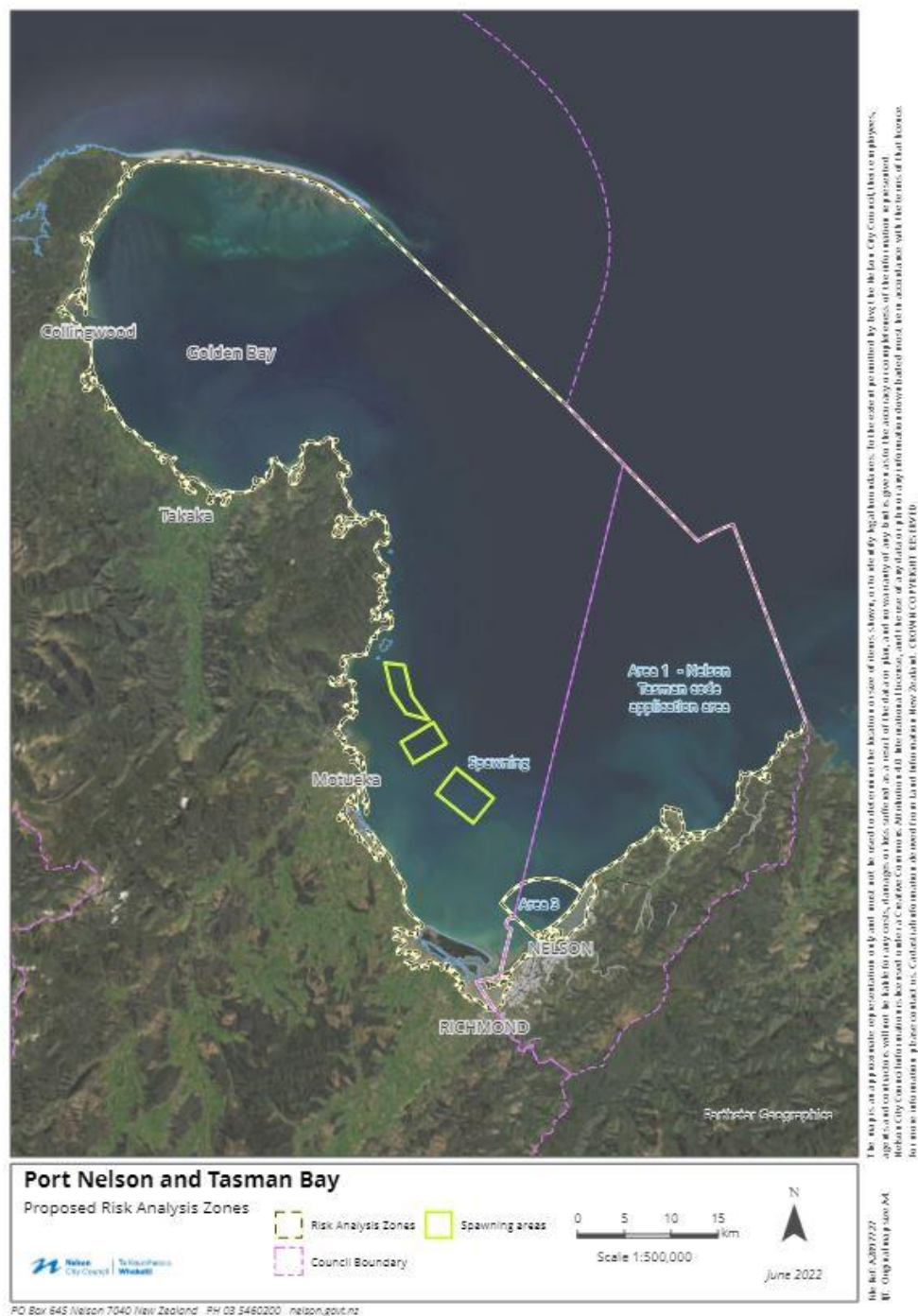


Map – Cruise Ship Anchoring Area – From Bylaw no. 218

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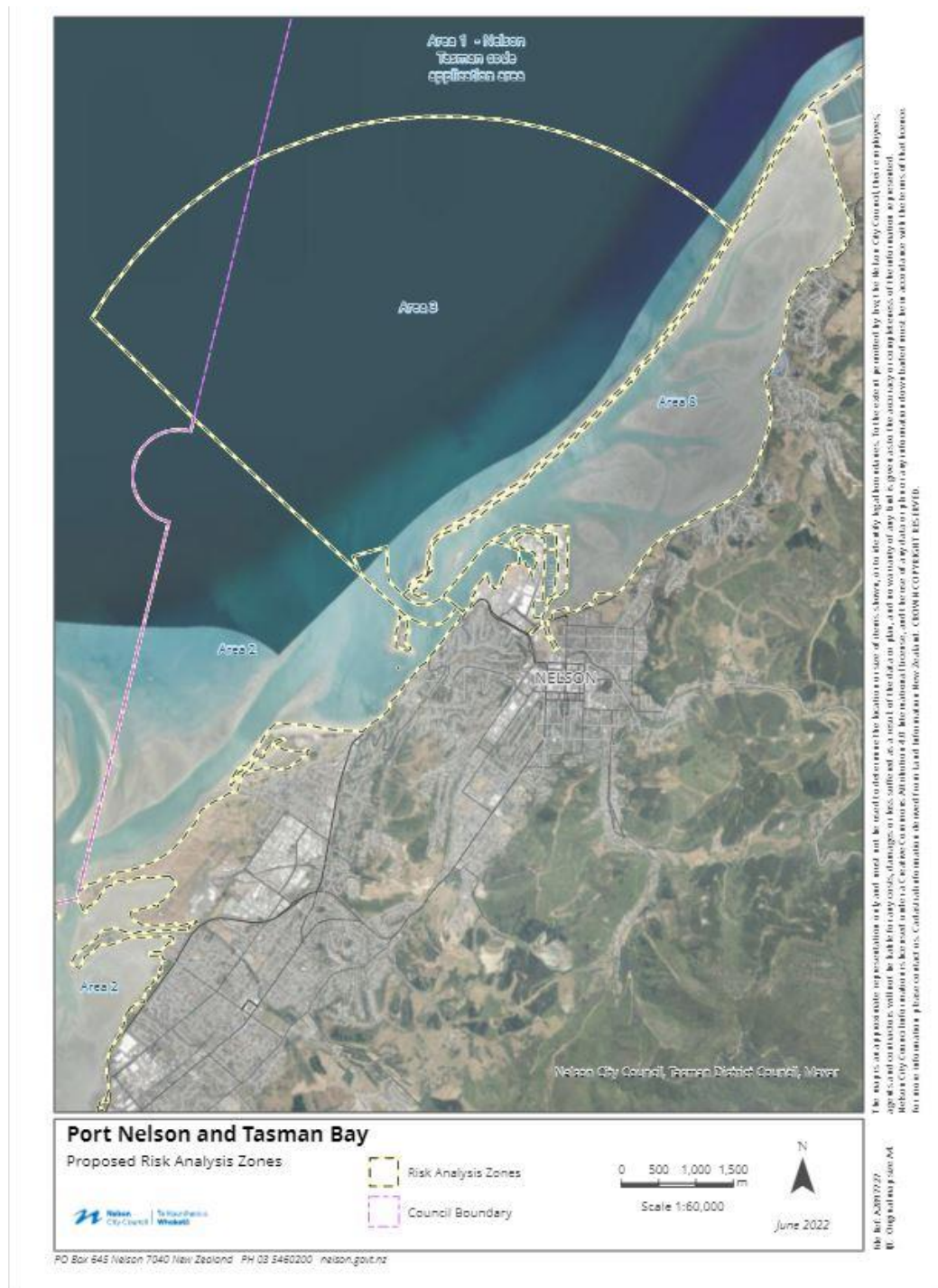
Extract from navigation safety bylaw showing limits of Nelson Harbour and the pilotage limits for Port Nelson



## Tasman Bay Code Application Area

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## Nelson Pilotage Area- Code application zones





Nelson Haven- Code application zones.

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# Nelson City Council Harbour Operational Policies

**August 2023**

1940938042-1777 Nelson Harbour Operational Policies: last updated: 8 September 2023

## **1. Purpose**

- 1.1. The Nelson City Council (Council) Harbour Operational Policies outlines the good practice that the Council expects for local maritime regulation and operational activity. The Policies:
- Provide a framework to ensure the Council understands the risks associated with port and harbour operations within the waters of our region.
  - Guides processes by which the Council is able to manage the risks associated with port and harbour operations within the waters of our region.

## **2. Context**

- 2.1. The Nelson Harbour is at the heart of the Nelson Community, both in location and spirit. Sitting within the Harbour is the hub of commercial maritime activity, Port Nelson.
- 2.2. The Port and Harbour Marine Safety Code 2020 (PHMSC) sets down a national voluntary standard for marine safety and the prevention of marine pollution in the operation of ports and harbours in New Zealand.
- 2.3. The statutory powers in the Maritime Transport Act 1994 (MTA) and other relevant legislation are the foundation for the roles, relationships and activities that are integral to achieving that standard.
- 2.4. Council is committed to participating in the PHMSC (2020) in a tripartite agreement with Maritime New Zealand (MNZ) and Port Nelson Limited (PNL).

## **3. Policies**

- 3.1. These Policies introduce good practice that will help guide Council to maintain maritime safety. The policies are:
- Vessel management.
  - Hydrography.
  - Aids to Navigation.
  - Wrecks.
  - Abandoned vessels.
  - Works in harbours.
  - Compliance and education.

## **4. Scope**

- 4.1. The area of jurisdiction is defined within the Navigation Bylaws and the Port and Harbour Marine Safety Code application assessment for Nelson and Tasman Bay (The Code area).

1940938042-1777 Nelson Harbour Operational Policies last updated: 8 September 2023

## **5. Vessel management**

- 5.1. To provide safe navigation within the region's waters, the Council maintains knowledge of traffic transiting its waters as defined within the Navigation Safety Bylaw 218.
- 5.2. The Harbourmaster in conjunction with Port Nelson Limited commit to provide vessel management as follows:
  - Regular remote monitoring of commercial vessels and other vessels fitted with AIS transponders transiting the Code application area for any purpose, including anchoring and/ or berthage at PNL.
  - Receive pre-arrival information for all vessels over 500 Gross Registered Tonnes (GRT).
  - Oversight of pilotage operations and regular meetings with PNL Maritime Operations Manager and Pilots. Use of Transit Analyst (software) to identify optimal pilotage and any outliers (regular incursions of safety margins or non-standardised transits. Transit Analyst can be used to identify any further training or developmental needs.
  - Ensure Navigational Safety Notices are promulgated through appropriate channels.
  - Ensure an adequate 24-hour Local Port Radio Service is provided by PNL – providing updates on local traffic, navigational warnings, and other vessel reporting.
  - Assign safe anchorages to commercial ships or their agents seeking shelter and/ or waiting to enter PNL.
  - Administer the Pilot Exemption Certification (PEC) Structured Training and Proficiency Plan to ensure that all PEC applicants and holders fully meet the requirements laid down under the Maritime rules, namely Maritime Rule Part 90 (Pilotage).
  - Maintain close consultation with PNL with regards to the Pilotage Policy of that organisation, to ensure that it is compliant with national and international regulations and guidelines.
  - Request passage plans from vessels that fall outside the PNL Passage plan requirements on a case-by-case basis as deemed necessary by the Harbourmaster.

## **6. Hydrography**

- 6.1. The New Zealand Hydrographic Authority, based at LINZ, is responsible for the production and distribution of navigational charts for New Zealand's coastal waters and surrounding sea and environs. This requires accurate hydrographic data to be accumulated through a rigorous and ongoing survey programme outlined in the LINZ Hydrographic Plan.

1940938042-1777 Nelson Harbour Operational Policies last updated: 8 September 2023

- 6.2. LINZ may also utilise hydrographic data collected by other agencies such as ports and councils to improve the accuracy of charts.
- 6.3. The PHMSC describes Councils responsibility for providing adequate information about harbour conditions so that users can determine whether they are safe. In meeting this obligation, regarding, hydrographic survey, the Harbourmaster commits to:
- Undertake hydrographic surveys as necessary to ensure maritime safety in the region and in alignment with the PHMSC.
  - Conduct hydrographic surveys to a standard that enables LINZ navigational charts to be updated.
  - Determine areas for hydrographic survey through a process of risk assessment and in close consultation with key stakeholders and harbour user groups.
  - Adhere to the Good Practice Guidelines for Hydrographic Surveys in New Zealand Ports and Harbours.
  - Promulgate the findings of any hydrographic survey commissioned by Council to all relevant stakeholders and harbour user groups.
  - Advise harbour users by way of a Harbourmaster Notice and/or a Navigation Warning and/or a Notice to Mariners of any hazards to navigation identified in any hydrographic survey.
  - Make hydrographic survey deliverables freely and publicly available via digital means and in a format that is useful to harbour users to support safety of navigation.
  - The Harbourmaster and Port Nelson Limited (PNL) have agreed to freely share all hydrographic survey data and have defined their respective responsibilities, regarding hydrographic surveys in the Council/PNL MOU.

## **7. Aids to Navigation**

- 7.1. PNL owns, operates, and maintains approximately 30 Aids to Navigation (AtoNs) throughout the Harbour areas 3-7 all of which serve to support safe navigation for Port operations.
- 7.2. Additional AtoNs have also been established in the harbour areas 1,2, & 8 alongside the Marina by the Council.
- 7.3. Temporary AtoNs are occasionally established for scientific research purposes or other projects such as Works in Harbour.
- 7.4. In managing the NCC's AtoNs the Harbourmaster commits to:
- Operate in accordance with the Maritime New Zealand Aids to Navigation Guidelines.
  - Establish, alter, or remove AtoNs in accordance with the requirements of section 200(7) of the MTA.

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- Categorise AtoNs in accordance with the standards set out by IALA.
  - Notify PNL of outages and failures in a timeframe based on IALA standards, with Category 1 AtoNs requiring an immediate response wherever possible.
  - Make reasonable effort to inform harbour users when an AtoN has failed or is unreliable. This is achieved by promulgation of navigation warnings through Nelson Harbour Radio and Marlborough Marine Radio. Depending on circumstance, the NCC website, and Facebook page may also be used to ensure widespread awareness.
  - Review annually PNL history of maintenance and repairs to AtoN's.
  - Routinely visit each AtoN for the purposes of preventative maintenance. All reasonable effort will be made to visit each AtoN site at least once every 12 months.
  - Regularly review and enhance the adequacy of the network as required.
- 7.5. AtoNs that are owned and operated by other agencies are not the direct responsibility of the Harbourmaster however, the Harbourmaster commits to:
- Immediately advise Maritime New Zealand directly if any of their AtoNs have failed or are reported as unreliable.
  - Assist Port Nelson to manage its AtoNs as per the NCC/PNL MOU.
  - Provide navigation safety guidance to any person or organisation seeking to install an AtoN in the Nelson Harbour.

## **8. Wrecks**

- 8.1. The statutory power for the removal of wrecks is set out in section 33J of the Maritime Transport Act (1994) where such wrecks pose a hazard to navigation.
- 8.2. Where a wreck or derelict vessel has been identified as presenting a risk to navigation the harbourmaster shall:
- Make a reasonable effort to identify and locate the owner or agent of the wreck or derelict vessel.
  - Require the owner of the wreck, or an agent of the owner, to remove the wreck within a time and in a manner satisfactory to Nelson City Council.
  - Where a derelict vessel or wreck is to be returned to the water following repairs, a satisfactory report of seaworthiness from a reputable surveyor is provided to ensure the vessel is no longer a hazard to navigation.
- 8.3. Where the owner or agent cannot be located or where the owner or agent fails to remove all or part of the wreck within the specified timeframe the harbourmaster shall:
- Take possession of the wreck.
  - Remove, destroy, sell, or otherwise dispose of the wreck.
  - Recover actual costs incurred as a debt to Nelson City Council.

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## **9. Abandoned vessels**

- 9.1. The statutory power for the removal of abandoned vessels is set out in section 33L of the Maritime Transport Act (1994) where any vessel is in waters within the region and appears to be abandoned by its owner.
- 9.2. The harbourmaster shall secure, remove, store, or dispose of the vessel if:
- The harbourmaster has notified NZ Police of its intentions.
  - Reasonable efforts have been made to identify and contact the owner of the vessel.
  - A notice, advising of the intention to remove and sell or otherwise dispose of the vessel by the harbourmaster, has been affixed to the vessel in a conspicuous place for more than 28 days.
  - The Council has publicly indicated in two issues of a regional daily newspaper its intention to sell or otherwise dispose of the vessel.
  - The Council has made a reasonable effort to notify, and person or party known to have a security interest in the vessel of the intent to sell or otherwise dispose of the vessel.
  - The harbourmaster will gain approval from the Group Manager - Environmental Management prior to commencing the above proceedings.
- 9.3. The Council will seek to recover all costs incurred in the removing, storing, and selling or otherwise disposing of the vessel.

## **10. Works in Harbour**

- 10.1. Except for emergency works, all works in the harbour are undertaken in accordance with the Nelson environment plan, coastal plan and relevant legislation pertaining to the specific nature of works.
- 10.2. The harbourmaster is committed to ensuring that Navigation safety is adequately managed throughout the duration of works carried out in the harbour. To this end the harbourmasters expectation is that those responsible for commissioning and conducting the works will be required to identify and manage the maritime risks associated with any projects.
- 10.3. At a minimum the harbourmaster requires a navigation safety plan to be developed and submitted in an appropriate timeframe prior to the commencement of work that identifies:
- All maritime risks.
  - Risk treatments and controls including the need for navigational warnings.
  - Key personnel, their roles and contacts, including emergency contacts.
  - Means and processes for effective communication across organisations and agencies.
  - Emergency response plans.
- 10.4. The harbourmaster must approve navigation safety plans prior to the commencement of works.

1940938042-1777 Nelson Harbour Operational Policies last updated: 8 September 2023

- 10.5. The harbourmaster agrees to:
- Review navigation safety plans and provide additional information as appropriate to ensure navigation safety.
  - Issue navigation warnings and notices in relation to works in the harbour to ensure navigation safety.
  - Make reasonable efforts to ensure those conducting works in the harbour comply with the navigation safety plan and all other relevant Rules, Bylaws and Harbourmaster directions.
- 10.6. Section 4.1 of Nelson City Council Navigational Safety Bylaw (218) 2019 identifies the requirements for undertaking hot work operations on board a vessel within Nelson Harbour.
- 10.7. Nelson City Council Harbour Hot Work Policy (August 2023) covers in detail the hot work permitting system being implemented.
- 10.8. Other higher risk activities such as Working at Heights, Working Under Water, Working Under Wharves, Working in Confined Space and Working On/Over the Water are monitored to ensure the persons responsible are conducting the activities in accordance with relevant legislation and industry best practice.

## **11. Compliance and education.**

- 11.1. The Harbourmaster encourages all harbour users to comply with all Maritime rules, Navigation Safety Bylaws and Harbourmaster Directions through a combined regulatory effort of education, forewarning and enforcement.
- 11.2. An annual strategy for education and related initiatives will be developed prior to the traditional summer season opening of Labour Day. The education strategy will be formed in conjunction with MNZ Safer boating strategies and any identified emerging hazards in the region. This strategy will be recorded in the Harbour safety plan.
- 11.3. Enforcement action will be taken as required. This may be necessary in situations where a rule, bylaw or direction has been breached. In such circumstances the harbourmaster will:
- Immediately seek to stop the activity (where practicable).
  - Investigate and collect evidence of the breach.
  - Issue a notice of breach (where practicable).
- 11.4. If a notice of breach is issued the harbourmaster will:
- Peer review the breach with the Harbourmaster team (if practicable).
  - Review the evidence in conjunction with the Environment Group Management
  - Assess the risk or potential risk resulting from the breach.
  - Determine the appropriate compliance action.

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- 11.5. Compliance actions range from:
- An educational approach to support and encourage future compliance.
  - Enforcement action ranging from a warning (verbal/ written), infringement notices, harbourmasters directions, instruction to move or detain a vessel, or prosecution.
- 11.6. When determining a compliance action, the harbourmaster proposes an approach that aligns with MNZ and considers the following:
- Extent of harm or risk of harm.
  - Conduct – behaviour, intent, and capability of those involved.
  - Public interest – can we improve outcomes for a wider audience?
  - Attitude to compliance and participation in education strategies.
- 11.7. In all cases, lessons learned should be identified and shared to improve safety outcomes for all harbour users.

## **12. References and relevant legislation**

- 12.1. [Maritime Transport Act 1994](#)
- 12.2. [Port and Harbour Marine Safety Code](#)
- 12.3. [Nelson City Council Navigation Safety Bylaw 2019 \(No 218\)](#)
- 12.4. [MNZ Compliance Model](#)
- 12.5. [Maritime Rules Part 90](#)



## Nelson City Council Harbour Hot Work Policy

**August 2023**

Next review before August 2025.

Document not controlled when printed.

## **1. Purpose**

- 1.1. To ensure safe hot work operations within the Nelson Harbour and minimize the risk of fire on board vessels and in the surrounding environment.
- 1.2. The following procedures and revised forms improve the management of the risk for hot work operations for both the applicant, Port Nelson Limited (PNL), the Nelson City Council (Council) and all stakeholders.

## **2. Context**

- 2.1. Section 4.1 of Nelson City Council's Navigation Safety Bylaw (218) 2019 identifies the requirements for undertaking hot work operations

### **2.2. 4.1 Hot work operations**

*a) Within the Nelson Harbour, the person carrying out the hot work and the master of every vessel on board which, or on the hull of which, it is proposed to carry out welding, grinding or flame-cutting operations in or from any position, whether on board the vessel or not, must obtain from the Harbourmaster a Hot Work Permit not less than two hours before commencing the work.*

*b) The person carrying out the hot work, or the master or the Chief Engineer if available, of every vessel on or in which hot work operations are proposed must ensure that, before any welding or grinding operations are commenced, precautions are taken for the detection, prevention, and extinguishing of fire on board the vessel or elsewhere while the work is undertaken, and that the requirements of the Hot Work Permit are met. Provision must be made for the continuance of the precautions until the work is completed. Monitoring of the space in which the work has taken place, and all adjacent spaces, shall continue for at least one hour after the completion of welding, grinding or flame cutting.*

*c) No person may commence hot work without having seen and understood the terms of a current Hot Work Permit for the work to be undertaken.*

*d) The Harbourmaster may grant a written exemption from compliance with those provisions to the master or owner of any vessel lying at any vessel-repairing establishment or at any berth where work is being undertaken by a company whose Hot Work procedures have been approved by the Harbourmaster.*

*e) No hot work shall commence until such time as the Harbourmaster is satisfied that the pre-condition requirements of a Hot Work Permit have been met in full.*

## **3. Scope**

- 3.1. The area of jurisdiction is defined within the Navigation Bylaws and the Port and Harbour Marine Safety Code application assessment for Nelson and Tasman Bay (The Code area).
- 3.2. This procedure applies to all personnel intending to conduct hot work within the Nelson Harbour, including but not limited to engineering contractors, vessel masters, and chief engineers.

## **4. 12-Month Hot Work Permit Approval**

- 4.1. A 12-month hot work permit approval can be issued to local engineering contractors, shipping companies or other approved contractors who conduct regular hot work within the Port environment if they have a robust process for issuing their own internal permits.
- 4.2. Any company wishing to apply for a 12-month hot work permit approval must:
  - Make an application to the **Harbourmaster office** for a 12-month permit approval.

1940938042-1956 - Nelson Harbour Hot Work Policy

- Be audited at least annually to ensure that:
  - A satisfactory internal hot work permit system is in place.
  - The system has a comprehensive, repeatable risk assessment and management component.
  - The system records a detailed level of information for audit purposes.
- Inform the Harbourmaster (HM) and Port Nelson Ltd (PNL) a minimum of two hours prior to all instances of hot work that are taking place.
- Inform the HM and PNL immediately prior to and at the conclusion of all works.
- Apply to renew 12-month permit approvals applications before the expiry date of the approval.

4.3. See **Appendix A** for draft forms.

## **5. 48 Hour Hot Work Permits.**

5.1. Any person intending to conduct hot work within the Marina or Port environment must apply for a Hot Work Permit.

5.2. Any person applying for a hot work permit must:

- Make an application to the Harbourmaster, Deputy Harbourmaster, their delegate, or Marina Staff, for a permit.
- Show systems are available to ensure that the person in control and the person conducting the work:
  - Understands their responsibilities and are qualified to undertake the work.
  - Has conducted a suitable risk assessment of the work. This can be in the way of an Internal Work Permit system, Job Specific Analysis, Toolbox talks or other mechanism as appropriate.
  - Have ensured that all equipment is safe, and hazards are recognized and protected.
  - Has work permits and procedures in place for associated risks – Confined space, Gas Free, Working aloft or over water.
- Inform the HM, PNL and/ or the Marina Office as appropriate immediately prior to and at the conclusion of all works.

5.3. See **Appendix B** for draft forms.

## **6. Application Process**

6.1. Applications must be made during normal business hours Monday to Friday 08:00 – 16:30

6.2. Two types of permits can be issued.

- Permits for a period greater than 48 hours (issued by the Harbourmaster's office only)
- The general hot work permit is to cover a specific job and will have a maximum duration of 48 hours or 12 hours if a Gas Free Certificate is required.

## **7. Notifications**

- 7.1. Prior to commencing any hot work a notification must be sent to the following email recipients – [harbourmaster@ncc.govt.nz](mailto:harbourmaster@ncc.govt.nz), [csc@portnelson.com](mailto:csc@portnelson.com), [marine.ops@portnelson.com](mailto:marine.ops@portnelson.com) .
- 7.2. Vessels should call on VHF Ch 12 – Nelson Harbour Radio – to ensure no conflicting activities are taking place before commencing any hot work.

## **8. Audit Process**

- 8.1. Two types of audits are required to cover 12-month and 48-hour permits.
- 8.2. The 12-month audit will focus on the systems, procedures and record keeping of the company applying for the permit.
- 8.3. The 48-hour hot work audit will focus on the details of the job that the permit applies to.
- 8.4. Audits may take the form of a site visit and/ or submission of appropriate documentation.

## **9. References and relevant legislation**

- 9.1. [Maritime Transport Act 1994](#)
- 9.2. [Port and Harbour Marine Safety Code](#)
- 9.3. [Nelson City Council Navigation Safety Bylaw 2019 \(No 218\)](#)
- 9.4. [Health and Safety at Work Act 2015](#)

## **10. Appendices**

- 10.1. Appendix A - 12 Month Hot Work Permit Application – Permit and Audit.
- 10.2. Appendix B – 48 Hour Hot Work Permit Application – Permit, Checklist and Audit.

## 12-Month Hot Work Permit Application

### Nelson Harbour Permit



Permit No: \_\_\_\_\_

Under the provision of Nelson City Council Navigational Safety Bylaws 2019 (No 218) Clause 4.1 for Gas Cutting/Burning/Welding (electrical/gas)

#### Details of Applicant

Name \_\_\_\_\_

Date of application \_\_\_\_\_

Position \_\_\_\_\_

Company \_\_\_\_\_

Contact Number \_\_\_\_\_

Email \_\_\_\_\_

Description of primary business activities undertaken:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

	Yes	No
Internal hot work process approved. (Internal permits, JSA's, Hazard registers supplied with the application)	<input type="checkbox"/>	<input type="checkbox"/>
Do you have a process that applies to working in confined spaces or at heights? (If yes, please supply full details with the application)	<input type="checkbox"/>	<input type="checkbox"/>
Do you have a procedure for issuing Gas Free certificates	<input type="checkbox"/>	<input type="checkbox"/>
Which company do you use to conduct gas sampling and issue gas free certificates when required?	_____	_____

**Permission is hereby granted to the named company pursuant to Clause 4.1 of the Nelson City Council Navigation and Safety Bylaw 2019 (No 218) to manage their own hot work permitting procedures subject to:**

- The applicable processes and procedures as listed in the attached audit being strictly adhered to.
- Hot Work is **not permitted** while any bunkering operations are in progress.
- Hot Work is **not permitted** while a tanker vessel with Class A, B or C oil cargo or Dangerous Goods is berthed adjacent to the location/berth/vessel undertaking hot work, unless the express permission of the Harbourmaster or their representative is obtained.
- Prior to commencing and again at conclusion of Hot Work contact to be made with Nelson Harbour Radio on Channel 12.

Signed \_\_\_\_\_ Company \_\_\_\_\_ Position \_\_\_\_\_ Date \_\_\_\_\_

Permit  
issued on  
behalf of  
NCC by

Signed \_\_\_\_\_ Position \_\_\_\_\_ Date \_\_\_\_\_

**HOT WORK PERMIT VALID FROM: Date To: Date**

**THIS PERMIT MUST BE AVAILABLE FOR INSPECTION**



## 12-Month Hot Work Permit Application

12 Month Hot Work Permit Audit		Yes	No
1	Maintains a hazard register	<input type="checkbox"/>	<input type="checkbox"/>
2	Has a job safety analysis process	<input type="checkbox"/>	<input type="checkbox"/>
3	Has a written Hot Work Permit process	<input type="checkbox"/>	<input type="checkbox"/>
4	Issues a Hot Work Permit for each job	<input type="checkbox"/>	<input type="checkbox"/>
5	Maintains a historical record of each job safety analysis sheet/ hot work permit	<input type="checkbox"/>	<input type="checkbox"/>
6	Understands and records which fire precautions are undertaken when a permit is issued	<input type="checkbox"/>	<input type="checkbox"/>
7	Understands and records when a fire watch is required	<input type="checkbox"/>	<input type="checkbox"/>
8	Records when flammable gas testing is conducted and adjusts permit validity time accordingly	<input type="checkbox"/>	<input type="checkbox"/>
9	Has a nominated & documented person in control of each job	<input type="checkbox"/>	<input type="checkbox"/>
10	Has procedures to inspect work after the completion of a job	<input type="checkbox"/>	<input type="checkbox"/>
11	Ensures all personnel are appropriately trained/ qualified and have appropriate PPE and safety equipment	<input type="checkbox"/>	<input type="checkbox"/>
12	Ensures all personnel are familiar with emergency procedures and know how to use fire extinguishing devices		
13	Hot Work Permit is displayed at each job site	<input type="checkbox"/>	<input type="checkbox"/>
14	Displays appropriate signage to notify persons of hot work	<input type="checkbox"/>	<input type="checkbox"/>
15	Notifies Harbour Master and Port Nelson when undertaking hot work	<input type="checkbox"/>	<input type="checkbox"/>
16	Seeks permission on VHF Ch.12 prior to commencing hot work	<input type="checkbox"/>	<input type="checkbox"/>

**Type of Work Undertaken: All equipment used to conduct the hot work must be checked, examined and be in a fit for purpose condition.**

- ☐ Electric Arc Welding   
 ☐ MIG/TIG Welding   
 ☐ Butane / Propane Torch   
 ☐ Oxy Acetylene Torch  
☐ Cutting / Soldering   
 ☐ Grinder, Drop Saw   
 ☐ Other, describe here

<b>Audit completed by</b>			
<b>Auditor</b>	<b>Name</b>	<b>Signed</b>	
	<b>Position</b>	<b>Date</b>	
<b>Person responsible for company</b>	<b>Name</b>	<b>Signed</b>	
	<b>Position</b>	<b>Date</b>	

**48 Hour Hot Work Permit Application****Nelson Harbour Permit**

Permit No: \_\_\_\_\_

Under the provision of Nelson City Council Navigational Safety Bylaws 2019 (No 218) Clause 4.1 for Gas Cutting/Burning/Welding (electrical/gas)

<b>Name</b> _____	<b>Company</b> _____
<b>Date of notification</b> _____	<b>Contact Number</b> _____
<b>Vessel</b> _____	<b>Berth / Location</b> _____
<b>Person responsible</b> _____	<b>Fire Watch</b> _____

**Statement of Work** Full description of hot work to be carried out

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<b>HW Start Date</b>	<b>HW Start Time</b>	<b>Duration</b>
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**Location on board** \_\_\_\_\_**Equipment to be used** \_\_\_\_\_**Person/s details carrying out the work** \_\_\_\_\_

<b>Declaration:</b>	Yes	No	Issued by: _____
Gas Free Certificate	<input type="checkbox"/>	<input type="checkbox"/>	
Dangerous Goods	<input type="checkbox"/>	<input type="checkbox"/>	
Job Safety Analysis	<input type="checkbox"/>	<input type="checkbox"/>	
Confined Spaces entry permit	<input type="checkbox"/>	<input type="checkbox"/>	

**I acknowledge that the vessel has no Dangerous Goods onboard and that no bunkering will take place during hot work procedures. A Hot work Permit checklist will be completed before hot work is to be undertaken. (See overleaf). All necessary precautions will be in place**

Signed _____	Vessel _____	Position _____	Date _____
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Signed _____	Agent _____	Position _____	Date _____
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Signed _____	Permit issued on behalf of NCC by _____	Position _____	Date _____
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<b>HOT WORK PERMIT VALID FROM:</b>	<b>Date</b> _____	<b>Time</b> _____	
<b>HOT WORK PERMIT VALID TO:</b>	<b>Date</b> _____	<b>Time</b> _____	

**THIS PERMIT MUST BE DISPLAYED AT WORK AREA**

If more than one work area, original permit to be kept in ships office/wheelhouse and a duplicate to be displayed at each vessel



## 48 Hour Hot Work Permit Application

Hot Work Permit Checklist		Yes	No
<b>1</b>	<b>No Hot Work</b> to be undertaken while bunkering operations are in progress	<input type="checkbox"/>	<input type="checkbox"/>
<b>2</b>	<b>No Hot Work</b> permitted while a tanker vessel with Class A, B, or C oil cargo or Dangerous Goods is berthed adjacent to location of hot work.	<input type="checkbox"/>	<input type="checkbox"/>
<b>3</b>	A person not directly involved in the work to maintain a continuous 'Fire Watch' both during and after the work is completed of not less than 60 minutes. An inspection to follow of the surrounding area at least one hour after the hot work is complete.	<input type="checkbox"/>	<input type="checkbox"/>
<b>4</b>	Suitable fire equipment – extinguishers and hoses should be on hand in the area where hot work is taking place.	<input type="checkbox"/>	<input type="checkbox"/>
<b>5</b>	All personnel are to be trained and/or competent to undertake hot work and provide the fire watch and be familiar with emergency procedures, escape routes and raising the alarm.	<input type="checkbox"/>	<input type="checkbox"/>

**Call 111 then call the Gatehouse 03-539-3841**

Precautions within 10 (ten) metres or minimum of the workplace		Yes	No
<b>6</b>	Check all combustible materials have been cleared from the area of hot work placement	<input type="checkbox"/>	<input type="checkbox"/>
<b>7</b>	Protect any stationary items and materials that cannot be removed	<input type="checkbox"/>	<input type="checkbox"/>
<b>8</b>	Remove all Flammable liquids from work area	<input type="checkbox"/>	<input type="checkbox"/>
<b>9</b>	All decks have been swept clean and combustible floors and/or decking have been covered with non-combustible overlapping sheets	<input type="checkbox"/>	<input type="checkbox"/>
<b>10</b>	Protection for <b>all</b> – walls, partitions and ceilings of combustible construction or surface finish have been covered by purpose made non-combustible blankets, sheets or screens and any openings through which sparks could pass have also been covered	<input type="checkbox"/>	<input type="checkbox"/>
<b>11</b>	Enclosed tanks, containers and pipes have been emptied and tested and known to be free of flammable/explosives, concentrations of vapor, gas, or dust	<input type="checkbox"/>	<input type="checkbox"/>
<p>Gas free certificate must be obtained by a registered inspector before any work can commence. This permit will be valid for 12 hours from the time indicated on the Gas free Certificate if required.</p> <p>Gas free certificates issued by: _____ Time: _____</p>			
<b>12</b>	All equipment/apparatus used to carry out the hot work must be checked, examined and be in a fit for purpose condition	<input type="checkbox"/>	<input type="checkbox"/>
<b>13</b>	Gas cylinders have been properly secured and placed a safe distance away from the area of intended work	<input type="checkbox"/>	<input type="checkbox"/>
<b>14</b>	Permission granted via Nelson Harbour Radio – VHF Ch.12	<input type="checkbox"/>	<input type="checkbox"/>

<b>Checklist completed by</b>	
Name _____	Signed _____
Position _____	Date _____

**Note: HOTWORK PERMITS MUST BE DISPLAYED CLEARLY ON THE VESSEL WHERE WORK IS TO TAKE PLACE. IF MORE THAN ONE WORK AREA, ORIGINAL MUST BE KEPT IN THE VESSELS OFFICE / WHEELHOUSE AND A DUPLICATE TO BE DISPLAYED AT EACH WORK AREA**



## 48 Hour Hot Work Permit Application

Hot Work Permit Audit	Permit No:	Date:	Yes	No
<b>1</b>	Smoke/heat detectors/sprinkler heads isolated / covered for duration of work		<input type="checkbox"/>	<input type="checkbox"/>
<b>2</b>	Area is clean and all flammable and combustible materials within a 10m radius of hot work have been either removed or covered with fire retardant tarps or metal shields		<input type="checkbox"/>	<input type="checkbox"/>
<b>3</b>	Flammable liquids or gases have been removed or protected		<input type="checkbox"/>	<input type="checkbox"/>
<b>4</b>	Flooring constructed or covered with a combustible material has been covered with sand or other non-combustible material		<input type="checkbox"/>	<input type="checkbox"/>
<b>5</b>	Welding, cutting, or grinding work screened with non-combustible material to contain sparks		<input type="checkbox"/>	<input type="checkbox"/>
<b>6</b>	Combustible material from the other side of a wall/partition has been removed (danger from conducted heat)		<input type="checkbox"/>	<input type="checkbox"/>
<b>7</b>	Any openings or crack in the walls, floors, or ducts within a 10m radius that are potential travel passages for sparks, heat or flames have been covered with fire retardant tarps or metal shields		<input type="checkbox"/>	<input type="checkbox"/>
<b>8</b>	Turn off fixed gas supply or protect piping		<input type="checkbox"/>	<input type="checkbox"/>
<b>9</b>	Flash back arrestors fitted to gas cylinders		<input type="checkbox"/>	<input type="checkbox"/>
<b>10</b>	Gas cylinders secured in upright position		<input type="checkbox"/>	<input type="checkbox"/>
<b>11</b>	Suitable operable fire extinguisher(s) is nearby and accessible		<input type="checkbox"/>	<input type="checkbox"/>
<b>12</b>	Persons conducting hot work know (a) what to do if they discover a fire (b) how to raise the alarm (c) have an evacuation plan and nominated assembly point			
<b>13</b>	Suitable PPE being worn		<input type="checkbox"/>	<input type="checkbox"/>
<b>14</b>	Suitable signage to warn of hot work in progress		<input type="checkbox"/>	<input type="checkbox"/>
<b>15</b>	Is a Fire Watch posted? If yes: Name of Fire Watch:		<input type="checkbox"/>	<input type="checkbox"/>
<p><i>A fire watch should be posted if:</i></p> <ul style="list-style-type: none"> <li><i>Combustible materials within a 10m radius of hot work cannot be removed.</i></li> <li><i>Combustible materials that are adjacent to the opposite side of partitions, walls, ceilings, or roofs and cannot be removed.</i></li> <li><i>Wall or floor openings within a 10m radius of hot work expose possible combustible materials in adjacent areas, including concealed spaces in walls or floors.</i></li> <li><i>It is deemed necessary by the Harbour Master.</i></li> </ul> <p><i>Fire Watch is required during hot work operations and for a minimum period of 1 hour after the work has been completed.</i></p>				
<b>16</b>	Has Nelson Harbour Radio VHF Ch. 12 been notified?		<input type="checkbox"/>	<input type="checkbox"/>
<b>17</b>	Is a Gas Free Certificate Required?		<input type="checkbox"/>	<input type="checkbox"/>

Certificate Issued by:

Time:

Audit completed by			
<b>Auditor</b>	Name	Signed	
	Position	Date	
<b>Person in Control of Work</b>	Name	Signed	
	Position	Date	



### Safety Management Systems Review

	A review of the SMS in accordance with the NZ Port & Harbour Marine Safety Code	
<b>Location</b> Port operator and regional council	<b>Nelson</b> <b>Nelson City Council (NCC) and Port Nelson (PNL)</b>	
<b>Date of review</b>	May 2023	
<b>Purpose</b>	To confirm that the SMS is consistent with the Code	
<b>Objective</b>	<ol style="list-style-type: none"> <li>To confirm that the SMS of Port Nelson and Nelson City Council meets the requirements of the Code, namely, that: <ul style="list-style-type: none"> <li>The arrangements, measures, procedures and processes in the SMS are effective to manage the risks, and reflect good practice.</li> <li>The SMS is underscored by effective working relationships.</li> <li>There is evidence of ownership and commitment to the SMS at all levels of the regional council and port company.</li> </ul> </li> <li>Identify areas where the SMS could be improved.</li> </ol>	
<b>Panel members</b>	Tony Phipps (Code panel member and panel lead); Rhys Sanft (Eastland Port), Adrian Wright (Hawkes Bay Regional Council); Shaun Mercer (MaritimeNZ).	
<b>Designated Person Present</b>	Port Nelson: Alexandra Haughey (Marine Manager), Nelson City Council: Stuart Whitehouse (Harbourmaster)	
<b>Others participated in site visit</b>	Port Nelson: Hugh Morrison (CEO), Matt McDonald (GM Ops), Matt Conyers (Specialist Pilot), Peter Schaab (Marine Superintendent/Tug Master), Chris Nash (Maintenance Manager), Steve Alexander (Snr H&S Advisor), Olivia Carson (Training Advisor).  Nelson City Council: Nigel Philpot (CEO), Mandy Bishop (GM Environmental Management), Peter Carmichael (Deputy Harbourmaster)  Tasman District Council: Dan Cairney (Harbourmaster)	
<b>Documents reviewed</b>	Pre-site visit	Refer Appendix 1

	During site visit	As above and examples of on-line systems.
<b>Overview of process</b>	<p>Review of SMS documents prior to site visit.</p> <p>The site visit was conducted over 24 and 25 May and consisted of a series of presentations, briefings and discussions with Nelson City Council and Port Nelson personnel on-site at Nelson City Council and Port Nelson offices in Nelson. The site visit included a panel observation of a PNL morning operations meeting, on-water tour of the port and harbour on the HM vessel and a tour of Port Nelson including Nelson Harbour Radio, Gatehouse, Marine Co-ordination Office, tug berths and wharfs. A closing meeting was held on the afternoon of 25 May.</p>	
<b>Previous reviews</b>  <b>(Brief statement on date of previous review, findings/ areas for improvement noted at that time)</b>	<p><b>June 2021</b></p> <p>The previous review concluded that: NCC and PNL were on track to achieve Code Consistency within the next 18 months, following completion of already established work streams.</p> <p>The 2021 panel recommended that PNL and NCC be assessed for Code consistency at a date no sooner than 18 months from the date of that review to allow sufficient time for the necessary work to be completed.</p> <p>Suggested areas for improvement:</p> <ul style="list-style-type: none"> <li>• Complete a new risk assessment for the port and harbour.</li> <li>• Embed new policy, SMS and SOPs with clear link to risk assessment.</li> <li>• Separate port marine manager and harbourmaster roles and NCC consider appointing a suitably qualified harbourmaster.</li> <li>• PNL internal communication between marine operations teams.</li> </ul>	
<b>During the planning phase what areas/issues were identified, and why, for further enquiry</b>	<ul style="list-style-type: none"> <li>• Progress with development and implementation of risk assessments, SMS including policy and SOPs (Afl from 2021 review)</li> <li>• Harbourmaster and marine manger arrangements and working relationship (new HM and port marine manager arrangements and personnel, Afl 2021 review).</li> <li>• SMS link and working arrangements with neighbouring Tasman District Council, including anchorage management (Afl from previous reviews).</li> <li>• Pilotage regime (incidents nationally, TAIC Watchlist).</li> <li>• Incident reporting, follow-up, improvements (incidents nationally, Afl last review).</li> </ul>	

Findings	<p><b>Acknowledgement</b></p> <p>1. The panel wishes to acknowledge the efforts of the Port Nelson (PNL) and Nelson City Council (NCC) personnel in preparing for and participating in the review, and thanks them for their openness and hospitality.</p> <p><b>Port and Harbour Context</b></p> <p>2. Nelson port and harbour is a natural breakwater/river mouth harbour and port with a short approach, narrow entrance and dredged main channel with a tight bend immediately on entry, with strong tidal flows and exposed to winds. The port receives some 770 ship visits and provides berthage and supports servicing for the commercial fishing vessel fleet and marina for recreational vessels. All these vessels as well as small sailing and paddle craft move in and around the main channel. Port Nelson (PNL) is the primary port operator, and the port and pilotage area are within the jurisdiction of the Nelson City Council (NCC). The approaches and anchorage areas are split between the jurisdictions of NCC and neighbouring Tasman District Council (TDC).</p> <p><b>Overall, Commitment to a Code Consistent SMS and Continuous Improvement</b></p> <p>3. PNL and NCC are Code MOU signatories and the primary parties responsible for the SMS. NCC and PNL have a current MoU (2022) setting out respective responsibilities and agreeing on a collaborative approach and commitment to the Code. This commitment was supported by CEOs and executive management from both organisations during the site visit. NCC has a commitment in its current Long-Term Plan (2021-31) to having a Code consistent SMS.</p> <p>4. The panel found that overall considerable progress and improvements had been made following on from the 2021 review to the extent that the combined NCC and PNL SMS, including both organisations' commitment, people, active safety and improvement culture, documentation, resources applied, working relationships and arrangements, procedures and processes are sufficiently effective in managing the marine safety risks, and constitute a Code consistent SMS.</p> <p>5. A specific purpose of this review was to follow-up on the 2021 review recommendation for a follow-up review after 18 months. The panel found that the key areas for improvement raised in the 2021 review as needing to be made for the Nelson SMS to reach Code consistency, have been sufficiently improved and operationalised.</p> <p>6. As significant components of the SMS are recent, the operationalising of the SMS is ongoing and NCC and PNL have active programmes to continue developing and improving the SMS and its operationalisation. NCC and PNL identified specific priority areas of focus and improvement in their 2022 Joint SMS self-assessment and the panel observed both a culture of continuous improvement and numerous examples of improvements being made to all aspects of the SMS.</p> <p><b>2021 Review key Areas for Improvement</b></p> <p><b>Harbourmaster and Port Marine Manager Arrangements</b></p> <p>7. This has seen a major change and improvement following up on the 2021 review Afl with the separation of the previous harbourmaster/marine operations manager roles. NCC have employed an appropriately qualified full time Harbourmaster (HM) and a deputy harbourmaster, and PNL employed a marine operations manager (MM) as a separate role. The HM</p>
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	<p>and MM have developed constructive working relationships between the organisations and other stakeholders and are actively promoting the development and operationalising of the SMS.</p> <p>8. The HM has been supported by NCC in developing significant components of the SMS including the risk register, a series of HM Directions, permitting, active vessel movement and anchorage monitoring, stakeholder engagement, harbour event management, boating safety education campaigns and on-water patrols. This also includes collaborating with and supporting neighbouring sole-charge TDC HM. This is a substantial workload and there are opportunities for NCC to further integrate and provide support using council systems and resources to enable the HM to spend more time on priority specialist tasks. There may also be opportunities for improving the SMS through collaboration and shared services with neighbouring councils.</p> <p>9. The panel observed an active, open, and collaborative working relationship between the HMs and PNL marine operations.</p> <p><b>Tasman Bay Code Application Area/ NCC-TDC MOU</b></p> <p>10. NCC and TDC have identified a Tasman Bay Code Application Area, which includes areas of jurisdiction of both councils, wider Tasman Bay and the anchorages, approaches, and pilotage area of Nelson harbour. The councils are looking to develop an MOU to set out agreed roles, responsibilities, and functions for management of marine safety consistent with the Code. Such an MOU presents significant opportunities for improving maritime safety management over that area including shared and consistent regulation, active monitoring, and increased response capability.</p> <p><b>SMS Documentation</b></p> <p>11. PNL and NCC have continued to develop and improve their SMS documentation since the 2021 review and combined the SMS documentation provided contains much of what is expected in a Code consistent SMS (refer 13. And 14. below). The NCC Harbour Safety Management Manual, 2022 and PNL Port Safety Plan, 2023 set out the SMS in detail.</p> <p>12. Significant components of the NCC SMS documentation including the NCC Harbour Safety Policy, Harbour Safety Plan and Harbour Operational Policies have been developed in the last year and are in draft, with NCC awaiting the outcome of this review before adopting. The draft documentation will need to be reviewed and revised before adopting to align with good practise already developed, and some practice changed or improved to align with that described in the adopted policies and plans.</p> <p><b>Risk Assessment</b></p> <p>13. PNL and NCC have developed active marine risk identification, recording, and assessment processes, formal and continuous. They have developed a shared Port and Harbour Risk Register and there was clear evidence of appropriate treatments and controls being developed and implemented. Risks are reported up through the NCC and EP corporate structures, although not yet formally documented and consider in the NCC corporate risk management system.</p> <p>14. While these risk assessment processes are active and current, and operational treatments and controls are in place, the panel found the system and associated documentation was somewhat hard to follow for outsiders and there was a lack of a clear documentation of the link from the risks to the treatments and controls in place. There is some linking of</p>
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	<p>newly identified risks and controls in the new joint Port and Harbour Risk Register and some for ship manoeuvring tasks in the Port Nelson Risk Register – Marine Operations.</p> <p><b>PNL safety management systems</b></p> <p>15. PNL are developing and making good use of IS/IT and corporate management systems to support and operationalise the SMS and enable and encourage engagement and active use of the SMS e.g. Maximo asset management, OMC TransitAnalyst to monitor, record and analyse shipping movements.</p> <p>16. PNL are making good use of new corporate wide safety, training and certification systems to support the SMS.</p> <p>17. Acting on an Afl from the 2021 review, PNL have instigated daily morning operations meetings to enable timely and effective communication between marine teams and others as needs be. This includes active risk management.</p> <p>18. PNL is developing the use of the asset management system Maximo, including on mobile devices, to support active asset management including AtoN and floating plant.</p> <p><b>Incident Management</b></p> <p>19. PNL marine team uses the Port and Harbour Risk Register to record incidents and link to risk assessment process. PNL also use a H&amp;S incident and hazard recording and reporting system (Vault).</p> <p>20. The NCC HM actively responds to incidents and records incidents in a spreadsheet. However marine incidents are not routinely recorded and managed through NCC corporate incident management system.</p> <p><b>Pilotage and Towage</b></p> <p>21. PNL provides pilotage and tug services. PNL has a 2020/21 approved Pilotage Proficiency and Training regime and an active peer review programme. PNL intend to review these in 2025. PNL currently has sufficient pilots for normal operations. PNL and NCC have a current (2023) PEC Structured Training Programme and Proficiency Plan.</p> <p>22. PNL has good primary tug capacity with three harbour tugs. PNL is in the process of acquiring a new pilot boat with a greater safe operating range.</p> <p>23. PNL has used simulators for port development and operations scenario testing, and pilot and tug crew training. The HM observes and participates in the simulator training and exercises.</p> <p>24. PNL has invested in OMC TransitAnalyst to record and monitor vessel movements for SMS monitoring and development, scenario testing, training, and incident investigation. It is PNL SOP that <i>“pilots should use a PPU for all vessel movements of D class or larger [130m+]”</i>.</p> <p>25. The HM participates in of the pilotage regime, particularly the development and implementation of the PEC proficiency/exam processes and makes on-board observations of pilot training and assessments.</p> <p>26. PNL have recently significantly restructured the marine operations teams to achieve improved fatigue management, roster cover, training and vessel maintenance.</p>
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	<p>27. The SMS at various places refers to '<i>wind limits</i>' for vessel movement. These are referred to differently as vessel movement '<i>guidelines</i>', '<i>parameters</i>' and '<i>limits</i>'. The PNL Specialist Pilot advice is that in practice the '<i>wind limits</i>' are used as guidance only.</p> <p><b>NCC Navigation Bylaw</b></p> <p>28. NCC is in the process of reviewing its Navigation bylaw (2019), that covers the region and port, although the review has been temporarily on-hold. The HM has produced a number of HM Directions to manage various risks in the meantime. There is now an opportunity to re-commence the review including consideration of the HM Directions, Maritime Rules part 90 changes, and application of consistent regulation to the wider Tasman Bay Code Application Area.</p> <p><b>Engagement of other port and harbour users in SMS</b></p> <p>29. Commercial fishing and recreational vessel/craft movement throughout the port and harbour are a significant part of the risk profile. Engaging these stakeholders in the SMS is an important component in the SMS risk treatments and controls. The HM has instigated a Nelson Harbour Safety Group to engage these harbour users (refer also 8.). While there was evidence of active engagement with and from the recreational users, there was less engagement and participation from the commercial fishing companies.</p>
<b>Areas for Improvement (Afl)</b>	<p>The review panel recommends the following areas for improvement for the Nelson SMS, acknowledging and supporting that some of these are already included in PNL and NCC improvement work programmes:</p> <p><b>SMS Ongoing Development</b></p> <ol style="list-style-type: none"> <li>1. NCC continue to actively develop its understanding of marine safety and its roles and responsibilities, further integrate these into corporate systems as core business, and support the HM in maintaining and operationalising a Code consistent SMS.</li> <li>2. NCC consider actively promoting a MOU with TDC covering improved management of marine safety for the Tasman Bay Code Application Area including consideration of consistent regulation and shared specialist services.</li> <li>3. PNL continue actively developing the SMS including improving the integration of the various information and management systems that are being developed to support the SMS.</li> <li>4. To further enable and support the culture of continuous improvement, PNL and NCC consider providing systems to easily record and assign requests and ideas for improvements and track progress.</li> <li>5. As part of the ongoing development of the SMS NCC and PNL consider the merits of having PNL permitting of hot works and diving within the port, with the HM retaining an audit role.</li> </ol> <p><b>SMS Documentation</b></p> <ol style="list-style-type: none"> <li>6. NCC review and adopt its draft Harbour Safety Policy and Harbour Operational Policies, taking in to account good practise that is already in place and then supporting improving practise where needed to align with policy.</li> </ol>



	<p>7. PNL consider developing a quick reference system description and user guide to the various information and management systems that support the SMS.</p> <p>8. NCC complete its navigation by-law review, including considering the opportunity to develop consistent regulation for the Tasman Bay Code Application Area, and review, develop and implement a by-law education, monitoring and enforcement programme for the new by-law.</p> <p><b>Risk management</b></p> <p>9. NCC should include formal recognition and consideration of marine safety risk in its corporate risk management system.</p> <p>10. PNL consider and develop risk management information systems and associated documentation that more clearly demonstrates the link between the identified risks (including the Code guidance <i>"Marine risks and events to consider"</i>) and the treatments and controls developed and put in place.</p> <p>8. Both PNL and NCC consider the periodic use of external specialist advice in the risk review processes.</p> <p><b>Pilotage</b></p> <p>10. PNL consider clarifying the status and use of vessel movement wind limits, including any risk assessment requirements and decision-making responsibility for vessel movements undertaken outside of any such limits.</p> <p><b>Engagement of other port and harbour users in SMS</b></p> <p>11. NCC and PNL promote more active engagement of the commercial fishing fleet operators in the SMS including risk assessment, development of policy, treatments and controls and incident and emergency management.</p>
<p><b>Did you identify any good practices that could be shared with the greater Code community?</b></p>	<ol style="list-style-type: none"> <li>1. PNL use of TransitAnalyst for monitoring and analysing vessel movements for informing risk assessment and developing SMS improvements, incident investigation, training, and monitoring of SMS including monitoring by the HM.</li> <li>2. PNL developing the use of Maximo, including on mobile devices, to support active asset management including AtoN and floating plant.</li> <li>3. The NCC HM active monitoring of the SMS including vessel movements and anchorages.</li> <li>4. PNL training and certification regime.</li> </ol>
<p><b>Conclusion</b> <b>(Consistent with Code)</b></p> <p>(Note any specific areas for attention at next review or assessment)</p>	<p>The SMS for Port Nelson and Nelson City Council is Code consistent at the time of the SMS review undertaken in May 2023.</p> <p>The next review should look at:</p> <ul style="list-style-type: none"> <li>• NCC Navigation by-law and associated education, monitoring and enforcement regime.</li> <li>• Risk assessment and management.</li> <li>• Progress with the shared management of the Tasman Bay Code Application Area</li> </ul>

<b>Signed and dated by panel lead</b>	 Tony Phipps, 4 August 2023

The review reports remain confidential to the parties concerned. In keeping with the partnership arrangement of the Code, we should like to share this report with Maritime NZ if both port and harbour agree.

Please complete:

Regional Council harbourmaster	Yes	No
Port Marine Manager	Yes	No

#### Appendix 1 Documents reviewed:

Safety Management System Review – Nelson (Code panel, June 2021)  
Joint Self-Assessment SMS 2021-2022 (NCC-PNL, June 2022)  
Memorandum of Understanding NCC – PNL re NZP&HMSC (NCC/PNL July 2022)  
Harbour Safety Plan (draft) (NCC, Feb 2023)  
Harbour Safety Policy – draft (NCC, April 2023)  
Harbour Operational Policies – draft (NCC, April 2023)  
Nelson Harbour Safety Management Manual Rev 4 (NCC, 2023)  
Harbourmaster's Direction Nelson (NCC, April, 2023)  
NCC Navigation Safety Bylaw 2019 (no 218) (NCC, Oct 2019)  
Port Safety Plan 2.0 (PNL, April 2023)  
Health and Safety Plan 033 v14 (PNL, May 2020)  
Port Marine Safety Policy v3 QM-MAR-041 (PNL, Feb 2023)  
Controlled Document Review and Approval Process v3 (PNL, June 2021)  
PNL NCC Port and Harbour Risk Register.XLSX (Jun 20223)  
Port Nelson Risk Register – Marine Operations v6 HS-RA-012 (PNL, Sept 2022)  
Formal Vessel Risk Review Policy v3 QM-MAR-045 (PNL, Sept 2022)  
Large Vessel Risk Review – Ren Jian 16 (PNL, 2023)  
Recreational Boating Risk Assessment for the Nelson Region v1 (NCC, March 2022)  
Port Passage Plan v2 (PNL, April 2023)  
Tasman Bay Pre-Arrival Information Form v1 (NCC, 2023)  
Pilot Proficiency Plan v3 (PNL, Nov 2020)

Pilot Training Plan v3.1 (PNL, Nov 2021)  
Structured Training Programme and Proficiency Plan – Pilotage Exemption Certificate (PEC) Nelson  
v7 (PNL/NCC, March 2023)  
Safe Operating Procedure for Pilotage Operations rev14 QM-MAR-056 (PNL, Dec 2022)  
Various other examples of PNL marine operations SOP  
PNL Pilot Continuous Professional Development 2022-2024 (table) (PNL)  
Emergency Procedures rev 19 QM-PRO-018-1 (PNL, Dec 2020)  
“New Marine Construct in Play from Feb 23.PPTX” (PNL presentation on marine team re-structure)  
PNL Marine Roster 2023 example  
PNL Floating Plant meeting record examples 2023  
Internal Audit of Harbourmaster Operations (NCC, Dec 2022)  
NHSG meeting Agenda and Notes (NCC, a number of 2022 examples)

**Checklist for panel members**

Evidence sighted:

- |  |               |
|--|---------------|
| ➤ Code application   | Yes           |
| ➤ Harbour risk assessment  | Yes, see Afl  |
| ➤ Harbour safety policy  | Yes           |
| ➤ Harbour safety plan  | Yes           |
| ➤ Statement of duties and powers   | Yes           |
| ➤ MoUs and SOPs  | Yes           |
| ➤ Delegations  |               |
| ➤ How bylaws and directions will be enforced and resources sufficient to undertake this work | Yes, See Afl. |
| ➤ Emergency response plans   | Yes           |
| ➤ Annual joint self-assessment of SMS  | Yes           |
| ➤ SMS group minutes  | Yes           |
| ➤ Incident reporting   | Yes, see Afl  |

Have you seen evidence of:	Yes/No or other comments
Ownership of and commitment to SMS at top level in both council and port operator organisations ( e.g. in long term community plan or annual plan, port operator's annual reports or company websites)	Yes
Delineation of navigation safety responsibilities	Yes
Roles and responsibilities are understood in practice	Yes
Staff are qualified and competent	Yes
A well-functioning harbour safety plan or manual that is regularly reviewed and updated (the annual SMS self-assessment has been completed within the timeframe stated in the plan or manual)	Yes, Afl NCC to review/adopt drafts
Working relationships are well documented and function well	Yes
Incidents involving ships within jurisdiction are reviewed and risks assessed (Note any significant changes or incidents that triggered or should have triggered a review of the risk assessment)	Yes, with Afl

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REPORT R27840

## Draft Utilities Activity Management Plans 2024-34 (Water Supply, Wastewater, Stormwater)

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### 1. Purpose of Report

- 1.1 To approve the Draft Water Supply, Wastewater, Stormwater Asset Management Plans 2024-34 (AMPs), as the versions to inform the Long Term Plan 2024-2034 (LTP).

### 2. Recommendation

***That the Council***

***1. Receives the report Draft Utilities Activity Management Plans 2024-34 (Water Supply, Wastewater, Stormwater) (R27840) and its attachments***

- Draft 2024-34 Water Supply Activity Management Plan (5082210-161);***
- Draft 2024-34 Wastewater Activity Management Plan(205082210-160);***
- Draft 2024-34 Stormwater Activity Management Plan(205082210-162); and***

***2. Approves the -***

- Draft 2024-34 Water Supply Activity Management Plan (5082210-161);***
- Draft 2024-34 Wastewater Activity Management Plan(205082210-160);***
- Draft 2024-34 Stormwater Activity Management Plan(205082210-162);***

***as the versions to inform the development of the Long Term Plan 2024-2034; and***

Item 10: Draft Utilities Activity Management Plans 2024-34 (Water Supply, Wastewater, Stormwater)

**3. Notes that the-**

- ***Draft 2024-34 Water Supply Activity Management Plan (5082210-161);***
- ***Draft 2024-34 Wastewater Activity Management Plan(205082210-160);***
- ***Draft 2024-34 Stormwater Activity Management Plan(205082210-162); and***

***will be updated, and the final Activity Management Plans approved by Council after the adoption of the Long Term Plan 2024-2034.***

**3. Background**

- 3.1 Draft AMP's are prepared every three years for the approval of the Council to inform the development of LTP's. These Draft AMP's will inform the development of the 2024-2034 LTP.
- 3.2 Following consultation on, and adoption of the LTP, the AMP's will be updated to align with the adopted LTP. The final updated AMP's will be brought back to Council early in 2024/25 for adoption.
- 3.3 The Draft AMP's take account of previous Council resolutions and feedback at the workshop on key issues. Officers have also undertaken a high-level review of budgets across Council activities - however amendments may be required to these draft Plan's once all AMP's have been received by Council and the cumulative effect of the AMP's has been considered at the workshops in December 2023.

**4. Discussion**

- 4.1 The Draft AMP's set out the background to Council's Water Supply, Wastewater and Stormwater Activities and include details of the following:
- Key issues and areas of focus for the activity during 2024-34.
  - Levels of Service.
  - The activity budgets for operations & maintenance and capital expenditure (including renewals, growth and level of service upgrade projects).
- 4.2 A workshop was held with Council on 30 June 2023 to confirm priorities for 2024-2034 and seek direction from Council on any changes or additional priorities.
- 4.3 The following items are the key outcomes from these workshops:

## Item 10: Draft Utilities Activity Management Plans 2024-34 (Water Supply, Wastewater, Stormwater)

### Water Supply

- Water pipe renewals: Councillors were supportive of bringing forward pipe renewals to smooth the renewals profile and reduce the bow wave of renewals projected from the 2030's.

### Wastewater

- Councillors expressed support in principle for:
  - Progressing the resource consent renewal for the Nelson WWTP faster than currently required/planned.
  - For continuing with the renewal of the Atawhai rising main; and
  - Bringing forward pipe renewals to smooth the renewals profile and reduce the bow wave of renewals projected from the 2030's.

### Stormwater

- Stormwater pipe renewals: Councillors expressed support in principle for bringing forward pipe renewals to smooth the renewals profile and reduce the bow wave of renewals projected from the 2030's.

## 5. Options

- 5.1 The Council has two options - to either approve the Draft AMP's, or to not approve the Draft AMP's.

<b>Option 1: Approve the Draft 2024-34 Water Supply, Wastewater and Stormwater AMP's. (Recommended).</b>	
Advantages	<ul style="list-style-type: none"><li>• Meet the requirements of the Local Government Act 2002.</li><li>• Reflects the input of elected members during the June 2023 workshop.</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• Nil</li></ul>
<b>Option 2: Do not approve the Draft 2024-34 Water Supply, Wastewater and Stormwater AMP's</b>	
Advantages	<ul style="list-style-type: none"><li>• Nil</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• Fail to meet requirements of Local Government Act 2002</li></ul>

Item 10: Draft Utilities Activity Management Plans 2024-34 (Water Supply, Wastewater, Stormwater)

## **6. Conclusion**

- 6.1 The Draft AMP's have been prepared to inform the LTP and will support Council in meeting its obligations under Section 93 and Schedule 10 of the Local Government Act 2002.

**Author: Phil Ruffell, Manager Utilities Activity Management**

**Authoriser: Alec Louverdis, Group Manager Infrastructure**

### **Attachments**

- Attachment 1: 205082210-161 Draft 2024-34 Water Supply Activity Management Plan (*Circulated separately*)
- Attachment 2: 205082210-160 Draft 2024-34 Wastewater Activity Management Plan (*Circulated separately*) [⇒](#)
- Attachment 3: 205082210-162 Draft 2024-34 Stormwater Activity Management Plan (*Circulated separately*) [⇒](#)



Item 10: Draft Utilities Activity Management Plans 2024-34 (Water Supply, Wastewater, Stormwater)

<b>Important considerations for decision making</b>
<b>Fit with Purpose of Local Government</b> <p>The Draft AMP's support the social, economic and environmental wellbeing of the Nelson community by putting in place the planning for good quality local infrastructure that is efficient, effective, and appropriate to present and anticipated future circumstances as defined under the Local Government Act 2002.</p>
<b>Consistency with Community Outcomes and Council Policy</b> <p>The Water Supply, Wastewater and Stormwater Activities support the following Community Outcomes:</p> <ul style="list-style-type: none"><li>• Our unique natural environment is healthy and protected.</li><li>• Our urban and rural environments are people friendly, well planned and sustainably managed.</li><li>• Our infrastructure is efficient, cost effective and meets current and future needs.</li><li>• Our communities are healthy, safe, inclusive and resilient.</li><li>• Our region is supported by an innovative and sustainable economy.</li></ul>
<b>Risk</b> <p>Not adopting the Draft AMP's will leave Council without a document to support the goal of developing and adopting the LTP.</p>
<b>Financial impact</b> <p>There are no direct funding implications from the recommendation. The AMP's guide the funding in the proposed LTP and will be subject to a consultation process with the community.</p>
<b>Degree of significance and level of engagement</b> <p>This matter is of high significance because the adoption of a LTP is a statutory requirement under the Local Government Act 2002. Therefore consultation with the community will occur with the public advertising of the draft LTP and calling for submissions.</p>

Item 10: Draft Utilities Activity Management Plans 2024-34 (Water Supply, Wastewater, Stormwater)

**Climate Impact**

The Draft AMP's consider the potential impacts and risks that climate change presents to the city, particularly in relation to the future water supply, wastewater and stormwater activities. This has been incorporated into the Draft AMP's through identifying climate change as a key issue with a focus on developing various strategies to inform mitigation and adaptation options for the future. As the AMP's support the proposed LTP this emphasis will transfer into that document and be subject to public scrutiny and submissions.

**Inclusion of Māori in the decision making process**

Iwi feedback has been sought on the draft AMP's and any matters that require additional consideration will be covered at the December LTP workshop.

**Delegations**

The Council has the following delegation to consider and adopt Draft Activity Management Plans:

*Council retains all responsibilities, powers, functions and duties in relation to governance matters unless delegated to a committee, subcommittee or subordinate decision-making body.*

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REPORT R27886

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## Draft Transport Activity Management Plan 2024

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### 1. Purpose of Report

- 1.1 To approve the Draft Transport Asset Management Plan 2024-34 (AMP) as the version to inform the Long Term Plan 2024-34 (LTP).

### 2. Recommendation

***That the Council***

- 1. Receives the report Draft Transport Activity Management Plan 2024 (R27886) and its attachment (1862260321-21129); and***
- 2. Approves the Draft Transport Activity Management Plan 2024-34 (1862260321-21129) as the version to inform the development of the Long Term Plan 2024-2034; and***
- 3. Notes that the Draft Transport Activity Management Plan 2024-34 (1862260321-21129) will be updated, and the final Activity Management Plan approved by Council after the adoption of the Long Term Plan 2024-2034.***

### 3. Background

- 3.1 The Draft AMP is prepared for the approval of Council to inform both the development of the 2024-34 LTP and the Regional Land Transport Plan (RLTP). The RLTP will inform the National Land Transport Programme (NLTP).
- 3.2 Following consultation and adoption of the LTP, the AMP will be updated to align with the adopted LTP. The final updated AMP will be brought back to the Council early in 2023/24 for adoption.
- 3.3 The Draft AMP takes account of previous Council resolutions and feedback at workshops on key issues. Officers have also undertaken a high-level review of budgets across Council activities, however,

## Item 11: Draft Transport Activity Management Plan 2024

amendments may be required once all activity area AMP's have been received by Council and the cumulative effect of the AMP's has been considered at the workshops in December 2023.

- 3.4 Waka Kotahi is a key funding partner for the transport activity and fund 51% of the relevant subsidised work categories in the AMP. As a result, adjustments to the programme in the AMP may be required once all funding bids are considered at a national level. These changes will be reflected in the final version of the AMP.

### 4. Discussion

- 4.1 The Draft AMP sets out the background to Council's Transport Activity and include details of the following:
- 4.1.1 Key issues and areas of focus for the activity during 2024-34.
  - 4.1.2 Levels of Service.
  - 4.1.3 The activity budgets for operations & maintenance and capital expenditure (including renewals, growth and level of service upgrade projects).
- 4.2 Workshops were held with Council on 14 April, 22 June and 25 August 2023 to confirm priorities for 2024-2034 and seek direction from Council on priorities.
- 4.3 The following items are the key outcomes from these workshops:
- 4.3.1 Budgets for maintenance and renewal works should be adjusted to ensure that the transport network is being sustainably managed and does not deteriorate; and
  - 4.3.2 That the final programme of work reflect the following four key issues - "Environmental Impact/Climate Change", "Congestion/Economy", "Road safety" and "Network Resilience".

### 5. Options

- 5.1 The Council has two options - to either approve the Draft AMP, or to not approve the Draft AMP.

<b>Option 1: Approve the Draft 2024-34 Transport AMP. Recommended option.</b>	
Advantages	<ul style="list-style-type: none"><li>• Meet the requirements of the Local Government Act 2002.</li><li>• Reflects the input of elected members during the April, June and August 2023 workshops.</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• Nil</li></ul>
<b>Option 2: Do not approve the Draft 2024-34 Transport AMP</b>	

## Item 11: Draft Transport Activity Management Plan 2024

Advantages	<ul style="list-style-type: none"><li>• Nil</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• Fail to meet requirements of Local Government Act 2002</li></ul>

### 6. Conclusion

- 6.1 The Draft AMP has been prepared to reflect the feedback received during the Council workshops and the requirements of Waka Kotahi as a co-funding partner, and has been prepared to inform the LTP and will support Council in meeting its obligations under Section 93 and Schedule 10 of the Local Government Act 2002.
- 6.2 The Draft AMP will be updated, and the final AMP approved by Council after the adoption of the Long Term Plan 2024-2034.

**Author: Chris Pawson, Senior Analyst Environmental Management**

**Authoriser: Alec Louverdis, Group Manager Infrastructure**

### Attachments

Attachment 1: 1862260321-21129 - Draft Transport Activity Management Plan 2024-34 (*Circulated separately*) [↗](#)

<b>Important considerations for decision making</b>
<b>Fit with Purpose of Local Government</b> <p>The Draft AMP supports the social, economic and environmental wellbeing of the Nelson community by putting in place the planning for good quality local infrastructure that is efficient, effective, and appropriate to present and anticipated future circumstances as defined under the Local Government Act 2002.</p>
<b>Consistency with Community Outcomes and Council Policy</b> <p>The Transport Activity support the following Community Outcomes:</p> <ul style="list-style-type: none"><li>• Our urban and rural environments are people friendly, well planned and sustainably managed.</li><li>• Our infrastructure is efficient, cost effective and meets current and future needs.</li><li>• Our communities are healthy, safe, inclusive and resilient.</li><li>• Our region is supported by an innovative and sustainable economy.</li></ul>
<b>Risk</b> <p>Not adopting the Draft AMP will leave Council without a document to support the goal of developing and adopting the LTP.</p>
<b>Financial impact</b> <p>There are no direct funding implications from the recommendation. The AMP guides the funding in the proposed LTP and will be subject to a consultation process with the community.</p>
<b>Degree of significance and level of engagement</b> <p>This matter is of high significance because the adoption of a LTP is a statutory requirement under the Local Government Act 2002. Therefore consultation with the community will occur with the public advertising of the draft LTP and calling for submissions.</p>
<b>Climate Impact</b> <p>The Draft Transport AMP considers the potential impacts and risks that climate change presents to the city. This has been incorporated into the Draft AMP through identifying environmental impacts and climate change as a key issue with a focus on developing various strategies to inform mitigation and adaptation options for the future. As the AMP supports the proposed LTP this emphasis will transfer into that document and be subject to public scrutiny and submissions.</p>

**Inclusion of Māori in the decision making process**

Iwi feedback is being sought on the draft AMP's and any matters that require additional consideration will be covered at the December LTP workshop.

**Delegations**

The Council has the following delegation to consider and adopt Draft Activity Management Plans:

*Council retains all responsibilities, powers, functions and duties in relation to governance matters unless delegated to a committee, subcommittee or subordinate decision-making body.*

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REPORT R27788

## Community Housing Acceleration Taskforce - Change of Terms of Reference

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### 1. Purpose of Report

To consider a change of Terms of Reference for the Community Housing Acceleration Taskforce.

### 2. Recommendation

***That the Council***

- 1. Receives the report Community Housing Acceleration Taskforce - Change of Terms of Reference (R27788) and its attachment (336940202-7576); and***
- 2. Approves the revised Terms of Reference for the Community Housing Acceleration Taskforce in Attachment 1 (336940202-7576).***

### 3. Background

- 3.1 The Community Housing Acceleration taskforce and its membership was established by the Mayor on 10 December 2022.
- 3.2 The current Terms of Reference was approved by Council on 15 December 2022 and identifies the role and powers of this elected member group.
- 3.3 The purpose of the taskforce is to make recommendations to Council on policy, criteria and process for the distribution of the Housing Reserve.
- 3.4 The current role of the taskforce is to:
  - 3.4.1 Advise on how the Council can grow, as quickly as possible, the stock of community housing using the Housing Reserve with the goal to double the number of community housing houses from 50 to 100 by 2026; and



Item 12: Community Housing Acceleration Taskforce - Change of Terms of Reference

- 3.4.2 Consider options, and make recommendations to Council, for how the Housing Reserve can be used to leverage an increase in community housing in Whakatū to achieve the above goal; and
  - 3.4.3 Consider criteria and process, and make recommendations to Council, which ensure the Housing Reserve is used in a fair and equitable manner and meets the requirements of section 101 of the Local Government Act 2002 for prudent financial management that promotes the current and future interests of the community; and
  - 3.4.4 Provide recommendations to Council, as appropriate, on expenditure and applications for grants from the Housing Reserve; and
  - 3.4.5 Provide governance oversight and direction on strategic housing opportunities, including providing recommendations to Council on how to progress specific projects; and
  - 3.4.6 Recommend a reporting framework to Council for monitoring progress in meeting the community housing goal.
- 3.5 On the 9 March 2023 Council received and approved the objectives and guidelines for the allocation of the Housing Reserve Fund as proposed by the Community Housing Acceleration Taskforce.

*Resolved CL/2023/029*

*That the Council*

1. *Receives the report Housing Reserve Fund (R27442) and its attachment (336940202-5833); and*
2. *Confirms that grant decisions be made by Council on the recommendation of the taskforce; and*
3. *Amends the Housing Reserve Grants Programme 2023 attachment (36940202-5833) to:*

*a) insert an additional clause under the guidelines:*

*The taskforce may consider other innovative housing proposals for support from the Housing Reserve Fund outside of these guidelines where it believes it offers good use of public money to alleviate Nelson's housing problems.*

*b) Amends the objective of the Housing Reserve Grants Programme to specify the objective to support and enable not for profit community housing providers where they have a presence in Nelson.*

Item 12: Community Housing Acceleration Taskforce - Change of Terms of Reference

c) *Clarifies that the Housing Reserve Fund Cap referred to in (g) of the Guidelines excludes grants provided under Phase 1 and 2; and*

4. *Approves the amended Housing Reserve Grants Programme 2023 attachment (336940202-5833) which sets out the objectives and guidelines; and*
5. *Delegates confirmation of Housing Reserve Grant contracts to the Chief Executive.*

- 3.6 On 4 May Council received and approved its first housing reserve grant under the taskforce and new guidelines.

*Resolved CL/2023/090*

*That the Council*

1. *Receives the report Community Housing Acceleration Taskforce - Change of Terms of Reference (R27788) and its attachment (336940202-6964); and*
2. *Approves grant funding of \$1,200,000 to Nelson Tasman Housing Trust for the development of 163 Kawai Street South and 116 Waimea Road into 8 affordable rentals, subject to officers completing financial evaluation and a grant contract condition specifying the grant is required to be paid back to the Housing Reserve, if the development is not completed by 30 June 2026; and*
3. *Delegates the confirmation of the financial evaluation and finalising the Grant Contract for Nelson Tasman Housing Trust to the Chief Executive; and*
4. *Agrees that Report (R27667), Attachment (336940202-6964) and the decision be made publicly available following completion of negotiations.*

- 3.7 No further applications to the Housing Reserve have been received, the balance of funds sits at \$6.95 million.

#### **4. Discussion**

- 4.1 The Community Housing Acceleration Taskforce met on 29 June 2023 and 24 August 2023 to discuss other areas of work that might benefit from taskforce oversight.

- 4.2 Three key areas were identified that would benefit from being included in the taskforce's terms of reference, these being:

- 4.2.1 Provide governance oversight and direction on strategic housing opportunities, including providing recommendations to Council on how to progress specific projects by working with central

## Item 12: Community Housing Acceleration Taskforce - Change of Terms of Reference

government agencies such as the Ministry of Housing and Urban Development (MHUD) and Kāinga Ora; and

4.2.2 Provide governance oversight and direction on divestment of Council property in order to leverage housing outcomes; and

4.2.3 Engage with other stakeholders concerned with housing vulnerability to assess and provide recommendations to Council regarding opportunities to support existing and potential community services.

4.3 The terms of reference have been amended accordingly and attached to this report for Council consideration.

### **5. Options**

5.1 Council has the option of adopting or not, or amending the proposed changes to the Terms of Reference attached to guide the activities of the taskforce.

**Author: Lisa Gibellini, Strategic Housing Adviser**

**Authoriser: Mandy Bishop, Group Manager Environmental Management**

### **Attachments**

Attachment 1: 336940202-7576 Revised Terms of Reference for the Community Housing Acceleration Taskforce [↓](#)

Item 12: Community Housing Acceleration Taskforce - Change of Terms of Reference

<b>Important considerations for decision making</b>
<b>Fit with Purpose of Local Government</b>  Adopting the amended terms of reference for the Community Housing Acceleration Taskforce will support the economic, environmental, cultural and social wellbeing of the community by identifying the role and purpose of this elected member group in relation to housing.
<b>Consistency with Community Outcomes and Council Policy</b>  The recommendations in this report support the community outcome: Our Council provides leadership and fosters partnerships, a regional perspective, and community engagement.
<b>Risk</b>  The recommendation to adopt the amended Terms of Reference for the Community Housing Acceleration Taskforce is low risk as it will not have decision-making powers.
<b>Financial impact</b>  Costs associated with operating the taskforce ad its amended terms of reference will be met within existing budgets.
<b>Degree of significance and level of engagement</b>  This matter is of low significance because the terms of reference identifies that the Taskforce will not have decision-making powers. Therefore, no community engagement will be undertaken.
<b>Climate Impact</b>  There is no impact on climate change of adopting the amended Terms of Reference.
<b>Inclusion of Māori in the decision making process</b>  No engagement with Māori has been undertaken in preparing this report.
<b>Delegations</b>  The Council has delegations in relation to approving changes to the terms of reference for the Housing Acceleration Taskforce.

## **Nelson City Council Community Housing Acceleration Taskforce Terms of Reference**

### **1. Purpose**

The purpose of the Community Housing Acceleration Taskforce is to:

- make recommendations to Council on policy, criteria and process for the distribution of the Housing Reserve.
- provide governance oversight of the relationship of Council with central government agencies and community organisations involved in housing (e.g. MHUD, Kāinga Ora, CHPs, iwi trusts).
- make recommendations to Council on property assets that may be divested to achieve housing outcomes.
- engage with stakeholders concerned with housing vulnerability to assess and provide recommendations to Council regarding opportunities to support existing and potential community services.

The Taskforce will report to Council and was established by Council resolution at its meeting of 10 December 2022.

### **2. Background**

Housing is one of the most basic needs for people, and stable housing is linked to positive economic, educational, and social outcomes for individuals and communities. The lack of affordable housing is one of the most significant challenges facing the Nelson region. Our housing market is consistently one of the least affordable in the country. We see the impact of this housing crisis in our community every day – in the rising numbers of homeless people, the families living with housing vulnerability, people leaving the region or being more reluctant to move here, and our growing tide of residents struggling to keep a roof over their heads. Council needs to focus on those elements of the housing challenge where it has resources and capacity to make a positive contribution to the solutions.

A number of strategic housing opportunities are progressing as a result of Council making housing affordability and intensification a priority last triennium. These require ongoing governance direction to accelerate progress.

### **3. Role of the Taskforce**

The role of the Taskforce is to:

- Advise on how the Council can help grow, as quickly as possible, the stock of community housing using the Housing Reserve Fund with the goal to double the number of community housing houses from 50 to 100 by 2026; and

## Item 12: Community Housing Acceleration Taskforce - Change of Terms of Reference: Attachment 1

- Consider options, and make recommendations to Council, for how the Housing Reserve can be used to leverage an increase in community housing in Whakatū Nelson to achieve the above goal; and
- Consider criteria and process, and make recommendations to Council, to set up a policy and assessment framework to ensure the Housing Reserve is used in a fair and equitable manner and meets the requirements of section 101 of the Local Government Act 2002 for prudent financial management that promotes the current and future interests of the community; and
- Provide recommendations to Council, as appropriate, on expenditure and applications for grants from the Housing Reserve; and
- Provide governance oversight and direction on strategic housing opportunities, including providing recommendations to Council on how to progress specific projects by working with central government agencies such as HUD and Kāinga Ora and community organisations such as CHPs and iwi trusts; and
- Provide governance oversight and direction on divestment of Council property in order to leverage housing outcomes; and
- Understand the provision of services across Nelson supporting those who are living in housing vulnerability, considering the strengths, resources, and roles relevant to Council; and
- To identify measures, appropriate for Council leadership and support, to better address housing vulnerability and make recommendations to Council; and
- Recommend a reporting framework to Council for monitoring progress in meeting the community housing goal.

### **4. Membership**

The Taskforce will comprise the following councillors:

- Mayor Nick Smith
- DM Rohan O'Neill-Stevens
- Councillor Sanson (Chair)
- Councillor Hodgson
- Councillor Paki Paki
- Councillor Rainey
- 

Councillor Sanson will be Chair of the Taskforce. In Councillor Sanson's absence another member will be selected by the Taskforce to undertake the chair's role.

**5. Stakeholders**

The Taskforce may agree to invite key stakeholders to attend a meeting for the purpose of providing advice and input relevant to the matters on the agenda.

**6. Quorum**

The quorum of the Taskforce is three.

**7. Role of the Chair**

The Chair will:

- Review the agenda with staff prior to Taskforce meetings;
- Chair meetings according to the agreed agenda and to assist the Taskforce to reach consensus on issues and options; and
- Report Taskforce views and recommendations to Council.

**8. Role of Staff**

Staff will provide technical expertise and other support to the Taskforce as required, including preparation of agendas and update reports.

**9. Meetings**

The Taskforce will meet as required.

**10. Conflicts of Interest**

Any conflicts of interest should be declared at the start of Taskforce meetings.

**11. Reporting**

Notes of Taskforce meetings will be taken.  
Reports to Council will be prepared by staff on behalf of the Taskforce as required. The Taskforce may make recommendations to Council but will have no decision-making powers.

**12. Local Government Official Information and Meetings Act 1987**

For the avoidance of doubt, the meeting provisions of the Local Government Official Information and Meetings Act 1987 do not apply to the Taskforce meetings, as no decisions are made at these meetings.

**13. Amendments to these Terms of Reference**

These Terms of Reference can be reviewed and amended by Council. This includes the replacement of any members no longer able to participate.

**14. Dissolution of the Taskforce**

The Taskforce will be dissolved by Council when its work is considered to be complete.



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REPORT R27640

## The City of Nelson Civic Trust - Council Controlled Organisation Exemption

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### 1. Purpose of Report

To recommend an exemption for the City of Nelson Civic Trust (the Trust) from the obligations that the Local Government Act 2002 imposes on Council Controlled Organisations (CCOs).

### 2. Recommendation

***That the Council***

1. ***Receives the report The City of Nelson Civic Trust - Council Controlled Organisation Exemption (R27640); and***
2. ***Approves an exemption to the City of Nelson Civic Trust for the purposes of Section 6(4)(i) of the Local Government Act 2002, in accordance with Sections 7(3) and 7(6) of the Act and after considering the matters in Section 7(5) of the Act.***

### 3. Background

- 3.1 The City of Nelson Civic Trust is a Council Controlled Organisation. It was established in 1973 by the late S. I. Russell OBE, who served as Mayor of Nelson from 1956-1962. A copy of the Trust Deed is available on the Council's website <http://www.nelson.govt.nz/assets/Our-council/Downloads/governance/city-of-nelson-civic-trust/City-of-Nelson-Civic-Trust-Deed.pdf>.
- 3.2 The Trust's Board consists of nine trustees, including the Chief Executive of Nelson City Council, who is an ex-officio trustee. All appointed trustees are volunteers and receive no remuneration for their roles.
- 3.3 The current trustees are:

### Item 13: The City of Nelson Civic Trust - Council Controlled Organisation Exemption

- Roger Nicholson (Chair): first appointed 6 November 2003, current term ends October 2024
  - Rachel Dodd: first appointed 21 February 2012, current term ends November 2023
  - Kay Hill: first appointed 22 September 2011, current term ends November 2023
  - Karen Stade: first appointed 20 March 2018, current term ends November 2023
  - Nick Mason: first appointed 15 October 2015, current term ends October 2024
  - Jeremy Glasgow: first appointed 24 February 2011, current term ends October 2025
  - Cathy Knight: first appointed 23 July 2009, current term ends October 2025
  - Glenn Roberts: first appointed 1 July 2010, current term ends October 2025
  - Nigel Philpott (ex officio)
- 3.4 His Worship the Mayor of Nelson City is Patron of the Trust, and Council provides accounting and secretarial support to the Trust.
- 3.5 The Trust currently administers a fund of approximately \$900,000 which has built up over the years through gifts and bequests. The Trust uses the interest on the fund to finance many projects around the City, in whole or in part.
- 3.6 Unless specifically exempted by Council resolution, a CCO is required to:
- Prepare a statement of intent in accordance with Schedule 8 of the Act;
  - Prepare a half yearly report and an annual report;
  - Comply with Parts I to VI of LGOIMA.
- 3.7 While these requirements are appropriate in relation to what could be termed Council businesses, they would place an unreasonable burden on the smaller, less commercially oriented organisations in which the Council has an interest, such as the Trust.
- 3.8 Sections 6(4)(i) and Section 7(3) of the Local Government Act 2002 ('the Act') provide that the Council may grant small organisations an exemption from the requirements of a CCO after considering:

Item 13: The City of Nelson Civic Trust - Council Controlled Organisation  
Exemption

- *the nature and scope of the activities provided by the organisation; and*
- *the costs and benefits, if an exemption is granted, to the local authority, the council-controlled organisation, and the community (Section 7(5)).*

3.9 Section 7(6) of the Act requires that:

*A Local Authority must review an exemption it has granted-*

- (a) *within 3 years after it is granted; and*
- (b) *after the first review, not more than 3 years following the last review under this section.*

3.10 In October 2020, the Council granted an exemption to the City of Nelson Civic Trust and the Council needs to decide if it wishes to grant an exemption to the Civic Trust.

#### **4. Discussion**

4.1 The City of Nelson Civic Trust can reasonably be considered a small organisation. The Trust qualifies for differential reporting exemptions as the operation is not publicly accountable, and the operation is not considered large when applying the test contained within the Framework for Differential Reporting (New Zealand Accounting Standards Framework).

4.2 The Trust is a charitable organisation that exists to provide amenities for the enhancement of the City and the benefit of the community as a whole. The Council appoints all the trustees and provides administrative support. An independent accountant provides the financial services.

4.3 The Civic Trust is reliant on the return from investments for its income, typically in the order of \$50,000 per annum. It has limited resources to direct towards the type of administrative and financial reporting work envisaged by the Act. Meeting the CCO requirements would create more work for the trustees and reduce the level of funding available for project works.

4.4 Whilst it holds a significant level of funds, given the administrative costs of compliance; the subsequent reduction in grants available to the community if it had to meet those compliance costs; and the straightforward nature of the Trust's activities, officers recommend that the Civic Trust continues to be recognised as a small organisation and to be exempted from the requirements of CCOs.

4.5 The Chair of the Civic Trust, Roger Nicholson, advises that the Trust Board supports the recommendation in this paper.

Item 13: The City of Nelson Civic Trust - Council Controlled Organisation  
Exemption

## 5. Options

- 5.1 Council can either grant an exemption to the City of Nelson Civic Trust or not. If it grants an exemption, it is signalling that it considers the Trust to be a small organisation which does not need to meet the reporting and monitoring requirements of a CCO.
- 5.2 If Council does not grant an exemption, then the Trust will have to comply with the relevant schedules in the Act. This will increase transparency in relation to the Trust's activities but will come at a financial cost to the Trust.

<b>Option 1: Grant an exemption to the City of Nelson Civic Trust</b>	
Advantages	<ul style="list-style-type: none"><li>• Recognition that the Trust is a small organisation, resulting in removal of the burden and financial cost to the Trust of complying with the obligations imposed on CCOs by the Act.</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• This will result in reduced transparency in relation to the Trust's activities, compared to other CCOs.</li></ul>
<b>Option 2: Do not grant an exemption to the City of Nelson Civic Trust</b>	
Advantages	<ul style="list-style-type: none"><li>• No reduction in the transparency of the Trust's activities.</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• The Trust will bear the burden of complying with the relevant schedules in the Act. This will come at a financial cost to the Trust.</li></ul>

## 6. Conclusion

- 6.1 It is recommended that the Council approves the continuation of the Civic Trust's exemption for another three years.

The Civic Trust controls a significant amount of funds, but it does not trade and merely distributes the proceeds of its investments for the benefit of the City. As such, the administrative overhead associated with withdrawal of the exemption would simply reduce the amount distributed within the community.

**Author: Martin Croft, Strategic Adviser Community Services**

**Authoriser: Andrew White, Group Manager Community Services**

### Attachments

Nil

Item 13: The City of Nelson Civic Trust - Council Controlled Organisation  
Exemption

<b>Important considerations for decision making</b>
<b>Fit with Purpose of Local Government</b>  This is a statutory compliance matter. This decision would save the Trust, as a small community group, unnecessary compliance costs and contributes to social wellbeing of the community by maximising funding for grants.
<b>Consistency with Community Outcomes and Council Policy</b>  The recommendation is not inconsistent with any Council policy or strategic document. It supports the Community Outcome: Our communities have access to a range of social, educational and recreational facilities and activities.
<b>Risk</b>  This matter is of low risk as the recommendation is addressing a statutory compliance issue and can be reviewed again in three years. The Council has good information about the workings of the Trust because it provides administrative support and has a representative on the Board.
<b>Financial impact</b>  If Council decides that the City of Nelson Civic Trust is not exempt, the financial costs of compliance will have to be borne by the Trust.
<b>Degree of significance and level of engagement</b>  This matter is of low significance and therefore no community consultation has been undertaken.
<b>Climate Impact</b>  The proposal in this report will have no impact on the ability of Council to proactively respond to the impacts of climate change now or in the future.
<b>Inclusion of Māori in the decision making process</b>  No engagement with Māori has been undertaken in preparing this report.
<b>Delegations</b>  This is a matter for Council.

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REPORT R27350

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## Members' Code of Conduct

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### 1. Purpose of Report

- 1.1 To present the updated Members' Code of Conduct for adoption by Council.

### 2. Recommendation

***That the Council***

- 1. Receives the report Members' Code of Conduct (R27350) and its attachment (839498445-17264); and***
- 2. Adopts the updated Members' Code of Conduct; and***
- 3. Notes that the updated Members' Code of Conduct will be made publicly available through Council's website.***

### 3. Background

- 3.1 Clause 15, Schedule 7 of the Local Government Act 2002 requires every local authority to adopt a Code of Conduct for members of the local authority.
- 3.2 The Code of Conduct sets out the understandings and expectations of elected members for members' behaviour towards one another, staff, and the public, and in relation to treatment of confidential information. It must also include a general explanation of law applicable to members. Members must then adhere to the standards set within the Code of Conduct of that council.
- 3.3 Codes of Conduct are an important part of building community confidence in council systems and processes, and can contribute to:
- good governance of the city,
  - effective decision-making and community engagement,

## Item 14: Members' Code of Conduct

- the credibility and accountability of the Council to its communities, and
  - a culture of mutual trust and respect between members of council and with management.
- 3.4 Codes of Conduct are designed to promote robust debate and the expression of all views by providing a framework to ensure that debate is conducted in a civil and respectful way, supporting good decision making.
- 3.5 As well as outlining the standards of behaviour members have set for themselves, it provides a means of resolving situations if there is a concern those standards are then breached.
- 3.6 A majority vote of 75% or more of elected members present is required to adopt an updated Code. In the event this majority is not reached, the current Code continues to apply.

### **4. Discussion**

- 4.1 Every three years, Local Government New Zealand (LGNZ) provides a Code of Conduct model template for councils to draw on as they reflect on the behavioural agreements they wish to adopt. The template ensures that legislated requirements are met, and each update reflects the current environment and feedback received from councils over the previous three years.
- 4.2 In the previous triennium a substantive review of Codes of Conduct was undertaken by the Local Government Commission, resulting in a report to the Minister of Local Government and a number of recommendations for strengthening codes and associated practices in September 2021.
- <https://www.lgc.govt.nz/other-commission-work/current-proposals/view/report-to-the-minister-of-local-government-september-2021/?step=main>
- 4.3 In response to the report, LGNZ has made a number of significant changes within its 2022 template. These include:
- an acknowledgement of the principles of good governance (the Nolan principles), drawn from the UK Government's Committee on Standards in Public Life and the findings of the 1994 Nolan Inquiry,
  - an explicit description of unacceptable behaviours, and a focus on managing specific types of behaviours (such as bullying or harassment) regardless of the place or platform on which the member is engaging, such as social media, in meetings, or interactions between members, and
  - an amended approach to alleged breaches, designed to ensure the process is focused on serious rather than minor or trivial

## Item 14: Members' Code of Conduct

complaints. This includes clearer considerations for the early assessment, and the inclusion of mediation as a likely first step for all complaints.

- 4.4 The 2022 LGNZ model template was taken as an initial basis for the updated draft Nelson City Council Members' Code of Conduct, which has then been extensively workshopped by members to reach the proposed outline of standards and process for addressing complaints attached (839498445-17264).

### **Costs and Support**

- 4.5 A new addition to the 2022 model template is the inclusion of the potential for some costs for support or legal advice to members involved in a complaints process to be met by Council. In conversation with LGNZ it was noted that a driver for the new inclusion was improved ability to provide support or advice to a complainant where they are experiencing bullying or harassment from the respondent or parties associated with the respondent.
- 4.6 In conversation with LGNZ on the new provision they noted that were a Council to include provision for some such costs to be met, clear rules would need to be in place including the expectation that a reasonable case would be made by the member and approved prior to approaching any provider.

### **Panel of Investigators**

- 4.7 The Chief Executive, in consultation with the Mayor, is responsible for confirming a panel of investigators which may be called on to look into a complaint. At the time of writing, two panel members have been confirmed for Nelson City Council:

#### 4.7.1 Bruce Robertson

Bruce is a trusted advisor to elected members and senior managers across New Zealand, and an independent member of audit and risk committees. Previously he held senior leadership roles within the Office of the Auditor – General, Audit New Zealand and the Pacific Association of Supreme Audit Institutions (PASAI) with specific responsibility for local government, environment and energy, including their links into central government. He is now engaged in a range of management consulting work and has worked extensively in assurance and broad ranging enquiries.

#### 4.7.2 Clair Hague ONZM

Claire has significant experience in governance, executive leadership and management consultancy including:



## Item 14: Members' Code of Conduct

- Governance roles in local government, the education and tertiary education sectors, and regional economic development.
- Executive leadership positions in education, including secondary and tertiary education, and as Regional Director for the Ministry of Education.
- Consultancy services across the public and private sectors.

She has particular skills in relationship management and risk assurance.

- 4.8 If required, Council may also arrange an investigator through LGNZ Equip.

## 5. Options

- 5.1 Council can adopt the updated draft Nelson City Council Members' Code of Conduct as proposed, or may make amendments to the draft as long as legislative requirements continue to be met and a majority of 75% or more agree to the resulting code.

## 6. Next Steps

- 6.1 The most up-to-date Members' Code of Conduct will be prepared for publication on Council's website.

**Author:** Devorah Nicuarta-Smith, Manager Governance and Support Services

**Authoriser:** Nicky McDonald, Group Manager Strategy and Communications

## Attachments

Attachment 1: 839498445-17264 Draft Members' Code of Conduct [↓](#)

## Item 14: Members' Code of Conduct

<b>Important considerations for decision making</b>
<b>Fit with Purpose of Local Government</b> <p>Clause 15, Schedule 7 of the Local Government Act 2002 requires every local authority to adopt a code of conduct for members of the local authority.</p>
<b>Consistency with Community Outcomes and Council Policy</b> <p>The matters in this report best align with the following Community Outcome:</p> <p>Our Council provides leadership and fosters partnerships, a regional perspective, and community engagement.</p>
<b>Risk</b> <p>The updated draft Members' Code of Conduct was originally based on the 2022 LGNZ model template which reflects the results of the national review completed in 2021, the experiences and feedback of members across the country, and feedback and learnings specific to Nelson City Council. The current proposed draft is the result of extensive further workshopping by members.</p> <p>Increased clarity in behavioural standards and in the process that will be followed if a complaint is lodged may support ongoing commitment to the Code, thereby reducing the likelihood of complaints and the potential reputational risk to members and Council which can accompany them.</p>
<b>Financial impact</b> <p>Any funding for member support or legal advice related to a Code of Conduct complaint would need to be met from existing budgets.</p>
<b>Degree of significance and level of engagement</b> <p>This matter is of low significance as it is a procedural requirement under the Local Government Act 2002.</p>
<b>Climate Impact</b> <p>There is no direct climate impact from the matters in this report.</p>
<b>Inclusion of Māori in the decision making process</b> <p>No engagement with Māori has been undertaken in preparing this report.</p>
<b>Delegations</b>

## Item 14: Members' Code of Conduct

Council must adopt a code of conduct under the Local Government Act 2002.

**Nelson City Council**  
**Members' Code of Conduct**

Anga Tikanga Whanonga

Adopted xxx

839498445-17264

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DRAFT

## **PART ONE - INTRODUCTION**

### **Overview**

The Nelson City Council Members' Code of Conduct has been adopted in accordance with the requirements of the Clause 15, Schedule 7 of the LGA 2002, which requires every council to adopt a code of conduct for its members.

The Code of Conduct is an agreement of elected members that sets standards for the behaviour of members towards other members, staff, the public, and the media. It is also concerned with the disclosure of information that members receive in their capacity as members. Members of a council must comply with the Code of Conduct of that council. Complaints of breach of the Code of Conduct will be dealt with in accordance with the principles and process included in the Code.

This Code of Conduct document is divided into four parts, with an appendix.

This Introduction (Part One) provides an overview of codes of conduct, and how this Code will be applied.

Part Two provides information on values and principles that members agree underpin the Code.

Part Three contains detailed agreement of members for standards of behaviour and how they will conduct themselves while acting in their capacity of members. If a member is alleged to have breached one or more of these standards, a complaint may be made using the process outlined in Part Four.

Part Four contains information about how complaints of breach of the Code will be dealt with.

The appendix contains an overview of legislation that is applicable to members.

### **Application**

This Code applies in full to elected members and to members appointed under the Local Government Act 2002 to Council's committees, subcommittees, and other subsidiary decision-making bodies.

The standards of conduct within Part Three of the Code apply to external participants of taskforces and working groups/ parties, but the process for making and investigating complaints under Part Four does not. Complaints about an external taskforce participant's behaviour will be dealt with under the terms of any agreements.

For ease, the term 'member' is used throughout the remainder of the document to apply to both elected and appointed members.

839498445-17264

## PART TWO - OVERARCHING PRINCIPLES AND VALUES

### Nelson City Council values

Nelson City Council has established the following values:

**Whakautetanga:** respect

**Kōrero Pono:** integrity

**Māiatanga:** courage

**Whakamanatanga:** effectiveness

**Whakamōwaitanga:** humility

**Kaitiakitanga:** stewardship

**Manaakitanga:** generosity of spirit

These values complement, and work in conjunction with, the principles of section 14 of the Local Government Act 2002 and the governance principles of section 39 of the LGA 2002. Council's values give effect to its ways of working together for the good governance of Nelson.

### Te Tiriti o Waitangi

Te Tiriti o Waitangi is one of the founding documents of Aotearoa New Zealand. Council acknowledges a requirement to help the Crown meet its relationship obligations as specified in the Local Government Act 2002. The distinct identity iwi have within the Whakatū region, and the wealth of knowledge they contribute about the cultural, natural, physical and social landscape, is recognised.

In their role as governors of Council, members contribute to building and maintaining partnerships with Ngā Iwi e Waru o Te Taihū.

Members are committed to strengthening partnerships with iwi of Te Taihū, including with Iwi Entities, and building relationships with te hāpori Māori to support their aspirations and participation in local government decision-making processes. Members value the opportunities to develop understanding of te reo me ōnā tikanga provided by Council and will participate in these.

### Principles of good governance

Members recognise the importance of the following principles of good governance:

- **Public interest:** members should act solely in the public interest.
- **Integrity:** members should not act or take decisions to gain financial or other benefits for themselves, their family, or their friends, or place themselves under any obligation to people or organisations that might inappropriately influence them in their work.
- **Stewardship:** members should use a long-term perspective when making decisions. Decisions, which impact on past, current and future generations, also affect collective well-being.
- **Objectivity:** members should act and take decisions impartially, fairly, and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** members will be accountable to the public for their decisions and actions and will submit themselves to the scrutiny necessary to ensure this.
- **Openness:** members should take decisions in an open and transparent manner and not withhold information from the public unless there are clear and lawful reasons for so doing.
- **Honesty:** members should be truthful and not misleading.
- **Leadership:** members should not only exhibit these principles in their own behaviour but also be willing to challenge poor behaviour in others, wherever it occurs.

Members acknowledge the importance of the rights recognised in the International Covenant on Civil and Political Rights and the rights affirmed in the New Zealand Bill of Rights Act 1990, in particular the protected right of freedom of expression.

Nothing in this Code is intended to limit robust debate within the Council as long as it is conducted in a respectful manner.



## **PART THREE – STANDARDS OF CONDUCT**

To promote good governance and build trust between members, the media, public, and staff, members commit to the following standards of conduct when they are:

- Conducting the business of the Council
- Acting as a representative of the Council
- Acting as a representative of Nelson, and
- Communicating with people in their capacity as a member, including while using social media and other communication channels.

Where a member's conduct falls short of these standards, members accept that they may be subject to a complaint made under the Code of Conduct.

### **1 Respect**

Members will treat all people with respect.

Respect means politeness and courtesy in behaviour, speech, and writing. Debate and differences are all part of a healthy democracy. Members recognise that, as members of a council they can challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner, but must not subject individuals, groups of people or organisations to personal attack.

#### **Relationships between members**

Given the importance of relationships to the effective performance of the Council, members will conduct their dealings with each other in a manner that:

- Maintains public confidence
- Is open, honest and courteous, and
- Is focused on issues rather than personalities.

#### **Relationships with staff**

An important element of good governance involves the relationship between a council, its Chief Executive, and its staff. Members will respect arrangements put in place to facilitate this relationship, and:

- Raise any concerns about employees, officers or contracted officials with the Chief Executive
- Raise any concerns about the performance or behaviour of the Chief Executive with the Mayor or the chairperson of the Chief Executive Employment Committee (however described)
- Make themselves aware of the obligations that the Council and the Chief Executive have as employers and always uphold these requirements

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- Treat all employees, officers and contracted officials with courtesy and respect
- Maintain awareness of the imbalance of power that exists between members and employees, officers or contracted officials, and
- Observe any protocols put in place by the Chief Executive concerning contact between members and employees, officers or contracted officials.

### **Relationship with the public**

When in contact with the public, members should treat them politely and courteously. Offensive behaviour lowers the public's expectations of and confidence in Council.

To facilitate trust and respect in Council, members will:

- Ensure their interactions with the public are fair, honest and respectful
- Be available to listen and respond openly and honestly to concerns of members of the public
- Represent the views of citizens and organisations accurately, regardless of the member's own opinions of the matters raised, and
- Ensure their interactions with the public uphold the reputation of Council, including online interactions via social media and other channels.

In return, members have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, members are entitled to stop any conversation or interaction in person or online and report them to Council, the relevant social media provider or the police.

### **2 Bullying, harassment, and discrimination**

Members will treat all people fairly and will not:

- bully any person
- harass any person, or
- discriminate unlawfully against any person.

Bullying is repeated (that is, it occurs more than once) and unreasonable behaviour directed towards a person or group that can cause physical or mental harm. Bullying can be by an individual or by a group (sometimes referred to as 'mobbing'). Bullying can be physical, verbal, psychological or social. It may include victimising, isolating, humiliating, intimidating or threatening a person. It represents an abuse of power through means that undermine, humiliate, denigrate, or injure another person. It may:

- occur face-to-face, on social media, in emails or phone calls, or at Council-related events, and
- may not always be obvious or noticed by others.

Harassment may take various forms.

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The Human Rights Act 1993 defines sexual harassment as 'any unwelcome or offensive sexual behaviour that is repeated or is serious enough to have a harmful effect'.

Racial harassment means using language (written or spoken), visual material, or physical behaviour that:

- directly or indirectly expresses hostility against someone, or brings them into contempt or ridicule because of their race, colour, or ethnic or national origins, and
- is hurtful or offensive to the person, and
- is so significant or repeated that it has a negative effect on their employment or has a detrimental effect on them.

Harassment may also include any unwanted and unjustified behaviour which another person finds offensive or humiliating and which has a negative effect on them.

Unlawful discrimination occurs when a person is treated unfairly, or less favourably, than another person in one of the circumstances outlined in sections 21 to 74 of the Human Rights Act because of any of the following<sup>1</sup>:

Sex	Colour	Age
Marital status	Race	Political opinion
Religious belief	Ethnic or national origins	Employment status
Ethical belief	Disability, including illness	Family status
Sexual orientation		

<sup>1</sup> See <https://www.govt.nz/browse/law-crime-and-justice/human-rights-in-nz/human-rights-and-freedoms/> and <https://tikatangata.org.nz/human-rights-in-aotearoa/what-is-unlawful-discrimination>

### **3 Sharing information**

Occasionally members will receive information in their capacity as members which is pertinent to the ability of Council to properly perform its functions. Where this occurs members will share any such information with the Council through other members and or the Chief Executive<sup>2</sup>.

### **4 Expressing personal views publicly**

Members, except when authorised to speak on behalf of Council, will make it clear when speaking to the media, on social media, or in hui and presentations, that statements reflect their personal view.

The media play an important role in the operation and efficacy of local democracy and need accurate and timely information about the affairs of Council to fulfil that role.

Members are free to express a personal view to the media and in other public channels at any time, provided the following rules are observed:

- they do not purport to talk on behalf of Council, if permission to speak on behalf of Council has not been given to them
- their comments are not inconsistent with this Code, and
- their comments must not misrepresent the views of Council or other members.

Members will abide by the social media protocols described in LGNZ's Good Governance Guide, available at <https://www.lgnz.co.nz/assets/Induction/The-Good-Governance-Guide.pdf>

### **5 Provide equitable contribution**

Members will take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of them. Members recognise that they hold a position of considerable trust, given by the community to act on their behalf. To fulfil the expectations of the community and contribute to the good governance of Nelson it is important that members make all reasonable efforts to attend meetings and workshops, prepare for meetings, attend civic events, and participate in relevant training seminars.

The local government workload can be substantial, and members recognise it is important that they all contribute appropriately. This requires members to often work as a team and avoid situations where the majority of the work falls on the shoulders of a small number of members.

<sup>2</sup> Guidance note: Members who are offered information on the condition that it remains confidential are encouraged to inform the person making the offer that the member must disclose any information received that is pertinent to the ability of Council to properly perform its functions, for example, to the Chief Executive and or a governing body meeting in public exclusion.

### **6 Disrepute**

Members will not bring the Council into disrepute.

Members are trusted to make decisions on behalf of Nelson and as such their actions and behaviours are subject to greater scrutiny than others in the community. Members' actions also reflect on Council as well as themselves and can serve to either boost or erode public confidence in both.

Behaviours that might bring Council into disrepute, and diminish its ability to fulfil its functions, include behaviours that are dishonest and/or deceitful. Adhering to this Code does not in any way limit a member's ability to hold the Council and fellow members to account or constructively challenge and express concerns about decisions and processes undertaken by Council.

### **7 Use of position for personal advantage**

Members will not use, or attempt to use, their position to improperly advantage themselves or anyone else, or disadvantage another person.

Members recognise that being a member of Council comes with certain opportunities and privileges, including the power to make decisions that can impact on others. Members must not take advantage of such opportunities to further their own or others' private interests or to disadvantage anyone unfairly. Information on key legislation impacting members and consequences of using the position as a council member to further private interests is shown in the appendix.

### **8 Impartiality**

Members will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, Council.

Employees, officers and contracted officials work for the Council as a whole and must be politically neutral (unless they are political assistants). They must not be coerced or persuaded to act in a way that would undermine their neutrality.

Members can question employees and officers to gain understanding of their thinking and decision-making, however, they must not seek to influence them to change their advice or alter the content of a report, other than in a meeting or workshop. Members should:

- make themselves aware of the obligations that the Council and Chief Executive have as employers and always observe these requirements, such as the obligation to be a good employer,
- observe any protocols put in place by the Chief Executive concerning contact between members and employees, officers or contracted officials, and
- not publicly criticise individuals.

If a member has any concerns about the behaviour of an employee, officer or contracted official they should raise their concerns with the Chief Executive, or, if the concerns are to do with the Chief Executive, with the Mayor or Chief Executive Employment Committee (however described).

### **9 Maintaining confidentiality**

Members will receive confidential information in the course of their duties.

Confidential information is information that staff consider should not be publicly available for any one or more of the reasons set out in sections 6 and 7 of the Local Government Information and Meetings Act 1987<sup>3</sup>. The information will be clearly identified as being confidential.

Members must not disclose or use confidential information for any purpose other than the purpose for which the information was supplied to them unless the disclosure is:

- consented to by a person authorised to do so
- required by law
- made under the Protected Disclosures (Protection of Whistleblowers) Act 2022, following Council's policy and process for such disclosures, or
- to a lawyer for the purpose of the member obtaining personal legal advice, and the lawyer agrees to maintain confidentiality of the disclosed information.

This includes information that has been or will be presented to a meeting from which members of the public are excluded or are proposed to be excluded. Disclosure of confidential information may constitute a breach of this Code. Such failure will impede the performance of the Council by inhibiting information flows and undermining public confidence in the organisation, and may also expose the Council to legal risk.

### **10 Privacy**

Members must uphold Council's obligations as an agency under the Privacy Act. Personal information must be treated in accordance with the Privacy Act, Council's privacy policy and any directives of the Privacy Officer. Failure to care for personal information as required may create harm to individuals and expose the Council to censure from the Privacy Commissioner and or legal risk.

<sup>3</sup> <https://www.legislation.govt.nz/act/public/1987/0174/latest/DLM122242.html>

## **PART FOUR – INVESTIGATING AND RULING ON ALLEGED BREACHES OF THE STANDARDS OF CONDUCT OUTLINED IN PART THREE**

### **Principles**

The following principles will guide the investigation into, and assessment of, complaints made against a member for breaching the Code of Conduct:

- Parties are encouraged to address minor issues informally amongst themselves. The formal complaint process should only be used for matters that cannot be informally resolved.
- Complaints will be resolved at the lowest level of resolution as possible, with priority given to finding a mediated settlement.
- The complaints process will be advanced in a timely way, with a view to prompt resolution.
- The complaints process will be independent, impartial, and respect the privacy of parties involved.
- Parties will be given due notice that an investigation is underway and will be provided with an opportunity to be heard and to be represented.

### **Confidentiality**

All Code of Conduct processes which are not referred to an Independent Investigator will remain confidential to the directly affected parties and those required to facilitate the *Process for determining and investigating complaints (refer below for process)*.

Where a matter is referred to an Independent Investigator, the ensuing report will be received in public meeting unless grounds under the Local Government Official Information and Meetings Act 1987 (LGOIMA) exist for the exclusion of the public (*refer process points 6 and 7 below*). Discussions and resolution on any actions to be undertaken will also take place in public meeting unless LGOIMA reasons for confidentiality apply.

Note: Where any preceding information to the report is not documented in the report or appendices to the report, it will remain confidential.

### **Who can make a complaint?**

The Code of Conduct is designed to be a self-regulatory instrument and complaints regarding a breach of the Code can only be made by members themselves, or the Chief Executive, who can make a complaint on behalf of themselves or their staff.

All complaints made under the Code must be made in writing and forwarded to the process Administrator (*refer below for roles and responsibilities*).

## Costs and support

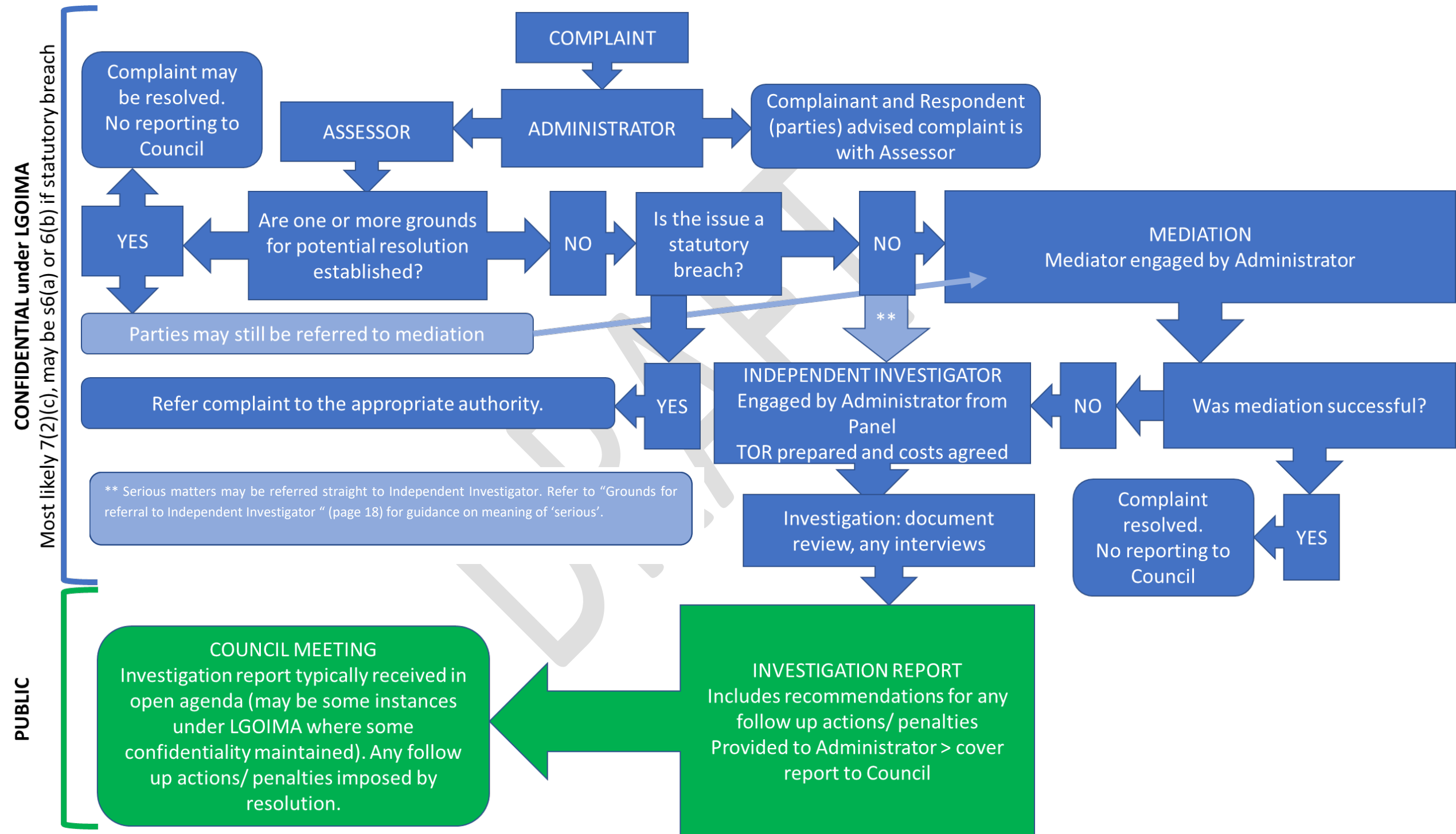
The costs of assessment, mediation and investigatory services (where used) will be met by Council.

Members, those who make complaints and those who are subject to a complaint, should be given appropriate and reasonable support.

- Members will have a right to be accompanied by a support person throughout the process if they choose.
- There may be instances where member/s who are party to a complaint may feel they would benefit from professional counselling support and or independent legal advice and representation during the complaints process.
- Where counselling support, legal advice or representation are sought by a member, the member should discuss this with the Administrator prior to approaching any providers. Where a reasonable case is made, incurred costs may then be met by Council as follows:
  - A maximum of three counselling sessions from an approved provider
  - A maximum amount of \$5,000 plus GST per member per complaint process for legal advice and or representation.



## Process for determining and investigating complaints



## **Responsibilities within the complaints process**

### **Administrator**

#### **Who**

- Chief Executive, unless a party to complaint
- Deputy Chief Executive, if Chief Executive is a party to complaint<sup>4</sup>

#### **Powers/ Responsibilities**

- Receives the written complaint and provides to Assessor
- Notifies the complainant and respondent of each stage in the process the complaint has progressed to
- Engages an external mediator if instructed by the Assessor
- Refers the matter to the appropriate agency if notified by the Assessor the matter is a statutory breach
- Engages an Independent Investigator<sup>5</sup> from the established panel if instructed by the Assessor, including preparing a Terms of Reference and supporting information, providing this to the Independent Investigator, and agreeing costs.
- Prepares a cover report to Council for the Investigation report if required. This report should include the Investigator's report (with any appendices) and recommendations

<sup>4</sup> There may be the instance where the Chief Executive is the complainant and the nature of the complaint creates a conflict of interest for all Group Managers. In this instance Council's Manager Governance and Support Services will engage an Independent from Council's panel of investigators to administer the complaints process.

<sup>5</sup> On behalf of Council the Chief Executive will prepare and maintain, in consultation with the Mayor, a list of investigators for this purpose. The Chief Executive may prepare a list specifically for Nelson City Council or prepare a list jointly with neighbouring councils.

Given the litigious nature of some code of conduct disputes, Independent Investigators should have relevant liability insurance, provided on their own behalf or by the Council. The Administrator needs to ensure that investigations are undertaken within budgetary limits negotiated in advance.

## **(Initial) Assessor**

### **Who**

- Mayor, unless a party to complaint
- Deputy Mayor, if Acting Mayor at the time of the complaint
- Chief Executive, if the Mayor is party to a complaint

### **Powers/ Responsibilities**

- Completes an initial assessment of the complaint (through interviewing the complainant to assess the full extent of the complaint, interviewing the member(s) subject to the complaint, and assessing the complaint).
- May resolve the complaint if grounds to do so are established (see paragraph 1 below)
- Will notify the Administrator if the matter is found to be a statutory breach (see paragraph 2 below)
- Will instruct the Administrator to engage a Mediator if there are no grounds for potential resolution or there is anticipated value to mediation regardless of potential resolution grounds existing (see paragraph 3 below)
- Instruct the Administrator to engage an Independent Investigator if any of the grounds in paragraph 4 below apply

#### **1. *Grounds for potential resolution by Assessor***

- The grievance and or its effects are minor and inconsequential (non-material)
  - When considering the issue of materiality, the Assessor will consider a range of factors, such as:
    - Does the breach have legal or financial ramifications for the Council?
    - Will the alleged breach bring Council into disrepute?
    - What is the impact of the breach on other elected members, on staff and on the community in general?
- A genuine apology has already been proffered to the complainant
- There has been fault on both sides
- The complaint is politically motivated

#### **2. *Grounds for referring to another agency (statutory breach)***

- A complaint should be referred to an appropriate other agency where the matter relates to a potential statutory offence, for example:
  - Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General);
  - Breaches which result in the Council suffering financial loss or damage (where the Auditor-General may make a report on the loss

or damage under s.44 LGA 2002 which may result in the member having to make good the loss or damage); or

- Breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).
- In this instance the agency the matter has been referred to will undertake any investigation and actions in relation to the complaint

**3. *Grounds for referral to mediation***

- Following assessment, resolution has not been possible and the matter is not a statutory breach
- Following assessment, resolution may be possible, but there is value in the parties undertaking mediation

**4. *Grounds for referral to Independent Investigator***

- Mediation has not been successful
- The matter is assessed as serious, meaning:
  - Conduct appears to be intentional, malicious, motivated by ill-will
  - Conduct caused serious harm, for example reputational harm, or brought the Council into disrepute
  - There is an ongoing pattern of breaches
  - Conduct occurred on only one or two occasions but represents a major departure from expected standards

## **Mediator**

### **Who**

- A person trained in mediation and appointed as a mediator

### **Powers/ Responsibilities**

- To facilitate a formal mediation process between the parties to the complaint

**NOTE** The outcomes of any successful mediation will be confidential and, other than confidential advice that a complaint has been resolved through mediation, there will be no additional reporting to the council.

## **Independent Investigator**

### **Who**

- A person appointed from the panel of investigators

### **Powers/ Responsibilities**

- Completion of a full investigation into the complaint, within the budgetary constraints set down. This may include:
  - hearing from the relevant parties, and or
  - referring to any relevant documents or information.
- Preparation of a report to the Administrator on the investigation actions, their findings<sup>6</sup> and any recommended actions<sup>7, 8</sup>.

<sup>6</sup> No appeal right on the findings of an Investigator is included in the Code of Conduct.

<sup>7</sup> Where the Independent Investigator has acted as the Administrator and or Assessor due to the circumstances of the complaint, any initial assessment and or report will be provided to Council's Manager Governance and Support Services.

<sup>8</sup> The report may include appended relevant information at the discretion of the Investigator.

## **Council<sup>9</sup>**

### **Powers/ Responsibilities**

- Receives the Administrator's report, containing the Investigation report.
  - The report will be received without debate, in open meeting (unless grounds exist for the exclusion of the public under LGOIMA).
  - Members with an interest in the complaint, including the complainant and the respondent, will not be present during the discussion on the independent investigator's recommendations.
  - However, the respondent will have opportunity to be heard at the start of the agenda item.
- Discusses in open meeting (unless grounds exist for the exclusion of the public under LGOIMA) whether any actions are appropriate to be undertaken by the respondent given the findings of the Investigator (included in the Investigation report).
  - Any recommendations made by the Investigator for actions will be considered but are not binding on Council.
  - The action/s that might be undertaken will depend on the seriousness of the breach and may include actions set out below.
  - As part of these considerations the complainant may be asked to appear before the governing body and answer questions from members.
- Formalises by resolution any actions to be undertaken, including any timeframes within which these apply or must be completed by.

<sup>9</sup> Or committee/sub-committee with delegated authority to consider code of conduct complaints.

## **Actions that may be undertaken when a breach has been confirmed**

Where a complaint that the Code of Conduct was breached has been upheld, any actions that may be undertaken should be consistent with the following principles:

- actions should be commensurate with the seriousness of the breach
- actions should be undertaken in a manner that is culturally appropriate and safe for the members involved, and
- actions should, to the degree practical, contribute to an inclusive culture in the council by focusing on constructive mediation, learning, and member improvement.

In determining a response to a breach of the Code of Conduct, one or more of the following could be selected (noting that this list is not exhaustive and other actions not on the list may also be considered):

1. That no action is required
2. That the member meets with the Mayor for advice
3. That the member attends a relevant training course
4. That the member agrees to cease the behaviour
5. That the member work with a mentor for a period
6. That the member tenders an apology
7. That the Council sends a letter of censure to the member
8. That the Council passes a vote of no confidence in the member
9. That the member loses certain Council-funded privileges (such as attendance at conferences)
10. That the member loses specific responsibilities, such as committee chair, deputy committee chair or portfolio holder
11. That the member be subject to increased limitations on their dealings with Council staff, other than the Chief Executive or identified senior manager
12. That the member be suspended from committees or other bodies to which the member has been appointed
13. That the member be invited to consider resigning from the Council

## **APPENDIX – OVERVIEW OF LEGISLATION APPLICABLE TO MEMBERS**

Clause 15 of Schedule 7 of the Local Government Act (the Act) 2002, requires that the Code of Conduct provides members with a general explanation of the Local Government Official Information and Meetings Act 1987, and any other enactment or rule of law that affects members.

### **The New Zealand Bill of Rights Act 1990**

The New Zealand Bill of Rights Act 1990 protects and promotes human rights and fundamental freedoms in New Zealand. It affirms the civil and political rights contained in the Act. In relation to Council's actions in the performance of public functions, powers or duties conferred or imposed by or pursuant to law, Council may subject the rights and freedoms contained in the Act only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

### **The Local Government Act 2002**

The LGA 2002 is local government's empowering statute. It establishes our system of local government and sets out the rules by which it operates.

It provides for councils to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach and includes:

- the purpose of local government
- a framework and powers for councils to decide which activities they undertake and the manner in which they will undertake them, and
- in recognition and respect of the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi and to maintain and improve opportunities for Māori to contribute to council decision-making processes, principles and requirements for councils that are intended to facilitate participation by Māori in council decision-making processes.

<https://www.legislation.govt.nz/act/public/2002/0084/latest/DLM170879.html>

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### **The Local Government Official Information and Meetings Act 1987**

The LGOIMA sets rules for ensuring the public are able to access official information unless there is a valid reason for withholding it. All information should be considered public and released accordingly unless there is a compelling case for confidentiality. Even where information has been classified as confidential, best practice is for it to be proactively released as soon as the grounds for confidentiality have passed.

There are both conclusive and other reasons for withholding information set out in sections 6 and 7 of LGOIMA, which include:

Conclusive reasons for withholding – if making the information available would likely:

- prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial; or
- endanger the safety of any person.

Other reasons for withholding – withholding the information is necessary to:

- protect the privacy of natural persons, including that of deceased natural persons;
- protect information where it would disclose a trade secret or would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information;
- in the case of an application for resource consents or certain orders under the Resource Management Act 1991, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of waahi tapu;
- protect information the subject of an obligation of confidence, where making that information available would prejudice the supply of similar information (and it is in the public interest for this to continue), or would be likely otherwise to damage the public interest;
- avoid prejudice to measures protecting the health or safety of members of the public;
- avoid prejudice to measures that prevent or mitigate material loss to members of the public;
- maintain the effective conduct of public affairs through free and frank expression of opinions between or to members and council employees in the course of their duty or the protection of such people from improper pressure or harassment;
- maintain legal professional privilege;
- enable any council holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
- prevent the disclosure or use of official information for improper gain or improper advantage.

Regarding these 'other' reasons, a public interest balancing test applies. In these cases, the Chief Executive must consider whether the withholding of that information is

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outweighed by other considerations that render it desirable, in the public interest, to make that information available. Decisions about the release of information under LGOIMA are operational and need to be made by the appropriately authorised people within each council; elected members must work within the rules adopted by each council.

The LGOIMA also sets the rules that govern public access to meetings and the grounds on which that access can be restricted, which occurs when meetings consider matters that are confidential.

### **The role of the Ombudsman**

An Ombudsman is an Officer of Parliament appointed by the Governor-General on the recommendation of Parliament. An Ombudsman's primary role under the Ombudsmen Act 1975 is to independently investigate administrative acts and decisions of central and local government departments and organisations that affect someone in a personal capacity. Ombudsmen investigate complaints made under LGOIMA.

Anyone who has a complaint of that nature about a council may ask an Ombudsman to investigate that complaint. Investigations are conducted in private. The Ombudsman may obtain whatever information is considered necessary, whether from the complainant, the Chief Executive of the local body involved, or any other party. The Ombudsman's decision is provided in writing to both parties.

If a complaint is sustained, the Ombudsman may recommend the council takes whatever action the Ombudsman considers would be an appropriate remedy. Any such recommendation is, however, not binding. Recommendations made to a council under this Act will, in general, become binding unless a council resolves otherwise. However, any such resolution must be recorded in writing and be made within 20 working days of the date of the recommendation.

### **The Privacy Act 2020**

The Privacy Act 2020 outlines Principles that must be followed by any Agency (and by association any representative of that Agency) in relation to personal information. These Principles guide the purpose, source and manner of collecting personal information, the storage and protection of personal information including length of storage, the expectations in relation to accuracy of and corrections to information held, and the limits on use and any disclosure of personal information.

The Act also provides for complaints to be made to the Privacy Commissioner and outlines how these will be addressed, should someone feel these Principles have been breached.

As representatives of Council as an Agency, members must abide by the expectations of the Act in relation to any personal information they are privy to.

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## **The Local Authorities (Members' Interests) Act 1968**

### **Pecuniary interests**

The LAMIA provides rules about members discussing or voting on matters in which they have a pecuniary interest and about contracts between members and the council. LAMIA has two main rules, referred to here as the contracting rule (in section 3 of the LAMIA) and the participation rule (in section 6 of the LAMIA).

- The **contracting rule** prevents a member from having interests in contracts with the council that are worth more than \$25,000 in any financial year, unless the Auditor-General approves the contracts. Breach of the rule results in automatic disqualification from office.
- The **participation rule** prevents a member from voting or taking part in the discussion of any matter in which they have a financial interest, other than an interest in common with the public. The Auditor-General can approve participation in limited circumstances. Breach of the rule is a criminal offence, and conviction results in automatic disqualification from office.

Both rules have a complex series of subsidiary rules about their scope and exceptions.

The LAMIA does not define when a person is “concerned or interested” in a contract (for the purposes of section 3) or when they are interested “directly or indirectly” in a decision (for the purposes of section 6). However, it does set out two situations where this occurs.

These are broadly where:

- a person’s spouse or partner is “concerned or interested” in the contract or where they have a pecuniary interest in the decision; or
- a person or their spouse or partner is involved in a company that is “concerned or interested” in the contract or where the company has a pecuniary interest in the decision.

However, in some situations outside the two listed in the Act a person can be “concerned or interested” in a contract or have a pecuniary interest in a decision, for example, where a contract is between the member’s family trust and the council.

### **Non-pecuniary conflicts of interest**

In addition to the issue of pecuniary interests, which are addressed through the LAMIA, there are also legal rules about conflicts of interest more generally. These are rules that apply to non-pecuniary conflicts of interest and include the common law rule about bias. To determine if bias exists, consider this question: Is there a real danger of bias on the part of the member of the decision-making body, in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?

The question is not limited to actual bias but relates to the appearance or possibility of bias. This is in line with the principle that justice should not only be done but should be seen to be done. Whether or not a member believes they are not biased is irrelevant. The focus should be on the nature of any conflicting interest or relationship, and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- statements or conduct indicate that a member has predetermined the decision before hearing all relevant information (that is, they have a “closed mind”), or
- a member has close relationship or involvement with an individual or organisation affected by the decision.

### Seeking exemption from the Auditor-General

Members who have a financial conflict of interest that is covered by section 6 of the LAMIA, may apply to the Auditor-General for approval to participate. The Auditor-General can approve participation in two ways.

1. Section 6(3)(f) allows the Auditor-General to grant an exemption if, in their opinion, a member's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the councillor when voting or taking part in the discussion.
2. Section 6(4) allows the Auditor-General to grant a declaration enabling a member to participate if they are satisfied that:
  - a. the application of the rule would impede the transaction of business by the council; or
  - b. it would be in the interests of the electors or residents of the district/region that the rule should not apply.

More information on non-pecuniary conflicts of interest and how to manage them can be found in the Auditor-General's Guidance for members of councils about the law on conflicts of interest.

### Protected Disclosures (Protection of Whistleblowers) Act 2022

The Protected Disclosures (Protection of Whistleblowers) Act 2022 is designed to facilitate the disclosure and investigation of serious wrongdoing in the workplace, and to provide protection for employees and other workers who report concerns. A protected disclosure occurs when the discloser believes, on reasonable grounds, that there is, or has been, **serious wrongdoing** in or by their organisation, they disclose in accordance with the Act, and they do not disclose in bad faith.

A discloser is a person who has a specified relationship with the organisation they are disclosing about, including members of boards and governing bodies. Serious wrongdoing includes:

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- an offence
- a serious risk to public health, or public safety, or the health or safety of any individual, or to the environment
- a serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial
- an unlawful, corrupt, or irregular use of public funds or public resources
- oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement by a public sector employee or a person performing a function or duty or exercising a power on behalf of a public sector organisation or the Government

Councils need to have appropriate internal procedures that identify who in the organisation a protected disclosure may be made to, describe the protections available under the Act, and explain how the organisation will provide practical assistance and advice to disclosers. A discloser does not have to go through their organisation first. An appropriate authority can include the head of any public sector organisation and any officer of Parliament, such as the Ombudsman and Controller and Auditor-General. Ombudsmen are also an “appropriate authority” under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

### **The Serious Fraud Office Act 1990**

The Serious Fraud Office (SFO) is the lead law enforcement agency for investigating and prosecuting serious financial crime, including bribery and corruption. The SFO has an increasing focus on prevention by building awareness and understanding of the risks of corruption – noting that the extent of corruption is influenced by organisational frameworks and support given to staff. The SFO encourages organisations to adopt appropriate checks and balances and build a culture based on ethics and integrity.

The four basic elements of best practice organisational control promoted by the SFO involve:

- Operations people with the right skills and experience in the relevant areas, with clear accountability lines.
- Risk mitigation to manage risks that can't be eliminated through segregation, discretion reduction, delegations, management oversight, and audit.
- Basic standards of behaviour moderated by a Code of Conduct, ongoing interests and gift processes (not simply annual declaration), plenty of opportunities and ways to speak up, disciplinary options, training and support.
- Design and oversight based on a clear understanding of operational realities (design, governance, management, audit, investigation, business improvement, and legal).

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### **The Local Government (Pecuniary Interests Register) Act 2022**

Following passage of the Local Government (Pecuniary Interests Register) Amendment Bill in 2022, a council must now keep a register of the pecuniary interests of their members, including community and local board members. The purpose of the register is to record members' interests to ensure transparency and strengthen public trust and confidence in local government processes and decision-making. Registers must comprise the following:

- the name of each company of which the member is a director or holds or controls more than 10% of the voting rights and a description of the 30 main business activities of each of those companies,
- the name of every other company or business entity in which the member has a pecuniary interest, other than as an investor in a managed investment scheme, and a description of the main business activities of each of those companies or business entities,
- if the member is employed, the name of each employer of their employer and a description of the main business activities of those employers,
- the name of each trust in which the member has a beneficial interest,
- the name of any organisation or trust and a description of the main activities of that organisation or trust if the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust, and the organisation or trust receives funding from the council, local board, or community board to which the member has been elected,
- the title and description of any organisation in which the member holds an appointment by virtue of being an elected member,
- the location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property,
- the location of real property, and a description of the nature of the real property, held by a trust if the member is a beneficiary of the trust and it is not a unit trust (disclosed under subclause 20) or a retirement scheme whose membership is open to the public.

Each council must make a summary of the information contained in the register publicly available; and ensure that information contained in the register is only used or disclosed in accordance with the purpose of the register; and is retained for seven years.

### **The Health and Safety at Work Act 2015**

The Health and Safety at Work Act 2015 aims to create a new culture towards health and safety in workplaces. A council is termed a Person Conducting a Business or Undertaking (PCBU) - all involved in work, including elected members, have a duty of care. Elected members are "officers" under the Act and officers are required to exercise due diligence to ensure that the PCBU complies with its duties. However, certain officers, such as

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elected (not appointed) members, cannot be prosecuted if they fail in their due diligence duty. Despite this, as officers, the key matters to be mindful of are:

- stepping up and being accountable,
- identifying and managing risks,
- making health and safety part of the organisation's culture, and
- getting workers involved.

Councils have wide discretion about how these matters might be applied, for example:

- adopting a charter setting out the members' role in leading health and safety – with the Chief Executive,
- publishing a safety vision and beliefs statement,
- establishing health and safety targets for the organisation with the Chief Executive,
- ensuring there is an effective linkage between health and safety goals and the actions and priorities of the Chief Executive and their senior management, or
- having effective implementation of a fit-for-purpose health and safety management system.

Elected members, through their Chief Executive need to ensure their organisations have sufficient personnel with the right skill mix and support, to meet the health and safety requirements. This includes making sure that funding is sufficient to effectively implement and maintain the system and its improvement programmes.

### **The Harmful Digital Communications Act 2015**

The Harmful Digital Communications Act (HDCA) was passed to help people dealing with serious or repeated harmful digital communications. The Act covers any harmful digital communications (like text, emails, or social media content) which can include racist, sexist and religiously intolerant comments – plus those about disabilities or sexual orientation and sets out 10 communication principles for guiding communication online. Under the Act a digital communication should not:

- disclose sensitive personal facts about an individual
- be threatening, intimidating, or menacing
- be grossly offensive to a reasonable person in the position of the affected individual
- be indecent or obscene
- be used to harass an individual
- make a false allegation
- contain a matter that is published in breach of confidence
- incite or encourage anyone to send a message to an individual for the purpose of causing harm to the individual
- incite or encourage an individual to commit suicide

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- denigrate an individual by reason of colour, race, ethnic or national origins, religion, gender, sexual orientation or disability

More information about the Act can be found at [Netsafe](#).

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