Nelson City Council
Te Kaunihera o Whakatū

# Council Reply
# City Centre, Commercial and Infrastructure

## Plan Change 29 to the NRMP

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## Appendices

Appendix 1: Memo from Jon Styles dated 7 October 2024

Appendix 2: Recommended Amendments to rule ICr.37B

# 1.0 Acronyms and Abbreviations

| Abbreviation | Full Text |
|---|---|
| Council | Nelson City Council |
| DNP | Draft Whakamahere Whakatū Nelson Plan |
| FDS | Nelson Tasman Future Development Strategy 2022-2052 |
| MDRS | Medium Density Residential Standards prescribed in Schedule 3 of the RMA |
| NES | National Environmental Standard |
| NPS | National Policy Statement |
| NPSUD | National Policy Statement Urban Development 2020 (updated May 2022) |
| NRMP | Operative Nelson Resource Management Plan 1997 |
| NZCPS | New Zealand Coastal Policy Statement 2010 |
| PC29 | Plan Change 29 |
| Panel | Plan Change 29 Hearings Panel |
| RMA | The Resource Management Act 1991 |
| RPS | Operative Nelson Regional Policy Statement 1997 |

# 2.0 Introduction

1. This reply for Plan Change 29 (PC29) to the Nelson Resource Management Plan has been prepared to address matters raised during the Hearing that are relevant to the City Centre, Commercial and Infrastructure topic. The matters addressed in the report include:

    a) State Highway Noise provisions;

    b) New building and alterations and additions in the Inner City – Fringe;

    c) Industrial demand and capacity as it relates to rezoning the Vincent/Vanguard block;

    d) Other Matters.

2. The further amendments shown here will also be included in the consolidated reply statement version of the provisions available on the PC29 Hearings webpage. The further amendments are shown in red text with green highlight.

3. On 16 October 2024, Radio New Zealand (RNZ) provided a formal notice stating that RNZ no longer seeks any changes to the proposed provisions of PC29.

# 3.0 Further Evaluation and Recommendations

## 3.1 State Highway Noise provisions

### 3.1.1 Reverse Sensitivity and Human Health Effects

4. Submitters at the Hearing raised several issues on the proposed state highway noise provisions. I have addressed these issues in the S42A report and Addendum report for City Centre, Commercial and Infrastructure. I comment below on matters not addressed in these reports. Jon Styles has also provided additional comments, and these are included at Appendix 1.

### 3.1.2 Purpose of the standard

5. At the hearing Mr. Witte stated that part of the purpose of State Highway acoustic insulation rules is to manage reverse sensitivity effects.

6. He also queried whether there was a strong evidential basis for the human health effects of state highway noise. In support of this he pointed to Waka Kotahi's submission which states, "*Noise generated by state highway traffic can adversely affect the health and wellbeing of people and communities. This is a position supported by the World Health Organisation and Waka Kotahi Research Report 292*". Mr Witte states that this is an engineering report and that it is not about health effects, but rather the report shows that road surfacing, sealing and traffic speed are the determinants for the noise.

7. As indicated in paragraphs 271 to 274 of my s42A report, the key resource management issue that the state highway noise provisions address relate to effects on human health and residential amenity. These effects do not relate to reverse sensitivity i.e. complaints by residents about road noise which would limit Waka Kotahi's ability to efficiently operate its network. Waka Kotahi has not provided any evidence to suggest that there is a reverse sensitivity effect that needs to be managed.

8. In relation to Mr Witte's points about the evidential basis for the human health effects of state highway noise, Mr. Styles states in his evidence, "*the main causes of adverse effects are annoyance (which can lead to earlier onset of other stress-related disease such as hypertension and ischemic heart disease) and a reduction in sleep quality and increased awakenings (sleep disturbance).*" In evaluating the reasons for managing community exposure to noise, Mr. Styles relies on the following:

   i. WHO Regional Office for Europe (2012). Methodological guidance for estimating the burden of disease from environmental noise. Copenhagen,

   ii. WHO Regional Office for Europe (2011). Burden of disease from environmental noise: quantification of healthy life years lost in Europe. Copenhagen,

   iii. Conclusion - WHO Regional Office for Europe (2011). Burden of disease from environmental noise: quantification of healthy life years lost in Europe. Copenhagen,

   iv. Research Report 656, Waka Kotahi, Evidential basis for community response to land transport noise, Published: June 2019

   v. https://www.euro.who.int/ data/assets/pdf_file/0008/383921/noise-guidelines-eng.pdf

   vi. Burden of Disease from Environmental Noise. Copenhagen, WHO Regional Office for Europe, 2011 https://www.who.int/publications/i/item/9789289002295

9. In section 5.2 of Mr. Styles evidence in chief, he refers "*to guidance from the WHO that estimates that at least one million healthy life years are lost as a result of exposure to transportation noise every year in Western Europe alone.*"

10. In section 5.4 of Mr. Styles primary evidence, he refers to a report 656[1] prepared by Waka Kotahi in 2019. I have reviewed this report and note that section 2.4 of the document sets out the health effects of noise exposure and concludes that, "*excessive environmental noise has been shown to have a wide range of negative health consequences. The actual noise level at which these effects begin to occur are subject to significant debate, but appear to lie within the levels often caused by road and rail traffic noise. Noise annoyance appears to be related to many of these health outcomes and is relatively simple to measure via socioeconomic surveys.*"

11. Mr. Styles has since provided supplementary advice (Appendix 1: Memo from Jon Styles dated 7 October 2024) to inform Council's reply. In this advice, he points to the document listed in his primary evidence (and section 7 above) and states:

    *"This list of references is certainly not exhaustive. There are a significant number of reports and studies available worldwide that demonstrate the adverse health effects arising from exposure to noise from transport infrastructure.*

    *Section 5 of my evidence in chief sets out my assessment of the adverse health effects. At paragraph 5.2 of my evidence, I refer to guidance from the WHO that estimates that at least*

[1] *Research Report 656, Waka Kotahi, Evidential basis for community response to land transport noise, Published: June 2019*

*one million healthy life years are lost as a result of exposure to transportation noise every year in Western Europe alone.*

*I consider that it is incontrovertible that potentially significant adverse health effects can arise from exposure to high levels of noise from road transport, and to well below some of the highest levels that will be experienced near to roads in Nelson. I consider that this is strong evidence to support the proposed rules*."

12. Relying on the evidence of Mr Styles, I consider it appropriate for PC29 to include state highway noise provisions to address effects on human health and residential amenity.

### 3.1.3 Density standards

13. At the hearing, Mr. Witte noted that PC29 anticipates increased intensification along the State Highway and observed that this creates an inherent policy inconsistency with the operative NRMP. Mr. Witte pointed to the Airport and Port Effects Control Overlays (AECO and PECO) which, create density controls (600m$^2$ for every residential unit) for sites within residential zones affected by noise from the port and airport. Part of the purpose of the AECO and the PECO is to manage reverse sensitivity effects and ensure that the Airport and the Port can operate efficiently (see Policy DO11.1.3 and D)12.1.4). As explained above, the state highway noise provisions are not concerned with reverse sensitivity effects and therefore a comparison with the AECO and PECO provisions is not relevant in my opinion.

### 3.1.4 Speed limits in relation to the State Highway Noise Overlay

14. Mr. Witte also stated that consideration should be given to the modelling that the State Highway noise overlay is based on. His concern is that, "*current government has recently consulted on increasing traffic speed limits and I query whether the noise contour will need to be adjusted, and a variation or plan change undertaken, if the Queen Elizabeth 2 Drive and Atawhai Drive section of SH6 reverts to 100km/hr as it was prior to December 2020."*

15. Mr Styles has provided the following comments (Appendix 1: Memo from Jon Styles dated 7 October 2024), "*The contours have been calculated using traffic flow data, speed environment data and other variables that are current or recent. It is not possible to create contours that are reliable for the future as there are too many unknowns and variables that cannot be accurately forecasted. These include road surfaces, speed environments, distribution of heavy vehicles and the general fleet mix. However, it is possible to build in an allowance for these variables by requiring the design of the noise sensitive activity captured by the controls to be based on current traffic noise levels and adding 3dB. The additional 3dB is designed to account for uncertainties in the variables listed above, (and some technical uncertainties). 3dB is a small increase when considering the building insulation process and is unlikely to make any appreciable change in the overall cost."*

16. Mr. Styles notes that while the methods proposed in PC29 represent current best practice, they are not perfect and will not automatically adjust the contour or design requirements for all possible changes in the traffic noise levels. The proposed rules will also not be able to 'shrink' the contours or design requirements if there is a change that reduces the noise emissions and extent of land affected.

17. He goes on to state that only major changes to the road would require an update to the contours via a plan change process. "*This might include adding additional lanes, structures, changing the*

*alignment or adding (or removing) bypasses or other roads that could significantly affect traffic flows elsewhere. Traffic flows would need to double or halve to change the noise levels by +3dB or -3dB respectively*."

18. Relying on the evidence of Mr Styles, there is already flexibility in the noise contours to cater for changes in vehicle speed limits and the concerns raised by Mr Witte on this matter have therefore been addressed.

### 3.1.5 Structure/Landform blocking line of sight from the State Highway

19. As notified, PC29 proposes acoustic insulation requirements for any new or altered residential activity within 100m of the state highway. PC29 reduced this requirement to 40m (REr.43A & SCr.36A) where there is an existing solid and continuous building, fence, wall or landform that blocks the line of sight from all parts of all windows and doors to the state highway.

20. My s42A report recommended deleting the notified setbacks and applying the mapped overlay as a trigger for acoustic insulation requirements. The s42A version of the rule also removed the word existing from REr.43A & SCr.36A. Instead, it referred to a solid structure blocking line of sight from a solid building, fence, wall or landform that blocks the line of sight from all parts of all windows and doors of the habitable space(s).

21. At the hearing, Mr. Witte indicated that, should a property owner choose the acoustic fence option the first issue they face is that proposed rule (REr43A) applies only to an existing solid and continuous building, fence, walk or landform that blocks line of sight from all parts of doors and windows to the new or altered habitable spaces to all parts of the formed carriageway of the state highway.

22. I agree with Mr. Witte's comments and also note that there are operative (REr.31) and proposed fence rules (REr.17I, REr.18I) that control fence heights and permeability. These rules are aimed at ensuring that developments contribute to safe and attractive streets and public open spaces. I note that these rules are only triggered when fences are within 4m of a road (front yard) and over 1.2m in height.

23. Mr. Styles notes that (Appendix 1: Memo from Jon Styles dated 7 October 2024), *road noise effects can be mitigated by a range of measures that do not include fencing. These include upgrades to the building envelope itself, designing a building or alteration so it is not exposed to road noise, and / or if that is not practicable, to ensure that windows are facing away from the road or at least perpendicular to it or utilising screening from other buildings or topography."*

24. I agree with the advice provided by Mr. Styles. While there is some conflict between the rules, fences are just one of the many options available to mitigate road noise. For example, a rear section that does not have line of sight from the state highway as a result of existing/proposed buildings on the front section would meet this requirement.

### 3.1.6 Recommendation

25. For the reasons given above I do not recommend further changes to the state highway noise provisions in response to matters raised at the hearing. On this basis, no evaluation under Section 32AA is required.

## 3.2 New building and alterations and additions in the Inner City - Fringe

### 3.2.1 Issues raised by submitters at the Hearing

26. At the hearing, Mr Lile requested the following further changes to the rule ICr.37B in relation to the Inner City Fringe zone.

    1. In terms of the provision for alterations to existing buildings as a permitted activity, Mr. Lile recommended that ICr.37B. 1 (c) be deleted. This provision provides a permitted pathway for external alterations to an existing building that are less than 100m2 of any non-street facing building façade. Mr. Lile considers that if an alteration is internal to the site, not facing the street, then a resource consent should not be required.

    2. Requested that all alterations and additions (that do not comply with the permitted threshold) in the Vincent Vanguard rezoned area be controlled.

    3. Lastly, the supplementary evidence requested that the controlled standard (for ads/alts in the Vincent Vanguard area) include a non-notification/written approval provision.

### 3.2.2 Evaluation

27. After the hearing, Mr. Lile, Ms. Morgan and I met to discuss the three remaining matters of contention described above.

28. Following this discussion, I maintain the position I set out in the s42A Addendum. I consider that it is appropriate to require a consent for larger alterations, even if they are non-street facing. Non street facing facades could be visible from different public spaces or from other streets not connected to the specific property. I am of the opinion that a controlled status for larger non street facing facades will effectively achieve objective IC2 (street and public amenity).

29. However, I support a further amendment to rule ICr.37B.2 to specify that controlled activities will be considered without notification or obtaining written approvals of affected persons. This is consistent with the requirements of the RMA (s95A(5)(b)(i) and s95B(6)(b) of the RMA).

### 3.2.3 Recommendation

30. In line with the agreement described above, I recommended amending rule ICr.37B.2 to include the following:

    Resource consent applications for controlled activities will be considered without notification or obtaining written approval of affected persons.

31. Refer to Appendix 2 to view the completed set of recommended rule changes for ICr.37B.

### 3.2.4 S32AA Evaluation

32. The recommended amendments primarily clarify the intent of the provisions. On this basis, no evaluation for the recommended amendments under Section 32AA is required.

## 3.3 Industrial Demand and Capacity – Rezoning Vincent / Vanguard block

### 3.3.1 Issues raised by submitters at the Hearing

33. PC29 proposes to rezone the Vincent / Vanguard block from Industrial to Inner City – Fringe. At the hearing, Mr. Gibbons question was raised on whether there will be sufficient industrial land in Nelson as a result of the proposed rezoning.

### 3.3.2 Evaluation

34. The FDS indicated a land use change (to the Vincent/Vanguard Industrial Area) by stating, "A mixed-use spine is proposed along Vanguard Street/ St. Vincent Street and Waimea Road recognising its good accessibility to public transport and services and the limited development constraints around Nelson South." PC29 proposes to implement this FDS direction.

35. Since the FDS was adopted, Council has published a new Housing and Business Capacity Assessment (HBA) in July of 2024. This HBA identifies increased demand for industrial land but does not identify additional capacity to meet this demand. As a result, there is a short fall of industrial capacity in Nelson in the long term (11-30years)[2].

36. The shortfall is minor in the context of long term industrial demand. The next review of the FDS (2025) will identify locations for new industrial development. In addition, existing industrial activities in the St. Vincent/Vanguard area will be able to continue to operate. These operations will be supported by reverse sensitivity considerations proposed through officer recommendations on PC29 and existing use rights.

### 3.3.3 Recommendation

37. For the reasons given above I do not recommend further changes. On this basis, no evaluation under Section 32AA is required.

## 3.4 Other Matters

### 3.4.1 Tahunanui Library

38. At the hearing, the Tāhunanui Business Citizen Association discussed the Nightingale Memorial library at 2 Beach Road, Tāhunanui. The submitter queried whether there underlying zoning of the library and indicated that underlying zoning of the library is wrong. The submitter noted that the library is shown on ePlan as being in the Suburban Commercial zone but should instead be located in the Open Space and Recreational Zone.

39. I have checked the ePlan against the original maps and confirm that the Nightingale Memorial Library is located in the Suburban Commercial zone and has been in this zone since at least 26 January 2008.

[2] HBA 2024 projects a surplus of industrial land (14.67 hectares) when considering the combined Nelson City Council and Tasman District Council urban area. However, this does not take into account the proposed rezoning of the Vanguard Street/ St. Vincent Street (15.49 hectares) industrial zone. When this is accounted for there likely to be a shortfall of approximately 1 hectare.

### 3.4.2 Recommendation

40. For the reasons given above I do not recommend further changes. On this basis, no evaluation under Section 32AA is required.

## 4.0 Conclusion

41. The above analysis sets out my opinion on the matters raised by the submitters at the Hearing, on matters relating to the City Centre, Commercial and Infrastructure topics. I have recommended one minor change to rule ICr.37B.2 to specify that controlled activities will be considered without notification or obtaining written approvals of affected persons.