Submitter #453
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1. **I'd like to thank the Council technical team for enabling the online presentations which have been very helpful and also the Commissioners for listing to my presentation and to acknowledge the planning staff for their high level of knowledge and expertise in this field.**

2. I am a qualified Civil Aviation Authority Licensed Aircraft Maintenance Engineer (Avionics) and I have been in aviation for my entire life. Arriving in NZ from the UK in 1996. I started my own business and moved to Nelson in 1999, primarily because of the quality of life associated with the Climate, the Sun and a unique beautiful little low-rise City.

3. I am not a planner, nor a lawyer and I don't hold any qualification or expertise in local government matters or demographics. I am not a public speaker and have never presented at a hearing before, but I am extremely passionate about Nelson and the residents who live here and I strongly believe they deserve to be treated fairly.

4. PC29 has taken more time out of my life over the last 12 months than I wish to count and probably resulted in more stress, than I care to mention and I really sympathise with all the residents of Nelson who stand to be much more severely affected than I, who are less able than my-self to wade through immense amounts of information on a subject that I have no experience with and then speak up for those residents who are cannot.

5. The scope of this presentation only represents a small portion of the entire Plan Change and I can only hope that better qualified residents, than myself, are able to make more comprehensive presentations than my own.

6. **Why am I here…**

   At the **Green Meadows public meeting** 20th Sept '23, **a person spoke about an 82 year-old lady who spends her sunny winter days in her car, because a building has taken Her winter Sun.**

   I am here to speak up for Her and all those residents who have had stressed, sleepless nights over this plan but cannot interpret what the plan actually means in a way that even enables them to submit, let alone speak.

7. **51 Shelbourne St in the HAO 'Non Notifiable'**

   7.1. It is **2,539 Sqm** with **43m road frontage,** 43m AMSL + 19.5m = **total 62.5m** AMSL total **(Just 232m from the Cathedral)** PP a-b

   7.2. **The Cathedral** is just 23m AMSL. Height of the Cathedral 35m high = **total 48m**

   7.3. **Rutherford Hotel** is 40m high and 5m AMSL = **total 45m**

8. **NRMP Policy RE2.3**

   Daylight and Sunlight

   Buildings* and *structures* *should be designed and sited so that adjoining *sites* are not unduly shaded, and there is reasonable access to daylight.

   ["Unduly" meaning- more than is necessary, acceptable, or unreasonable]

   Explanation and Reasons

   RE2.3.i

   The reception of daylight and sunlight to each household unit is a critical component of residential amenity that provides warmth and energy efficiency, and is vital for outdoor activities such as gardening and recreation.

9. **The Nelson Climate is Unique - with Sun and Frost**

   9.1. **Sunshine Capital of NZ**- In the top four sunniest locations in NZ with **Appx 2,400 Hrs** per annum (ref: NIWA report 2nd Edition pg 27)

   9.2. Nelson has more **'Mean Monthly Days of Ground Frost occurrence'** than the majority of the rest of the country's urban areas. – (chart from NIWA.co.nz) – ref PP 1

10. **Sunshine wages**

    People are expected to earn less for the privilege of living in a beautiful sunny environment. "sunshine wages"
    It is the second from lowest income region in the Country. (ref: Figure.nz June 2023)

11. **NCC Commissioned a 'Housing We'd Choose' report –** ref PP 2

    By M.e. Consulting dated June 2021 and -
    Nelson ranks 'Sunny' as the number one, of sixteen preferences of Housing and is ranked above personal safety from crime and personal safety from natural disasters such as flooding and landslides
    Tasman only ranks 'Sunny' as third, because the land is flatter and shading is much less common.

12. **Nelson is NOT Flat and Sunlight is Critical for Warmth –** ref PP 3-4

    The topography of Nelsons hills, valleys, existing buildings and big trees have a significant effect on shading. It is a trap for newcomers to Nelson who may have only holidayed here in the Summer, unaware of the shading effects the hills will have on the enjoyment of their property, in winter and the cost to heat it. The valleys that get cold air funnelling down from the frozen hills with little Sun in winter can stay frozen for a significant part of the day. The vast majority of properties do not have an unrestricted northerly aspect and all-day winter sun. But perhaps only a very cherished sliver, between hills, trees and buildings. Residents will know and protect their own special sun places. It may be one hour through a certain window, or a certain place on a deck. It would have been wisely considered when the property was purchased and deemed to have 'significant value'. **If a new development only blocks a portion of sunlight on a neighbour, it may be the only sunlight that neighbour ever had.**

13. **There is a significant temperature difference between Sun and Shade –** ref PP 5

    13.1. **I lived in Emano St on the South Side of a hill and only had 20 mins of sunlight**, through a bedroom window in mid-winter. The house was old, uninsulated and continuously cold and damp. It was soul destroying to have the heating on, while

watching neighbours across the road, sat outdoors in shorts and tee shirts bathed in warm winter sunlight.

13.2. We lived in Cable Bay for a while and we know there is a stretch of road in the Hira Valley where no sunlight reaches in the middle of winter and it completely freezes over. We have seen cars smashing into farmers fences due to black ice, even on the sunny days

13.3. **New dwellings can cope with no sunlight, but old dwellings may not. It can be cost prohibitive to retrofit and completely insulate and double glaze an old home that very much relied on Sunlight and sometimes multiple Open Fireplaces for heating**

13.4. **NCC Banned open fires for heating in 2008 Leaving home owners to be even more reliant on Sunlight** and less effective alternative clean air heating options in big, old, cold houses with high ceilings that will create more greenhouse gases to heat and **contravene NPSUD Objective 8 (a)**

14. **I believe it is completely unacceptable that there is NO Section 32 'Shading Analysis Report' for Nelson, given the reliance of Sun in this region**. Which I think should at least include, (but not limited to the following negative adverse effects);
    1. The temperature differences between sunlit homes or shaded homes
    2. The adverse effects of loss of passive Solar Heating
    3. The adverse effects on loss of green energy from Solar Panels
    4. The additional heating costs & associated carbon emissions and the alignment with the **NPSUD Objective 8:**
        a. Support reductions in greenhouse gas emissions; and
        b. Are resilient to the current and future effects of climate change
    5. The adverse effects on disadvantaged lower income earning households who may be unable to increase their heating costs or insulate their home
    6. The adverse effects on dampness in homes and increased mould & mildew & associated respiratory health problems
    7. The adverse effects on mental well being
    8. The adverse effects on a reduced ability for growing food in a shaded winter garden

15. **Existing NRMP AP15 daylight rules for daylight over and daylight around are tailored specifically for the Nelson Climate –** ref PP 6-7

16. **Refer Shading Diagrams** – ref PP8-17

17. **Refer Shading Videos** – Location ref PP18
    17.1. PP19-**Existing 7.5hrs**, PP20-**MDRZ 2hrs**, PP21-**GRZ 4.5hrs** – (7 & 9 Renwick Place)
    17.2. PP22-**HD**, PP23-**MDRZ** – (4 Examiner St & 194,202, 206 Rutherford St) – Chelsea Park Motor Lodge 4 Star Hotel. Two storey with North facing balconies.

18. **Demographics** I support Submitter #474 Dr Geoffery Hayes on this subject
    18.1. NPSUD Subpart 3.9

(1) Every tier 1, 2, and 3 local authority must monitor, quarterly, the following in relation to each urban environment in their region or district:
   a) the demand for dwellings
   b) the supply of dwellings

    18.2. **NPSUD Objective 7: Local authorities have robust and frequently updated information about their urban environments and use it to inform planning decisions.**

    18.3. **Ministry for the Environment - Guide on Evidence and Monitoring**
        a) **Recommends using Statistics NZ median projections for planning purposes.**
        b) "In some cases, a local authority may want to commission its own bespoke projections from another provider. The rationale for choosing to augment, or depart from, the Statistics NZ projections should be explained in the assessment in a way that can be traced and audited"

    18.4. **There are only two sets of Demographic projections in question here.**

        a. **The NCC 'in house' demographic projections dated 2020** that have been used for the foundation of the LTP 2021, FDS 2022, HBA 2021
            i. See LGOIMA ref: SR 2420899 dated 16th July. Theme 2 – Response

        b. DOT Loves Data projections dated March 2023 that have been used as a basis for the LTP 2024 and HBA 2024 (Post PC29 notification)

18.5. **The reliability of the NCC 2020 'Hybrid' Demographic projections have been severely questioned by Senior Demographer at Waikato University, Dr Natalie Jackson**. Ref: Statement by Dr Natalie Jackson dated 17th Nov 2021.

"The clumsy manner in which the NCC has produced 'hybrid' projections makes them an inadequate basis for Housing and Business Capacity Assessment, including 'Housing Bottom Lines, or other planning functions".

18.6. **NCC were aware of Natalie Jacksons scathing review of their demographic projections before PC 29 was released but NCC went ahead and used them anyway.** See my LGOIMA ref: SR 2420899 dated 16th July. Theme 2 – Response.

18.7. Email dated 4th June 2024 at 5:45pm from the NCC Group Manager Environmental Management gives a high level of credibility to Dr Jackson and states:-

"Dr Natalie Jackson, is one of New Zealand's leading demographers"

18.8. **In a LGOIMA request regarding the DOT projections, from TDC to Dr Hayes dated 27th August '24 it states "DOT offered to provide us [TDC] with projections at no cost as they wanted a case study to build experience and credibility and to demonstrate their ability to provide projections"**

18.9. **The DOT projections forecast a future date when deaths would exceed births in Nelson, for the first time, which according to latest StatsNZ data, was last year, which is 15yrs earlier than the DOT medium projection.** Ref: Dr Hayes for evidence.

a) **It is my view that it is a reputationally Bold Statement for anyone to stand up in support of either of these projections by stating "they appear not unreasonable, based on recent growth trends in the region". It is like a financial adviser stating future high growth gains are a reasonable assumption based on a previous 'selectively' high growth period.**

18.10. **August 2023 - PC29 Media Launch continued to use NCC2020 projections**– ref PP 24

Nelson requires 6,470 households by 2051 and Nelson's population has increased by 13,400 between 1996 and 2020 **(at a rate greater than the National average)** which is factually incorrect – refer to Dr Hayes for evidence on this.

18.11. PC29 uses the NCC2020 projections through the HBA 2021, FDS 2022 & LTP 2021 as the basis of the plan change

18.12. **I wrote to the Mayor and Councillors in May 2024, urging demographic decision based plans be paused, pending an urgent, full and thorough independent investigation.** See attached letter and email dated 22nd May 2024 titled 'A Bent Ruler makes a Bent House'

18.13. **Section 32 -Appx 1G** '**Housing Plan Change' report** dated 16th May 2023
This report uses the NCC2020 projections through the HBA 2021 as a base reference

a) **Please note that NCC also applied an additional unnecessary 5% margin over and above the mandated Govt 15%-20% Competitive Margins [for the Demand Projections] which only serves to over inflate the Dwelling Demand quantity still further to 8,000 dwellings–** ref para 2.2 sub para (iii) pg 9. **This unnecessary action alone, is unhelpful with regarding building trust between residents and Council promoting growth.**

b) **Dwelling Demand Projections** – pg 10

(i) **NCC projects 6,900 [additional] dwellings** (without margins)
(iii) **SNZ Medium Series 2,600 [additional] dwellings** (without margins)
SNZ 2018 Census states **21,294 total dwellings in Nelson**
Please note SNZ forecast is 62% less than NCC and SNZ employ over 1,100 staff including very experienced qualified Demographers and have 68 yrs experience

18.14. **Modelled Capacity Scenarios**

a) **Scenario 1**:

Existing Baseline Capacity – NRMP – ref PP 25

Plan enabled capacity for an additional 11,100 dwellings which is over 60% surplus capacity even using the NCC 6,900 projection.
6,600 dwellings of that capacity is within the Central demand catchment area.
2,900 dwellings of the capacity is in the South demand catchment area.
Most through redevelopment and infill opportunities.

b) **Scenario 2:**

PC29 Plan enabled capacity for an **additional 64,100 dwellings. Which is an 829% surplus capacity even using the NCC 6,900 projection.**

c) **Scenario 4**:

PC29 (Replace HDRZ with MDRZ) Plan enabled capacity for an additional 34,100 dwellings. Which is a 394% surplus capacity even using the NCC 6,900 projection.

18.15. **NPSUD Policy 2:** Tier 1, 2, and 3 local authorities, at all times**, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term and long term. (Long term means 10-30 yrs and NOT 300 yrs).**

19. **Summary**

19.1. **This plan creates new recession plane rules that do not align with Policy RE2.3**

19.2. **PC29 was created in a vacuum, and completely excluded public notification, consultation and engagement** in any way whatsoever, with no chance to object.

19.3. **PC29 was released in August 2023, with just 27 days to submit, on a document so vast and so complex, it has left even the highest level of educated residents in the community struggling to understand how it affects them, let alone formulate a submission on it.**

19.4. **There was only minimal advertising about its release.** We get more info about blocked drains, road works, the new eBus and so only a few residents realised its significance and its implications.

19.5. **There was misleading information in the media.** Also refer to SJ Weir and J Chambers on this topic.

19.6. **There was never any community forewarning of six storey developments** – refer to Rachel Reese's presentation.

19.7. **There were no 'Neighbourhood Plans'** as per the FDS

19.8. **There was no notification of the negative adverse effects of shading,** with no meaningful shading diagrams. Shape Nelson has a section called 'How PC29 could affect you' and it had none.

19.9. **Council knew all about the negative adverse effects of shading** ref: NCC submission Point S947.015

19.10. **There was no Section 32 Shading analysis report for Nelson.**

19.11. **There were no planned public meetings** or opportunity to understand the plan.

19.12. **There was no notification on an all new 'Noise Corridor Rule'** along State Highway 6

19.13. **Public meetings and a time extension were only given due to pressure by the community**

19.14. **The Planners at every public meeting repeatedly 'Stone Walled' all the residents who raised 'difficult' questions by stating this is a 'Broad Brush Approach' that called for lots of submissions to 'refine it' and yet vast swaths of those valid submissions have been completely swept aside and rejected.**

19.15. **Council appear to have a desire to cling on to the 'questionably, aggressive' population growth projections that justify the significant growth demand,** because all calls by the community to have the source demographic projections subjected to a fully independent technical review have been ignored.

19.16. **'Building Bulk' has been prioritised over sunlight protection** of the residents number one reason of housing preference.

19.17. Councillors have had plenty of opportunity to listen to the numerous residents heart felt pleas for help and pause this plan, before we got to this point, but again, they have all been ignored.

19.18. **The Mayor told me, at the Trafalgar Centre meeting, that he was not aware that six storey buildings could be built without notification to affected neighbours, when he initially voted the plan through for submissions.**

19.19. **This is a Plan Change that has been created to enable Intensification at all costs, with deliberately thought through actions by highly qualified and experienced planners, hired experts and legal professionals to create new rules that 'enable intensification without notification to eliminate objection and incentivise developers with reduced costs and certainty. 'NON-NOTIFICATION IS THE KEY' to PC29.**

19.20. **Even the baseline GRZ recession plane rules will 'Unduly Shade' adjoining sites** and affect the vast majority of the Nelson Community.

19.21. **If there have been no objections about the removal of the HDRZ, then why was it ever included in the first place?**

19.22. **NPSUD Policy 5:** Regional policy statements and district plans applying to tier 2 and 3 urban environments **enable heights and density** of urban form commensurate with the greater of:

a) The level of accessibility by existing or planned active or public transport to a range of commercial activities and community services; or

b) Relative demand for housing and business use in that location.

It doesn't state – 'without notification', to give certainty to developers and keep their costs down'

19.23. **I strongly believe that the content and process of this Plan Change could lead to a challenge regarding 'Natural Justice'**

20. **Conclusion**

20.1. **I am not against growth, nor intensification, but I am strongly against a plan that will negatively affect so many Nelsonians, and I believe many of them are still completely unaware and oblivious to the potential effects of shading.**

20.2. **How can this possibly be considered a 'Community Plan' and not a 'A Council Plan' in absolutely every respect.**

20.3. **If the PC29 recession planes go ahead, then it will be a "Compulsory entry into a game of Russian Roulette for most Nelsonian's" and will most likely result in a 'Non Well Functioning Environment for Nelson': ref NPSUD Objective 1**

20.4. **Ms Morgans response to the Chair's question about the lack of information on the loss of Sunlight Amenity in the RPS is that "it almost gives effect to it by absence of policy". In aviation law it can generally be assumed that in the absence of policy then something is NOT allowed rather than visa versa, so I would like to see a legal determination on that point rather than a planners personal view.**

20.5. **Nelson City is currently running on life support and we urgently need a well-designed community plan, but it is my view that PC29 has a finger hovering over the 'off switch'.**

20.6. **It is also my view that if the sunlight amenity is taken away from Nelsonians, then it will be seen as 'An Under Arm Bowl, squarely directed at the Nelson Community', with all its associated long lasting stigma and repercussions for this Council**

21. Recommendations to move forward

21.1. I would like to see NCC carry out a fully independent technical review of the demographic projections that are used for planning purposes to verify their 'robustness' (as per NPSUD Objective 7) because they are a fundamental corner stone for planning and budgeting. The risks of 'significant inaccuracies' can have dire consequences for the level of intensification required for the community.

21.2. I would like to see AP15 being retained for all residential zones.

21.3. I would like to see the protection of green energy solar collection given priority in order to reduce greenhouse gas emissions, given the regions levels of Sunlight (as per NPSUD Objective 8)

21.4. I would like to see Council prioritising steps to regain the trust of the Community with genuine public engagement and consultation to create much needed neighbourhood plans for the future of Nelson

21.5. Increase public transport for accessibility rather than building for accessibility

21.6. Six storey residential developments can be built within walking distance to the City, without 'unduly shading' neighbouring residential properties, as with the 71 Haven Road development. 31 Apartments with car parking. $675k one-bed/$750k two-bed/$1,850k three-bed Ref: Baileys Real Estate

21.7. One dwelling has been replaced with four at 19 Totara Street. Land Area - 784 m2 including off street parking without shading neighbouring residential properties – ref PP26-27

21.8. Shading over car yards, up against hills, over industry, over commercial, over car parks, over roads, over rivers or streams, over sports and recreational areas. Rather than where existing residents live.

21.9. Building residential over inner City Carparks

21.10. Partitioning existing large character homes, will have minimal impact on infrastructure, maintain the street character and be a carbon efficient way to use resources, rather than demolish and re-build

Additional Reference info:-

1. It is noted that Commissioner O'Neill-Stevens and Commissioner Brand have both omitted information from their 'Interests register' with regard to twice voting through PC29. See attached council minutes from the 14th September Meeting.

2. **Relevant RMA information**

2.1. **Section 2 - Interpretation**

a) **Amenity Values** – means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes

b) **Environment** - includes

(a) Ecosystems and their constitutional parts, including people and communities; and
(b) All natural and physical resources; and
(c) **Amenity values**; and
(d) The social, economic, aesthetic, and cultural conditions which affect the matter stated in paras (a) to (c) or which are affected in those matters

2.2. **Section 5 - Purpose**

(1) **The purpose of this Act is to promote the sustainable management of natural and physical resources.**
(2) **In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety** while—
(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
(b) **safeguarding the life-supporting capacity of air, water, soil, and ecosystems**; and
(c) **avoiding, remedying, or mitigating any adverse effects of activities on the environment**.

2.3. **Section 7 - Other matters**
In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and **protection of natural and physical resources**, shall have particular regard to—

(b) **the efficient use and development of natural and physical resources:**
(c**) the maintenance and enhancement of amenity values:**
(f) **maintenance and enhancement of the quality of the environment:**
(g) **any finite characteristics of natural and physical resources:**
(j) **the benefits to be derived from the use and development of renewable energy.**

2.4. **Section 75 - Contents of district plans**
(1) A district plan must state—
(a) the objectives for the district; and
(b) the policies to implement the objectives; and
(c) **the rules (if any) to implement the policies.**

3. **Environment Court Decision** No. [2024] NZEnvC 155 between Save the Maitai Incorporated v NCC & CCKV Maitai Dev LP & Bayview Nelson Ltd

Para [14] pg 7
The court has comprehensively summarised the principles applicable to plan changes in a number of cases including Colonial Vineyard Ltd v Marlborough District Council, Cabra Rural Developments Ltd v Auckland Council, and more recently Edens v Thames Coromandel District Council.

The applicable general principles are:

(a) proposed objectives are to be evaluated as to whether they are the most appropriate way to achieve the purpose of the RMA. Policies are to implement objectives.
(b) **The proposed rules are to implement the policies;**
(e) **new rules must be evaluated with regard to the actual or potential effect on the environment of the activities that they would enable, in particular any adverse effects**.