Nelson City Council
Te Kaunihera o Whakatū

Plan Change 29 to the NRMP

Section 42A Report – City Centre, Commercial & Infrastructure

Prepared by Mithran Gopinath

24 June 2024

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1.0 Executive Summary

1. My name is Mithran Gopinath and I am a Senior Policy Planner at Nelson City Council. In this section 42A report I specifically address the submission on Plan Change 29 (PC229) relating to:

   a) The proposed amendments to the Inner City Zone (Inner City and City Fringe) and Suburban Commercial Zone issues, objectives, policies and rules;

   b) The proposed noise provisions including the amendments to Rule SCr.30C: Residential unit - acoustic insulation, Rule ICr.43A: Acoustic Insulation of Buildings, Appendix 19 Acoustic Insulation and the proposed State Highway Noise Overlay;

   c) The proposed rezoning of the St Vincent Street/Vanguard Street Industrial Zone to Inner City - Fringe;

   d) Infrastructure related amendments including the proposed changes to the Services Overlay and development near transmission lines and the National Grid.

2. The analysis undertaken in this report is informed by the Section 32 Report for PC29. It is also informed by the technical infrastructure evidence of Cam Wallace (urban design), Philip Ruffell/Rhys Palmer (infrastructure) and Jon Styles (noise).

3. Following a detailed review of the issues raised by the submissions and further submissions, I propose further amendments to the relevant Inner City Zone and infrastructure related provisions in PC29, as follows:

   a) Amendments to policy IC1.9, IC2.3 SCr.21.3, SCr.21.4 to provide for increased accessibility, reflect changes proposed to lighting standards and include micromobility.

   b) Amendments to IC4A.1, SC2A.1, ICr.37C.4, ICr.40A.4, SCr.30.4, SCr.30A.4 and SCr.30B.4 to provide for the functional needs of residential activities that have a care component.

   c) Amendments to Rules ICr.35 (daylight admission), ICr.37A (building height), SCr.22 (building height), SCr.27 (daylight admission) to provide a restricted discretionary pathway for activities that contravene a permitted condition.

   d) Consequential amendments to Policy 2.5A and Rule SCr.22 (building height) to remove references to the High Density Residential Zone and replace it with the High Accessibility Overlay.

   e) Amendments to ICd.11, ICd.17, AC4A.1(a), ICr33, ICr.37D, ICr.37B.4 to provide for some residential activity at the ground floor in the Inner City Zone (Inner City and City Fringe)

   f) Amendments to ICr.37B.4 (new buildings and alterations and additions) to include additional assessment criteria to address the potential reverse sensitivity effect as a result of the proposed Inner City – Fringe rezoning.

   g) Amendments to notified State Highway noise rules – REr.43A and SCr.36A which include:

      i. Replace the 100m set distance with a mapped overlay.

ii. Qualify additions as being increases in habitable space gross floor area by 10m2 or more.

iii. Remove acoustic insulation requirements for internal alterations.

iv. Remove reference to vibration as a matter of discretion.

v. Amend the matters discretion primarily to focus on indoor noise levels.

vi. Remove references to reverse sensitivity effects on the safe and efficient operation of the State Highway network in the matters matter of discretion.

vii. Additional standard to address cumulative noise.

viii. Additional standard relating to mechanical ventilation and cooling system compliance.

h) Amendments to residential acoustic requirements in the Inner City (ICr.43A) and Suburban Commercial zone (SCr.30C) to replace the term bedroom with habitable spaces.

i) Amendments to Appendix 19 (acoustic insulation requirements) which include:

i. Reinstate internal noise limit for mechanical ventilation systems.

ii. Reduce the need for six air changes per hour to one whilst maintaining compliance with clause G4 of the Building Code.

iii. Remove reference to the Port Effects Control Overlay is removed from AP19.3.

j) Inclusion of a definition for Acoustic Insulation to address any potential conflict between terms and rules.

k) Amendments to the definitions of sensitive activities to link with defined terms in the NRMP and expand to include papakāinga, short term living accommodation, community activity, health facility.

l) Inclusion of a definition for Regionally Significant Infrastructure to link with the notified amendments to DO14.4.

m) Amendments to the notified definitions of National Grid, National Grid Corridor and National Grid Yard to reflect the infrastructure present in Nelson and align with the National Policy Statement on Electricity Transmission (NPSET) 2008.

n) Inclusion of a new policy (DO14.4.2A) to capture the effects on the National Grid.

o) Amendments to notified rules REr.17A and REr.18A to require an assessment of infrastructure capacity.

p) National Grid – amendments to Rules REr.51. Inclusion of new rules – REr. 51A and REr.61B and amendments to Subdivision rule REr.117.

q) Amendments to various provisions to clarify that residential density is restricted within the Airport and Port Effects Control Overlay.

4. In my view, the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of the NRMP and other relevant statutory documents, for the reasons set out in the Section 32AA evaluation undertaken.

5. Appendix 1 provides the accept/accept in part/reject recommendations to each of the submission points relating to the matters addressed in this report.

2.0 Acronyms and Abbreviations

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

3.0 Introduction to the Report

3.1 Purpose of the report

6. The purpose of this report is to evaluate the submissions on PC29 in relation to the proposed Inner City, Suburban Commercial, Industrial and Infrastructure related provisions of PC29 including in particular:

    a) The proposed amendments to the Inner City Zone (Inner City and City Fringe) and Suburban Commercial Zone issues, objectives, policies and rules;

    b) The proposed noise provisions including the amendments to Rule SCr.30C: Residential unit - acoustic insulation, Rule ICr.43A: Acoustic Insulation of Buildings, Appendix 19 Acoustic Insulation and the proposed State Highway Noise Overlay;

    c) The proposed reasoning of the St Vincent Street/Vanguard Street Industrial Zone to Inner City - Fringe;

    d) Infrastructure related issues including:

        i) Proposed amendments to the infrastructure related definitions;

        ii) Proposed amendments to the infrastructure related objectives and policies;

        iii) Requests to introduce radiocommunications provisions;

        iv) The proposed deletion of the Services Overlay and related infrastructure rules;

        v) Proposed amendments to rules for activities close to the National Grid;

        vi) Issues raised by the Nelson Port and Nelson Airport.

7. Appendix 1 provides the accept/accept in part/reject recommendations to each of the submission points relating to the matters addressed in this report.

8. The amendments to the zoning and provisions of PC29 that I recommend are included in the consolidated version of the zoning maps and amended provisions available on the PC29 Hearings webpage. Each section of the report below also states the amendments I recommend in relation to the issue discussed. Appendices 4-7 also include my recommended amendments to the noise provisions.

9. The report has been prepared in accordance with the requirements of section 42A of the RMA, is intended to assist the Panel to make decisions on the submissions and further submissions on PC29 and should be read in conjunction with the Section 42A report – Overview and Strategic.

10. The conclusions reached and recommendations made in this report are recommendations to the Panel. It should not be assumed that the Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

3.2 About the Author

11. My name is Mithran Gopinath. I am employed by the Council as a Senior Planning Advisor in the Environmental Planning team. My qualifications include a Bachelor of Law from the University of Leeds (UK) in 2012, Master in Law (Specialising in Banking and Finance Law) from the University of Leeds (UK) in 2013 and a Master of Planning from Lincoln University in 2019. I have been a student member of the New Zealand Planning Institute since 2018.

12. I have 5 years' experience working as a resource management planner, with this work split between resource consents and policy. My planning experience includes:

    a) Over two years working for Timaru District Council as a resource consents planner, processing a wide range of resource consents;

    b) Two and a half years working as a policy planner in the Policy Team at Nelson City Council. This work has primarily been focused on preparing PC29.

13. Although this is a Council Hearing, I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the evidence of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

14. However, I acknowledge that during the course of the hearing, new evidence, information, or other matters may arise that could impact my opinion and subsequent recommendations. As such, I reserve the right to modify my evidence, in whole or in part, based on any such developments.

3.3 Supporting evidence

15. In preparing this report I have relied on the following expert evidence:

- Cam Wallace – Urban design: particularly those aspects which address the submissions seeking changes to the built form provisions in the Inner City, City Fringe and Suburban Commercial zones.
- Philip Ruffell and Rhys Palmer – Infrastructure: particularly those aspects addressing submissions on the proposed removal of the Services Overlay, rules addressing infrastructure connections and capacity, and the proposed amendments to the Pipes and Drains rules.
- Jon Styles – Noise: particularly those aspects addressing submissions that seek changes to the proposed noise attenuation rules for properties adjoining State Highway 6 and the proposed amendments to the noise attenuation and ventilation standards in the Inner City, City Fringe and Suburban Commercial zones.

4.0 Statutory Requirements

4.1 Statutory documents

16. Sections 5 to 10 of the Section 32 report for PC29 provide an overview of the relevant statutory considerations applicable to PC29. Those sections also set out the relationship between sections of the RMA and higher order documents, i.e. relevant iwi management plans, other relevant plans, and strategies. This is also addressed broadly in the Section 42A report – Overview and Strategic.

17. I have not repeated the detail of the relevant RMA sections and the full suite of higher order documents here. The assessment of submissions on the issues below addresses the relevant statutory tests and documents detailed in the Section 32 Report as necessary. However, I list the relevant legislation and statutory documents relevant to this report below:

a) Part 2 of the RMA and in particular:

i) Its purpose to promote sustainable management to enable people and communities to provide for their social, economic and cultural well-being and health and safety (s5)(2);

ii) The efficient use and development of natural and physical resources (s7(b));

iii) The efficiency of the end use of energy (s7(ba));

iv) The maintenance and enhancement of amenity values (s7(c));

v) The maintenance and enhancement of the quality of the environment (s7(f)), and;

vi) The effects of climate change (s7(i)).

b) National Policy Statement on Urban Development 2020 and in particular:

i) Objective 1 and Policy 1 which seeks to provide well-functioning urban environments with a variety of homes and a variety of sites suitable for business use, with good accessibility, limited impact on the competitive operation of land and development markets, reduced greenhouse gas emissions and resilience to the current and future effects of climate change;

ii) Objective 3 and Policy 5 which seeks to enable more people to live and more business and community services to be included in and near centres, areas well served by public transport and where there is high demand for housing and business land;

iii) Objective 4 and Policy 6 which recognise that amenity values develop and change over time in response to the diverse and changing needs of people, communities and future generations, and;

iv) Objective 6 which seeks to integrate planning decisions with infrastructure planning and funding decisions.

18. National Policy Statement on Electricity Transmission 2008 in particular:

a) Policy 2 which seeks to provide for the effective operation, maintenance, upgrading and development of the electricity transmission network;

b) Policy 10 which seeks to the extent reasonably practicable to manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised, and;

c) Policy 11 which requires that local authorities consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans.

19. Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 (NESTF) which provides a nationally consistent rule framework for telecommunications infrastructure.

4.2 Section 32AA evaluation

20. This report uses key issues to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where applicable, the recommended decisions have been evaluated using section 32AA of the RMA. The section 32AA further evaluation for each key issue considers (as relevant):

a) Whether the amendments proposed in this section 42A report to objectives are the most appropriate way to achieve the purpose of the RMA;

b) Whether any amendments proposed in this section 42A report to other provisions are the most appropriate way to achieve the objectives, including by consideration of other reasonably practicable options for achieving the objectives;

c) The efficiency and effectiveness of the amendments proposed in this section 42A report to other provisions in achieving the objectives.

21. The section 32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been recommended in this report. A section 32AA analysis is used for more complex issues. Recommendations on editorial, minor and consequential changes that improve the effectiveness of provisions without changing the policy approach are not re-evaluated.

4.3 Procedural matters

4.3.1 Submissions that may be out of scope

22. The Overview and Strategic s42A Report addressed submissions which may be 'out of scope'.[1]

23. This assessment was supported by a legal memorandum setting which sets out the tests which need to be satisfied and relevant case law and I refer to this where appropriate below.[2]

24. Chorus New Zealand Limited, Connexa Limited, Aotearoa Tower Group Limited, One New Zealand Limited and Spark New Zealand (the Telecommunication Companies) seek to amend REr.49 and ICr.49 to increase the height of aerials in the Residential and Inner City Zones. They note that PC29 proposes building height increases without a corresponding increase in the relevel aerial rules. The Telecommunication companies also seek to amend the definition of Height to exclude lightning rods from the measurement of height.

25. While I see the merit in the relief sought, PC29 does not propose amendments to the aerial rules (REr.49 and ICr.49) apart from a consequential amendment to remove view shaft references. For this reason, I have some concerns that the requested amendments are not within the scope of PC29. I would consider any evidence put forward by the submitter on this matter, and this would also benefit from further direct discussions and conferencing with the submitter's experts.

4.3.2 Meetings with Submitters

26. Following the close of submissions, I, or colleagues on my behalf, have attended a series of meetings with submitters to better understand the issues they raise and to clarify the intent of their recommended amendments to the PC29 provisions. I refer to these discussions where relevant in the report below. I, or colleagues on my behalf, have met with the following submitters:

    a) Port Nelson Limited (S224);

    b) Mark Lile – planning consultant acting on behalf of several submitters. Our discussion focussed on issues raised in submissions for Bayview Nelson Ltd (S767), Trafalgar House Ltd (S777) and GP Investments Ltd (S845);

    c) Transpower New Zealand Limited (S198);

    d) Rodney Witte (S333);

    e) The New Zealand Transport Agency (Waka Kotahi) (S894);

    f) Nelson Airport Limited (S478);

    g) Kāinga Ora – Homes and Communities (S933).

[1] Overview and Strategic s42A Report, Section 4.1.3, prepared by Rachel Morgan, dated 24 June 2024.
[2] Correspondence from DLA Piper to NCC – dated 13 May 2024.

h) Telecommunication Companies - Chorus New Zealand Limited (S486), Connexa Limited (S487), Aotearoa Tower Group Limited (S488), One New Zealand Group Limited (S490) and Spark New Zealand Trading Limited (S491).

5.0 Background and context

5.1 Issues arising or changed since notification

27. As outlined in the S42A Report – Strategic and Overview, Nelson Airport Limited has applied to the Council for a Plan Change and Notice of Requirement to introduce an Airport Zone and amend the airport designation to provide for the construction, operation, use and maintenance of the northern runway extension to Nelson Airport, with associated amendments to the airport's Airnoise Boundary (ANB) and responsibilities for aircraft noise and to the Airport Height Restrictions (or Obstacle Limitation Surface (OLS). This is known as Plan Change 30. A Hearing was held from 13 to 17 May and at the time of writing has been adjourned. The submission by Nelson Airport Limited on PC29 includes various requests to account for the outcomes sought by Plan Change 30. I address this in Section 7.10 of the report below.

28. On 22 December 2023 the Government repealed both the Spatial Planning Act 2023 and Natural and Built Environment Act 2023 and has reinstated the RMA as Zealand's primary resource management policy and plan making legislation. The Government has indicated that the RMA will ultimately be replaced, with work on replacement legislation to begin in 2024. The Government has indicated that this replacement legislation will be introduced to Parliament this term of Government (i.e. before the next central government election in 2026). However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until new replacement legislation is passed.

6.0 Consideration of submissions – Inner City and Suburban Commercial Zones

6.1 Overview of submission received

29. A total of 973 submission points were made in relation to the Inner City and Suburban Commercial zones related provisions of PC29.

30. The submissions raised a broad range of matters that relate to PC29 and other Council planning functions.

31. Given the large number of submissions received, this report focuses on the key issues raised. Having reviewed the submissions in detail, the following are what I consider to be the key issues in contention for this topic, and I therefore set out my analysis below as follows:

- Key Issue 1: Description, objectives and policies;
- Key Issue 2: Building heights;
- Key Issue 3: Inner City Zone building standards;
- Key Issue 4: Suburban Commercial Zone building standards;
- Key Issue 5: Buildings in the Inner City and Suburban Commercial Zones;
- Key Issue 6: Residential activity in the Inner City and Suburban Commercial Zones;
- Key Issue 7: Rezoning (St Vincent and Vanguard block) and other matters.

32. Under each issue I summarise the matters raised by submitters and this is split into the Inner City Zone and Suburban Commercial Zone where relevant. I then follow this with an evaluation of the issues raised and conclude with any recommendations for amendments to the notified version of PC29 and a Section 32AA analysis if required.

33. For ease of reading, this report uses references to submission numbers sparingly and groups key submission points by issue.

34. For ease of reporting, I have referred to the "Inner City Zone", which includes the Inner City and City Fringe.

35. My recommendations in relation to all submission points on this topic are included in **Appendix 1**.

6.2 Key Issue 1: Inner City and Suburban Commercial Zones, Description, Objectives and Policies

36. The commentary and analysis in this section includes a discussion on the issues raised by submitters for particular zone descriptions, objectives and policies and then evaluates those issues immediately below. The recommendations at Section 6.2.9 provide a summary of my recommended amendments to the objectives and policies which are discussed in the evaluation.

6.2.1 Notified PC29

37. PC29 proposed to amend the Inner City Zone description to include further detail with respect to intensification, built form and heights. Amendments to objectives IC1 – Form and Access, IC3 Site Amenity. PC29 also proposed to introduce a new objective IC4A in relation to housing. Corresponding amendments are proposed to policies IC1.1, IC1.9, IC2.5, IC3.1, IC3.2, IC3.3, and IC3.4 to achieve consistency with management of building height, residential activities, access and new buildings and building design. New policies IC2.3, and IC4A.1 are also proposed around design and residential amenity.

38. For the Suburban Commercial Zone a new policy direction for new buildings was proposed which focuses on design related outcomes. Amendments were proposed to SC2.4 regarding built form adjoining residential zones and SC2.5 regarding the visual appearance of buildings. New objectives SC2.5A scale of buildings and SC2A housing and subsequent policies were proposed.

6.2.2 Key matters raised in submissions

39. Multiple submissions were received regarding the Inner City Zone description, objectives and policies. The key issues raised include:

a) Support for the amendments to the descriptions of the zones;

b) General support for the objectives and policies;

c) Minor amendments proposed to include sunlight, existing uses and accessibility;

d) Amendments to include a policy where residential activity could be located on the ground floor; and

e) Amendments to include policy support for retirement villages.

6.2.3 Key matters raised in submissions - Inner City Zone Description

40. Multiple submissions were received on the description of the Inner City Zone chapter in relation to the provision of increased density and provision of diversity of housing. Heritage New Zealand (S398.014) supports the inclusion of the reference to heritage and architectural significance in ICd.9. Kāinga Ora (S933.092) states that they support ICd.9 as it recognises the increasing number of 4+ storey buildings and that building heights will increase over time. ICd.11 and ICd.17 are supported by multiple submitters as these descriptions explicitly enable and encourage density, including details on how this area will change over time.

6.2.4 Evaluation Inner City Zone Description

41. Submitter support for the description is acknowledged and no changes are required in response to these submissions.

6.2.5 Key matters raised in submissions – Inner City Zone Objectives and Policies

Inner City Zone - IC1 Form and Access

42. Several submitters support and seek to retain the changes to IC1.

43. Trafalgar House Limited (S777.006) and GP Investments Limited (S845.012) support Policy IC1.1 Strength of the City Centre. GP Investments Limited (S845.013) supports the retention of Policy IC1.2 large-scale activities. Kāinga Ora (S933.094) supports IC1.6 parking and seeks that it is retained. NPHS-NM (S709.095, S709.096) supports in part both the policy IC1.9 Pedestrian access and IC1.9i but seeks that they be amended to include "*sufficient lighting*" in the policy and micromobility in the explanation and reasons.

Inner City Zone - IC2 Street and Public Amenity

44. Multiple submitters support the retention of policy IC2.3 Quality of the Public Realm.

45. NPHS-NM (S709.097) supports in part this policy IC2.3 seeking that it is amended to include …i. *Are useable and accessible for micromobility*. Further, NPHS-NM (S709.098) supports Policy IC2.5 Weather Protection and seeks that this policy be retained as weather protection is an important public health protection mechanism. Nelson is one of the sunniest regions in the country and weather protection can provide shade during summer months.

Inner City Zone - IC3 Site Amenity

46. John Fitchett (S732.035) opposed Objective IC3 and seeks to delete the changes that require resource consent for all development.

47. GP Investments Limited (S845.020,021,022,24) and Trafalgar House Limited (S777.011,012,013,015) seek to retain Policy IC3.1 Street Wall -Trafalgar, Hardy and Bridge Streets, Policy IC3.2 Street appearance – Remainder of Zone, Policy IC3.3 Style and Form – City Centre and IC3.4 Building Height. NPHS-NM (S709.100) opposes Policy IC3.4 Building Height, seeking to amend the policy to reflect the recommended results from the Social Impact Assessment (SIA). Change PC29 Incorporated (S587.011) seeks that properties actually adjoining a residential zone are obliged to meet the height limitation applicable within such Residential zone.

Inner City Zone - IC4 Activities and Adverse Effects

48. Trafalgar House Limited (S777.016) and GP Investments Limited (S845.025) seek to retain IC4A as they support an objective that seeks a diverse range of housing choices. NPHS-NM (S709.103) supports in part IC4A and seeks that the policy reason be strengthened by amending IC4A.1.i. to include 'access of sunlight'.

49. Multiple submitters seek Policy IC4A.1 Residential Amenity to be retained as notified. Others support this policy in part. Retirement Village Association (S901.017) and Ryman Healthcare (S898.018) seek amendments to include policy support for retirement villages (and other residential activities) at ground-floor in the Inner-City Zone where appropriate.

50. Kāinga Ora (S933.096) also seeks amendments to IC4A.1 to consider opportunities where residential units could appropriately be located at ground-floor and to include a focus on ensuring good oversight of the street and other public spaces rather than requiring the orientation of windows and balconies. Kāinga Ora seeks that IC4A.1 is amended as follows:

"…. a. Locating residential units above ground floor level to provide privacy, unless the residential unit is set back from the street frontage or designed to manage privacy;

b. Orientating windows to ensure good oversight of the street and other public places ~~and balconies over the street~~; …."

51. NPHS-NM (S709.102) seeks amendments to IC4A.1 to enable accessible designs as follows:

"Enable residential activities, and ensure development achieves a good level of amenity for residents, and visitors consistent with the vibrant mixed use character of the City Centre, including by:

a. locating residential units, that are accessible, above ground floor level to provide privacy; and…"

52. GP Investments Limited (S845.014) opposes in part Policy IC4A.1 and seeks that this policy be amended to acknowledge existing industrial activities. They reason that, with the rezoning of the Industrial Zone to Inner City and City Fringe, it is appropriate and necessary to acknowledge that this area contains a mixture of industrial and other commercial activities which have been legally established and have financial investments that need to be protected. GP Investments Limited (S845.015) also seek an amendment to Policy IC4.2 to acknowledge the effects of legally established activities.

Inner City Zone New Policies

53. Retirement Villages Association of New Zealand (S901.016,018) and Ryman Healthcare Limited (S898.017,019) seek new policies relating to the role of density standards and provision of housing for an ageing population. They consider that it is appropriate to add a new policy in this chapter to allow for density standards to be utilised as a baseline for the assessment of effects of developments. They also consider it appropriate for a new policy to provide for and acknowledge the diverse range of housing and care options that are suitable for the particular needs and characteristics of older persons and the functional and operational needs of retirement villages. These should be integrated into the District Plan to address the particular resource management issues relating to the ageing population covered in this submission.

6.2.6 Evaluation - Inner City Zone Description Objectives and Policies

Inner City Zone - IC1 Form and Access

54. Support for IC1 is acknowledged. Whilst a number of submitters seek to retain policies as notified, I consider that the amendments sought by NPHS-NM to policy IC1.9 Pedestrian access and policy explanation IC1.9i will provide for increased accessibility. The amendments also reflect changes proposed to lighting standards. Pedestrian access should not just be for pedestrians but should also specify micromobility as this includes bikes, electric bikes and scooters. This is consistent with other plan-wide amendments and reduces barriers to accessibility.

Inner City Zone - IC2 Street and Public Amenity

55. Support for 1C2.3 is acknowledged. I support the amendments sought by NPHS-NM (***Are useable and accessible for micromobility)*** as I consider that the additional matter differs from clauses a – h as notified and appropriately ensures that consideration shall be given to micromobility in the public realm when creating buildings, streets and public areas. In my opinion the amendment is consistent with objective IC2.

Inner City Zone - IC3 Site Amenity

56. John Fitchett has opposed, and seeks the deletion of policy IC3.3, due to insufficient evidence. I do not support this relief sought as I consider that policy IC3.3 is necessary to direct outcomes within the City Centre linking directly to the proposed increase in building height. Section 21 of the Section 32 report assesses the proposed provisions for the Inner City Zone.

57. I do not support the amendments sought to Policy IC3.4 Building Height, which seek to amend the policy to reflect the recommended results from the Social Impact Assessment. NPHS-NM has not provided specific wording to reflect their relief sought and I note that the matter of whether a Social Impact Assessment is required is addressed in the Section 42A Report – Strategic and Overview. Ms Morgan concludes that one is not required for PC29 and I agree.

Inner City Zone - IC4 Activities and Adverse Effects

58. Submitters have sought amendments to include policy support for retirement villages (and other residential activities) at ground-floor in the Inner City Zone where appropriate. I support residential activities at ground floor in the Inner City Zone. I discuss this further in section 6.7. and recommend refinements to policies to provide for residential activities at ground floor in appropriate locations.

59. Amendments to IC4A.1 sought by NPHS-NM (S709.102) to enable accessible designs in my opinion are unnecessary and do not provide further clarity to the policy.

60. I do not support the submission seeking acknowledgement of existing industrial activities (S845.014). I consider that the policy should signal the direction of the zone. Existing use rights will ensure that the activities are able to continue after PC29 is completed. However, the intent is that over time industrial uses may get phased out. Alternatively, I recommend the inclusion of an assessment criteria as detailed further in Section 8 of this report.

Inner City Zone – New Policy

61. Retirement Villages Association of New Zealand and Ryman Healthcare Limited sought the inclusion of a new policy that specifically enables retirement villages and directs the design and amenity outcomes they should achieve. I do not support the introduction of a new policy regarding this matter. I consider that retirement villages are covered by the policy in IC4A which refers to “a range of quality housing choices” as retirement villages are comprised of residential units. In response to the relief sought, I do support an inclusion in the policy to provide for the functional needs of residential activities that have a care component.

6.2.7 Key matters raised in submissions – Suburban Commercial Zone Objectives and Polices

62. A total of 11 submissions were received on the policies and objectives of the Suburban Commercial Zone. The key issues raised include:

a) Introduction of two new policies seeking to provide for aging population and density standards; and

b) Minor amendments to include sunlight.

SC2.4 Built Form Adjoining Residential Zones

63. NPHS-NM (S709.113) seeks to amend Policy SC2.4 to include sunlight and daylight.

SC2.5A Scale of Buildings

64. Kāinga Ora - Homes and Communities (S933.103) seeks to retain Policy SC2.5A Scale of Buildings. NPHS-NM (709.115) supports this policy in part but seeks to amend SC2.5A.v. to include *"enhancement of centres through paving, planting, and similar measures which contribute to enhancing the native biodiversity of the area".*

65. Ryman Healthcare Limited (S898.025) and Retirement Villages Association of New Zealand (S901.024) seek amendments to SC2.5A to recognise the intensification opportunities provided by larger sites within the zone by providing more efficient use of those sites. NPHS-NM (S709.114) seeks to amend policy SC2.5A to align the maximum building heights with the results of this SIA once this has been undertaken.

SC2A.1 Housing

66. Kāinga Ora - Homes and Communities (S933.104), Retirement Villages Association of New Zealand (S901.026) and Ryman Healthcare Limited (S898.027) seek amendments to policy SC2A.1 to allow residential activities on the ground floor. NPHS-NM (S709.116) seek to include accessibility amendments to policy SC2A.1.

New Policies

67. Ryman Healthcare Limited (898.026) and Retirement Villages Association of New Zealand (S901.025) seek to include a new policy regarding the role of density standards in the Suburban Commercial Objectives and Policies chapter as follows:

> "Role of Density Standards
>
> Enable the density standards to be utilised as a baseline for the assessment of the effects of developments."

68. Retirement Villages Association of New Zealand (S901.027) and Ryman Healthcare Limited, (S898.028) seek to include a new policy in the Suburban Commercial Objectives and Policies chapter as follows:

> "Provision of housing for an ageing population

1. Enable retirement villages that

a. Provide for greater density than other forms of residential developments to enable shared spaces, services, amenities and / facilities, and affordability and the efficient provision of assisted living and care services

b. Provide good quality on site amenity, recognising the unique layout, internal amenity and other day-to-day needs of residents as they age

2. Encourage the scale and design of retirement villages to

a. be of a high-quality and be aligned with the planned urban character of the zone; and

b. achieve attractive and safe streets and public open spaces, including by providing for passive surveillance."

6.2.8 Evaluation - Suburban Commercial Zone Objectives and Polices

SC2.4 Built Form Adjoining Residential Zones

69. I consider that minor amendments to SC2.4 to include sunlight access is not appropriate, whilst I acknowledge that access to sunlight is important, sunlight may be compromised as a result of building height and proposed intensification within a city centre environment.

SC2.5i Built Form Adjoining Residential Zones

70. I do not support the minor amendments to SC2.5i (Explanation and Reasons) sought by NPHS-NM to include reference to sunlight access. I consider that the policy as notified appropriately focusses on visual integration with neighbouring residential zones.

SC2.5A Scale of Buildings

71. I do not support the amendments sought to reference contribution to enhancing the native biodiversity of the area as sought by Kāinga Ora. In my opinion this may be difficult to achieve given the built up nature of the Suburban Commercial Zone, I prefer the reason as proposed because it is more open and provides for alternative methods to achieve enhancement of the zone.

72. While I acknowledge the point made by Ryman Healthcare Limited and Retirement Villages Association of New Zealand, that larger sites allow for greater opportunities, I do not support the amendments to policy SC2.5A as this policy specifically addresses scale of buildings not site size.

SC2A.1 Housing

73. Submitters seek amendments to SC2A.1 to allow residential activities on the ground floor. I do not support amendment to this policy, for reasons discussed in Section 6.7 of this report, I consider that the ground floor of Suburban Commercial Zones should be focused upon commercial activities.

74. I do not support the amendments to SC2A.1 sought by NPHS-NM (S709.116). In my opinion the amendments sought are unnecessary and have otherwise been considered above.

New Policies

75. Retirement Villages Association of New Zealand (S901.016,018) and Ryman Healthcare Limited (S898.017,019) sought the inclusion of a new policy that specifically enables retirement villages and directs the design and amenity outcomes they should achieve. I do not support the introduction of a new policy regarding this matter. As I have stated above, I consider that retirement villages are covered by the policy in SC2A which refers to "a range of quality housing choices" as retirement villages are comprised of residential units. In response to the relief sought, I do support an inclusion in the policy to provide for the functional needs of residential activities that have a care component.

76. Ryman Healthcare Limited (898.026) and Retirement Villages Association of New Zealand (S901.025) have sought the inclusion of a policy addressing the role of density standards. I do not consider the inclusion of this policy is necessary because policies SC2.1, SC2.4 and SC2.5 appropriately manage effects from activities within the plan change character, density of development and built form.

6.2.9 Inner City and Suburban Commercial Zones, Description, Objectives and Policies Recommendations

77. In summary, for Key Issue 1 Inner City and Suburban Commercial Zones, Description, Objectives and Policies, I recommend the following for the reasons given above:

a) Submissions be rejected, accepted in part or accepted as set out in Appendix 1; and

b) The following key changes to the Inner City and Suburban Commercial Zones:

Provision(s)	Officer recommendations
IC1.9 Pedestrian access city centre	Accept S709.095 amend as follows: Provision of pedestrian access between the main pedestrian streets, bus stops, city fringe areas, and the public car parking areas will be promoted, particularly after hours access~~,~~ (with sufficient lighting) ~~taking account of~~ , and providing for the needs of people with disabilities.
IC1.9.i	Accept S709.096 amend as follows: This policy aims to increase the number of pedestrian and micromobility access points from bus stops, city fringe areas, and the car parks to the main pedestrian streets. This could be via conditions on resource consent or by the Council buying access rights. Good access ~~from the car parks~~ is expected to reduce people's desire to take their vehicles into the main streets.

IC2.3 Quality of the Public Realm	Accept 709.097 amend as follows: i. are useable and accessible for micromobility.
IC4A.1 Residential Amenity	Accept S901.018 and S898.019 in part f. providing for the functional needs of different types of living, particularly for accommodation where residents are subject to care.
SC2A.1 Residential amenity	Accept S901.021 and S898.028 in part f. providing for the functional needs of different types of living, particularly for accommodation where residents are subject to care.

6.3 Key issue 2: Building heights

78. The commentary and analysis in this section includes a discussion on the issues raised by submitters regarding building heights in the Inner City and Suburban Commercial Zones and then evaluates those issues immediately below. The recommendations at Section 6.3.6 provide a summary of my recommended amendments to the objectives and policies which are discussed in the evaluation.

6.3.1 Notified PC9

79. PC29 proposes to increase the minimum building height to 24m within the Inner City Zone (15m-20m in the operative NRMP).

80. PC29 proposes to increase minimum building heights in the Suburban Commercial Zone to the following:

a) 19.5m in the Stoke Centre and Waimea Road and St Vincent Street/Toi Toi Street areas (8m-10m in the operative NRMP);

b) 19.5 for Suburban Commercial zones adjoining the HDRZ (8m-10m in the operative NRMP), and;

c) 12m in other all other Suburban Commercial zones (8m in the operative NRMP).

6.3.2 Key matters raised in submissions- Inner City Zone

81. A total of 92 submissions were received on the topic of Inner City Zone building height. The key issues raised include:

a) Opposition to Inner City Zone building heights;

b) Support for Inner City Zone building heights;

c) Amendments to the activity status of ICr.37A; and

d) Amendments to matters of discretion of ICr.37A.

Opposition to Inner City Zone Building Heights

82. Multiple submitters oppose the building heights in the Inner City and City Fringe zones and seek to amend height limits to between 3-6 storeys. Moira Petersen (S642.008) opposes this amendment and seeks buildings are no more than four storeys high because this is in keeping with the low rise look of Nelson and ensures that intensification does not put further pressure on amenities and infrastructure (S642.008).

83. Sarah-Jane Weir (S36.010, 011) also seeks to limit the maximum building height to four storeys as the proposed height of six storeys may be too high given the current constructions there and she considers that the height should be lower as of right, but permissible to be higher if that scale is appropriate for the site, given neighbouring buildings' height and use.

84. Rose Sorren-Norness (S299.001) and Kenneth Norness Jr (S300.002) support the amendments in part but seek that the proposed maximum building height in the Inner City Centre area between Nile St and Halifax St and between Collingwood and Rutherford to be no higher than six storeys (19 meters).

85. Rachel Newton (S483.001) seeks a maximum building height of four storeys as six story buildings are too tall for Nelson's Inner City landscape and will not retain the existing character. It is imperative that good building design works hand in hand with excellent soft landscaping.

86. Carolyn Sygrove (S863.033) seeks to restrict the height of buildings to three storeys because buildings of three storeys do not require elevators, they are more earthquake-proof and they are more economical to build. Further, they seek to encourage the use of locally manufactured laminated wood instead of steel as this would add to earthquake resistance, it is more environmentally friendly and it would support our local businesses.

87. Denise Hill (S193.008) opposes this in part as while taller apartment buildings are appropriate in specific sites in the CBD, they are not appropriate across the zone.

88. John Fitchett (S732.030) opposes the maximum building height in the Inner City as building to a height of 24 metres (without recession planes similar to NRMP) in the Inner City will cause undue shading to the shopping streets in the Inner City.

Support for Inner City Zone Building Heights

89. Multiple submissions support the retention of the building heights in the Inner City and City Fringe zones. Rose Sorren-Norness (S299.004) and Kenneth Norness Jr (S300.004) seek that taller buildings should be allowed for mixed residential, especially the section along Rutherford, Vanguard and St Vincent. Having taller buildings in the Rutherford, Vanguard and St Vincent areas will help spread the population growth while at the same time, bringing the population to an area that is currently less desirable.

90. Susan Corry (S251.001, 002) supports the plan change to allow higher density and higher height buildings in the city centre areas as it is appropriate that the tallest buildings should be clustered and built in the City Centre and City Fringe.

91. Craig Duffy (S421.001) supports the building heights as there seems at present to be an abundance of underutilised land in the inner city which should be used first, instead of moving into the suburbs at this point in time. This would also increase vibrancy and activity in the middle of town.

92. Kirsten Brown (S561.006) supports permitting development up to 24m in the Nelson City Centre as this increase in height would inject life into a City Centre that is currently quite sleepy.

93. Denis Digges La Touche (S84.003) supports building heights of six stories plus as this allows inner-city residents to have all the advantages of being close to the amenities without disturbing the existing residential population.

94. June Laird (S707.003) supports intensification within the Inner City as building 'up and not out' in the CBD increases housing opportunities without increasing the number of people commuting into Nelson which is good as it limits any increase in traffic congestion and carbon dioxide emissions.

95. The New Zealand Transport Agency (Waka Kotahi) (S894.015) supports the proposed rule as it provides for greater density and urban living in close proximity to services and facilities.

96. Christopher Fitchett (S647.004) supports the proposed rule as there are already a number of tall buildings in this area, i.e. the Rutherford Hotel, Civic House and the Mid City Motels.

97. Other submitters seek that the building height limit be restricted to a very small area of the CBD and that the height limits shall be lower as a permitted activity, but permissible to a higher limit if the scale is appropriate for the site, given neighbouring buildings height and use.

Activity Status and Matters of Discretion

98. Jan Jordan (S754.036), Philippa Hoult (S455.034) and Harry Pearson (S708.033) seek that there should be no permitted standard for building height and that proposals are permitted on a case-by-case basis, requiring a resource consent application and neighbour approval.

99. Gardner/Mitchell Group (S314.001) seeks that there should be no resource consent or application fee to change 1-2 storey properties to include up to two extra units on the same piece of land if water and drainage infrastructure has the capacity to cope. This will allow for more inhabitants to be self-contained on the same section with cheaper living costs and provision for cheaper rentals.

100. Retirement Villages Association of New Zealand (S901.020) and Ryman Healthcare Limited (S898.021) seek to amend the Inner City maximum building height rule ICr.37A so that an infringement to the permitted standards of ICr.37A is a restricted discretionary activity and to provide focussed matters of discretion.

101. NPHS-NM (709.101) seeks that infringements to rule ICr37A.3 require notification as it is important that the resource consent process for buildings that exceed the maximum building height are notified to enable a democratic process where the community and key organisations can have their say.

102. NPHS-NM (709.107) seeks to strengthen provisions to consider effects on a broader range of amenity values by:

Amening ICr.37A.3 as follows:

"*Discretion is restricted to: ...*

Iv. effects on the amenity values of neighbouring residential properties <u>such as access of daylight/sunlight</u>, or open space and recreation areas.

...

<u>vii. effects on residential amenity values and wellbeing for building users, including outlook, privacy, access of daylight/sunlight, potential adverse effects from wind (wind tunnelling).</u>

Amending the assessment criteria in ICr.37A.4 as follows:

b. any effects of shading on open spaces, <u>surrounding buildings</u> and pedestrians.

...

<u>g. any effects on the usability and accessibility of the urban environment for disabled people."</u>

103. Glenys MacLellan (S694.005) seeks to require a wind impact statement for any building over 10m considering both the way the wind impacts the building and how the building impacts what the wind does when they meet.

6.3.3 Evaluation - Inner City Zone Building Height

104. The purpose of PC29 is to give effect to the NPS-UD, including the requirement to intensify to enable greater development capacity. As a Tier 2 local authority, Nelson City Council is required to give effect to Policy 5 of the NPS-UD:

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.

105. The Nelson Tasman FDS is also a document to have regard to (3.17(a) NPS-UD). The FDS identifies the Inner City as an intensification area, where development of up to six storeys can be expected.

106. In order to give effect to Policy 5, the Council is required to "enable heights and densities" of urban form in the Inner City Zone commensurate with its level of accessibility or relative demand for housing or business use. The proposed heights were informed by the Urban Design

Considerations Memo[3], which recommended a building height of 24 metres for the Inner City Zone. This reflects that the Inner City is the most accessible area of Nelson and should therefore have the greatest heights and densities.

107. Many submitters have opposed the proposed building height or have sought alternative height limits. In my opinion insufficient evidence has been provided to support any reduction in the proposed building height. I rely upon the evidence of Mr Wallace (urban design) and I consider that a height limit of 24m in the Inner City Zone continues to be the most appropriate way to achieve a well-functioning urban environment, particularly with respect to the high accessibility of this location.

108. I note that NPHS-NM has requested a Social Impact Assessment to understand the implication of the proposed building height development on the health and wellbeing of current and future generations The need for a Social Impact Assessment for PC29 is addressed in the S42A Report – Strategic and Overview and concludes that one is not required. I agree with this conclusion.

Activity status and matters of discretion

109. Various submitters have sought there should be no permitted activity standard for building height and that proposals are permitted on a case-by-case basis, requiring a resource consent application and neighbour approval. I disagree with this relief sought. In my opinion this will unnecessarily increase consenting costs as it would trigger additional reasons for consent that are not justified, noting that the operative NRMP already permits buildings of up to 15m. I consider that a 24m building height standard ensure effects are appropriately managed in an Inner City context and is an efficient and effective method to give effect to the plan policies that seek to accommodate the highest concentration of activities in the Inner City (Objective IC1).

110. I note that some submitters have sought that there should be no resource consent requirement or no application fee. I consider that it is appropriate to consider on a case by case basis via a resource consent process, effects of buildings which exceed the standards. Consideration of resource consent fees is not a PC29 matter – they are set outside of the plan change process by the Council.

111. NPHS-NM seeks that infringements to rule ICr37A.3 require notification to enable a democratic process where the community and key organisations have their say. In my opinion it is appropriate to assess notification of applications in accordance with the requirements of the RMA but not require it. I consider that a mandatory notification rule would unnecessarily increase development and consenting costs.

112. I do not support the amendments to rule ICr.37A.3 matters of discretion as proposed by NPHS-NM, I consider that the matters raised are sufficiently provided for in clauses iii and iv.

113. Glenys MacLellan has sought to require a wind impact statement for any building over 10m. I do not support this relief as wind effects are unlikely to be generated by 11m high buildings,

[3] Refer to Appendix 3A of the Section 32 Report.

although wind effects would be a relevant matter to consider for buildings infringing the proposed height standard and this is a matter to consider under ICr.27A.4(d)).

6.3.4 Key matters raised in submissions- Suburban Commercial Zone

114. A total of 10 submissions were received on the topic of Suburban Commercial Zone building height rule SCr.22. The key issues raised include:

a) General opposition to the building height rule; and

b) Activity status of the rule.

Opposition to the Building Height Rule

115. Susan Heydon (S253.001) seeks to restrict building height to 8 metres as per the current NRMP as she considers increasing the height from 8 to 12 meters is not acceptable as it would destroy the amenity and environment.

116. Bernard Penketh (S355.013) seeks that four storeys should be the maximum building height for the suburban commercial zone and three storeys should be the maximum building height for Stoke. Jan Jordan (S754.037) seeks that building height in the commercial zoned area of Stoke is up to 2-3 storeys. Amanda Young (S872.007) seeks that the height in the Suburban Commercial Zone is limited to 2-3 storeys. Philippa Hoult (S455.035) seeks that building height in the commercial zoned area of Stoke go up to 3-4 storeys.

117. Sarah Little (S610.003) opposes in part the change and seeks a site-specific maximum height limit of 24m in the Dodson Valley Suburban Commercial Zone.

118. Robin Whalley (S50.002) opposes the change to SCr22.1.d in general.

Activity Status and Matters of Discretion

119. Retirement Villages Association of New Zealand (S901.030) Ryman Healthcare Limited (S898.031) seek to amend the activity status of Rule SCr.22 so that infringements to the building height rule are a restricted discretionary activity and focused matters of discretion are provided for this.

6.3.5 Evaluation - Suburban Commercial Zone

120. As previously discussed, the purpose of PC29 is to give effect to the NPS-UD, including the requirement to intensify to enable greater development capacity. To give effect to Policy 5 Council is required to "enable heights and densities" of urban form commensurate with the level of accessibility or relative demand for housing and business use. The proposed heights in the Suburban Commercial zone were informed by the Urban Design Considerations Memo[4].

121. Many submitters have opposed the proposed building height or have sought alternative height limits. In my opinion insufficient evidence has been provided to support any reduction in the proposed building height. I rely upon the evidence of Mr Wallace (urban design), and I consider

[4] Refer to Appendix 3A of the Section 32 Report.

that the proposed height limits continue to be the most appropriate way to achieve a well-functioning urban environment. The proposed height limits of 19.5m in the Stoke Centre and Waimea Road and St Vincent Street/Toi Toi Street areas, and in zones that adjoin the proposed High Accessibility Overlay, reflect that these locations have high accessibility (Policy5(a)), but are relatively less than the Inner City Zone. The proposed height limit of 12m in other Suburban Commercial Zones reflect their lower level of accessibility and smaller scale.

122. I note that NPHS-NM has requested a Social Impact Assessment to understand the implication of six storey development on the health and wellbeing of current and future generations and then amend rule SCr.22 based on the results of this SIA. The need for a Social Impact Assessment for PC29 is addressed in the S42A Report – Strategic and Overview and concludes that one is not required and is otherwise addressed in the planning assessments. I agree with this conclusion and consider that the effects of six storey development would enable and encourage an increase in the diversity of activities in Nelson's suburban commercial centres, thereby assisting to create a focal point for the community (Objective SC1).

Activity status and matters of discretion

123. Retirement Villages Association of New Zealand and Ryman Healthcare Limited seek to amend the activity status of Rule SCr.22 – Building Height so that infringements to the permitted standards of the Rule are a restricted discretionary activity (instead of discretionary) and focused matters of discretion are provided for this. The submitters also seek to amend rule ICr.37A.3 make building height infringements in the Inner City Fringe restricted discretionary activity(instead of discretionary).

124. I consider that a defaulting activity status of restricted discretionary activity, with matters of discretion the same as the Inner City Centre (ICr.37A.3) is appropriate for both the Inner City Fringe and the Suburban Commercial Zone (SCr.22) because:

a) A restricted discretionary activity status is consistent with the Inner City Centre;

b) A restricted discretionary activity status enables an application to be considered on its merits on a case by case basis, and Council retains the ability to decline the application or apply conditions of consent (relative to the matters of discretion); and

c) Potential effects from infringement of building height are well known and can be addressed in matters of discretion.

6.3.6 Recommendations

125. In summary, for Key Issue 2 Building Heights, I recommend for reasons given above:

a) Submissions be rejected, accepted in part or accepted as outlined in Appendix 1; and

b) The following key changes to the Inner City and Suburban Commercial Zones:

126. For the reasons given in the above assessment, I recommend that the building heights within the Inner City Zone are retained.

127. For the reasons given in the assessment above, I recommend that the building heights within the Suburban Commercial Zone are retained and rule SCr.22 be amended as follows:

Provision(s)	Officer recommendations
ICr.37A.3	S898.021 be accepted and rule ICr.37A.3 be amended as follows: Buildings in the Inner City Centre and Inner City Fringe that contravene ~~a~~ permitted condition ICr.37A.1 are a **restricted discretionary** activity. ~~Buildings in the Inner City Fringe that contravene a permitted condition are discretionary.~~
SCr.22.3 Maximum building height	S901.030 and S898.031 be accepted in part and rule SCr.22 be amended as follows: SCr.22.3 ~~Activities~~ Buildings that contravene a permitted condition are restricted discretionary. Discretion is restricted to: *i.* the scale, form, design and appearance of the building; and *ii.* effects on the character and quality of the Suburban Commercial Zone; and *iii.* effects on the public realm and the amenity values of the pedestrian environment; and *iv.* effects on the amenity values of neighbouring residential properties, or open space and recreation areas; and *v.* effects on the heritage values of any adjacent scheduled buildings; and *vi.* the extent to which (if any) contravention of the standard results from the raising of the building's floor level relative to ground level (and therefore the building overall) in response to flood hazard risks.
SCr.22.1 Maximum building height	Consequential amendment relating to the change from the HDRZ to the High Accessibility Overlay recommended in the S42A Report – Residential and Subdivision c. 19.5m where the site adjoins the High Accessibility Overlay ~~Density Residential Zone~~; or
SCr.22. 5 Maximum building height (Explanation)	Consequential amendment relating to the change from the HDRZ to the High Accessibility Overlay recommended in the S42A Report – Residential and Subdivision

Provision(s)	Officer recommendations
	The rule provides for ~~2~~ 6 storey buildings ~~throughout most~~ in areas of the Suburban Commercial zone that adjoin the High ~~Density Residential Zone~~ Accessibility Overlay.
SC2.5A Scale of Buildings (Suburban Commercial Objectives and Policies)	Consequential amendment relating to the change from the HDRZ to the High Accessibility Overlay recommended in the S42A Report – Residential and Subdivision Enable buildings of generally up to six storeys in areas of the Suburban Commercial Zone that adjoin the High Accessibility Overlay ~~Density Residential Zone~~ to promote the efficient use of land in larger centres that have a diverse mix of activities. Enable buildings of generally up to three storeys in the ~~other~~ Suburban Commercial Zone ~~locations~~ to promote the efficient use of land in centres that have a mix of commercial activities, while recognising their role within Nelson's hierarchy of centres.
SC2.5A.i (Suburban Commercial Objectives and Policies)	Consequential amendment relating to the change from the HDRZ to the High Accessibility Overlay recommended in the S42A Report – Residential and Subdivision The policy aims to enable heights within different areas of the Suburban Commercial Zone that are consistent with that of adjacent residential zones. ~~Areas of the Suburban Commercial Zone that adjoin the High Density Residential Zone are provided with the opportunity to buildup to six storeys in height.~~

6.4 Key Issue 3: Inner City Zone Building Standards

128. The commentary and analysis in this section includes a discussion on the issues raised by submitters regarding the Inner City Zone building standards and then evaluates those issues immediately below. The recommendations at Section 6.4.13 provide a summary of my recommended amendments to the objectives and policies which are discussed in the evaluation.

6.4.1 Notified PC29

129. PC29 proposes to delete the outdoor living court requirement in the Inner City Zone and introduces standards for residential unit minimum size, outlook space for residential units and daylight admission to adjacent residential zones.

6.4.2 Key matters raised in submissions – Inner City Zone

130. A total of 136 submissions were received on the proposed building standards in the Inner City Zone. The key issues raised include:

a) Daylight admission;

b) Differing approaches to the management of outdoor living;

c) Provision for retirement villages; and

d) Activity status of standards.

6.4.3 Key matters raise in submissions – Daylight admission

131. Several submitters sought the retention of the rule ICr.35, while multiple submitters sought changes to the rule to make it clear that the daylight controls only apply to the specific boundary that adjoins a Residential Zone.

132. Retirement Villages Association of New Zealand (S901.019) sought to amend the Inner City daylight admission rule ICr.35 to change the activity status when permitted standards are not met to Restricted Discretionary.

133. Other submitters sought rules for daylight and sunlight these included:

a) Sarah Holman (S617.007) seeks to retain the existing daylight control in NRMP Appendix 17 that provides sunlight and daylight within Montgomery Square, and along Hardy and Bridge Streets.

b) Hanni Kaspar (S328.005) seeks the addition of rules for sunlight admission within city blocks in the Inner City and City Fringe zones.

c) David Allan (S573.009) seeks the rules to be strengthened to provide sunlight to the south side street of east-west streets in the Inner City, to ensure that at winter solstice, there is sunlight to the ground level of the north face of the buildings as well as the footpath and south side parallel parking space and outdoor hospitality area.

d) Janet Whittington (S628.007) seeks that buildings on the north and west sides of Trafalgar Street and Inner City CBD and fringe streets be held at no more than 2 stories to prevent shadowing.

e) Melinda and Craig Harvey (S878.007) seek that higher density in the City Fringe is assessed for individual sites that would allow multi-storey buildings without compromising neighbouring daylight angles.

6.4.4 Evaluation - Daylight Admission

134. The intent of the provision as proposed (ICr.35) was to only apply the daylight admission to a site boundary that adjoins the Residential Zone. I do not support the submissions that seek changes to this rule to ensure clarity as in my opinion the rule as drafted is clear and understandable.

135. Retirement Villages Association of New Zealand (S901.019) sought to amend the Inner City daylight admission rule ICr.35 – Daylight Admission to change the activity status when permitted standards are not met to Restricted Discretionary. I support changes to rule ICr.35 to default to a restricted discretionary activity for the following reasons:

(a) A restricted discretionary activity status is consistent with rule REr.17K;

(b) A restricted discretionary activity status enables an application to be considered on its merits on a case by case basis, and Council retains the ability to decline the application or apply conditions of consent;

(c) Potential effects from infringement of daylight omission are well known and can be addressed in matters of discretion; and

(d) Matters of discretion apply focused consideration of effects consistent with rule REr.17K.

136. There were a variety of submission points around sunlight and daylight controls. Modelling was undertaken by Mr Wallace and is detailed in his evidence. The modelling found that the retention of the operative sunlight control would limit the development potential in the Inner City Zone. Further, a worst-case scenario was modelled to show the effects when sites are developed to their full potential. This modelling showed that large portions of Whakatu, Buxton and Montgomery Square would still receive several hours of direct sunlight on the winter solstice. Mr Wallace goes further to state in his evidence that public spaces in the city centre will still receive high levels of sunlight throughout the year. I concur with Mr Wallace's assessment of the inclusion of sunlight rules for the Inner City zone and do not support the submission points that seek the inclusion of additional rules.

6.4.5 Key matters raised in submissions – Minimum unit size

137. Several submitters sought to retain rule ICr.37C -Residential Unit Minimum Size. NPHS-NM (S709.109) supports in part this provision but seeks to strengthen the assessment criteria of ICr.37C.4 by adding *"… c. whether the residential units are usable and accessible for disabled people."* Further submitter Kāinga Ora (FS56.110) considers that these requirements are too restrictive and do not provide for an appropriate level of housing choice.

6.4.6 Evaluation - Minimum unit size

138. NPHS-NM has sought to include a matter of discretion with respect to usability and accessibility for disabled people. I do not support the inclusion of this additional matter, because accessibility and internal design and layout of buildings are managed under the Building Code and in my opinion, it is not necessary to duplicate this compliance requirement.

139. Mr Wallace in his evidence has addressed the relief sought with respect to minimum unit size in the round. The proposed minimum residential unit size in PC29, are in his opinion broadly comparable with other towns and cities in New Zealand. Mr Wallace does not support specifying a minimum size standard for units of more than 1 bedroom, and higher minimum standards can act to reduce housing variety and limit the urban design benefits of intensification. I rely upon the evidence of Mr Wallace and recommend that no change is necessary to rule ICr.37C.

6.4.7 Key matters raised in submissions – Outlook space

140. Several submitters sought to retain rule ICr.40A. Kāinga Ora (S933.099) seeks to retain rule ICr.40A as notified but also seek to include notification preclusions (both public and limited notification) where compliance with outlook space is not achieved. Kāinga Ora also seeks an

amendment to the matters of assessment to remove privacy effects on neighbouring sites, as this standard is an onsite amenity control with other standards managing offsite amenity outcomes (e.g. setbacks, height, height in relation to boundary controls).

141. Ryman Healthcare Limited (S898.024) and Retirement Villages Association of New Zealand (S901.023) seek to amend rule ICr.40A to provide for retirement units as in a retirement village environment multiple communal spaces are available for residents, and residents do not rely on the outlook from retirement units alone for their amenity needs. They further add that due to the layout of retirement villages, particularly care rooms, it can be difficult to comply with the proposed standard.

142. Nelson Tasman Climate Forum (512.005) seeks an amendment to ICr.40A to provide that residential units are permitted if *a) the building contains windows on the wall of a living room and bedroom of a residential unit*.

6.4.8 Evaluation - Outlook space

143. The inclusion of the proposed outlook space standard will provide a degree of separation for residential units at upper levels in the event adjacent buildings are constructed. Outlook space orientated over the street and public open spaces or internal courtyards within the site helps to manage the increase in building height and increase residential uses. Increased residential uses within commercial zones, coupled with increased building heights and limited setbacks creates a risk of adverse amenity outcomes in residential dwellings, which would be contrary to the outcomes sought by Policy IC4A.1. This policy seeks to achieve a good level of amenity for residents.

144. No submitters have opposed the proposed rule, as previously discussed. As previously discussed, a number of submissions have been received with respect to access to daylight and sunlight.

145. I do not support the amendments to assessment criteria proposed by Kāinga Ora. In my opinion the intention of the rule is to ensure adequate separation between residential activities to provide for appropriate residential amenity and privacy as detailed in rule reason ICr.40A.5. For these reasons, I consider it is appropriate to undertake a notification assessment in accordance with the RMA.

146. Nelson Tasman Climate Forum seek to amend rule ICr.40A.5 to exclude the requirement for outlook space where windows have been provided. Mr Wallace has considered the implications of this request in his evidence. He concludes that the relief sought could give rise to significant adverse amenity effects relating to natural light and privacy. I rely upon Mr Wallace's evidence and do not support the relief sought.

147. I acknowledge the relief sought by Ryman Healthcare Limited and Retirement Villages Association of New Zealand and have addressed their relief with respect to retirement villages separately below.

6.4.9 Key matters raised in submissions – Outdoor living court

148. There is submitter support for the deletion of the outdoor living court rule ICr.40. NPHS-NM (S709.110) seeks to retain some version of an outdoor living court or balconies for residential

buildings in the Inner City Zones stating that this provision may be valuable where there are likely to be several people residing in the building and where open spaces are not accessible.

149. Kent Inglis (S591.004) sought amendments to the outdoor living court requirements for residential units in all zones to apply a consistent approach.

6.4.10 Evaluation - Outdoor living court

150. Support for deletion of rule ICr.40 is acknowledged.

151. Outdoor living courts can provide exclusive space for residents to access daylight, sunlight and fresh air. PC29 seeks to enable and maximise intensification for residential development and the requirement to provide outdoor living courts can reduce the ability to intensify. In my opinion proposed Rule ICr.40A outlook area will ensure appropriate internal amenity of residential units. Whilst access to public open spaces located in the immediate vicinity or within the city centre will afford access to open space, fresh air, daylight and sunlight.

152. Mr Wallace has provided a detailed assessment of Inner City outdoor living court standards, he considers that *"for residents, it is important in supporting the trade-offs inherent in living within a typically smaller dwelling with limited (or no) access to private or communal outdoor open spaces. Such living arrangements are common in a centre environment. As such, public open spaces can function as an extension of one's own home".* I rely upon Mr Wallace's evidence and do not support retention of the outdoor living court rule.

6.4.11 Key matters raised in submissions – Retirement Villages – New rule framework

153. In addition to relief seeking to provide for retirement villages within the Inner City Zone Standards, Retirement Villages Association of New Zealand (901.022) and Ryman Healthcare Limited (898.023) seek the addition of a new retirement village specific rule framework into the Inner City zone that has a restricted discretionary framework specifically for retirement villages.

> *"Provision of housing for an ageing population*
>
> *1. Enable retirement villages that*
>
> *a. Provide for greater density than other forms of residential developments to enable shared spaces, services, amenities and / facilities, and affordability and the efficient provision of assisted living and care services*
>
> *b. Provide good quality on site amenity, recognising the unique layout, internal amenity and other day-to-day needs of residents as they age.*
>
> *2. Encourage the scale and design of retirement villages to:*
>
> *a. be of a high-quality and be aligned with the planned urban character of the zone; and*
>
> *b. achieve attractive and safe streets and public open spaces, including by providing for passive surveillance."*

6.4.12 Evaluation - Retirement Villages – New rule framework

154. The NRMP definition of residential unit includes accommodation for 'homes for the elderly':

means the use of land and buildings by people for living accommodation where the occupiers intend to live at the site for a period of one month or more, and will generally refer to the site as their home and permanent address; and includes accessory buildings and leisure activities.
For the purpose of this definition, residential activity (irrespective of the length of stay) shall include:

a. accommodation offered to not more than four travellers for a daily tariff in association with a permanent resident as described above, or
b. emergency and refuge accommodation, or
c. accommodation for supervision staff and residents, where residents are subject to care or supervision (e.g. homes for persons with disabilities, and homes for the elderly), but not places where residents are subject to detention.

155. PC29 does not propose to change this definition and Rule ICr.37D Residential Activity would apply to retirement villages. As such, I do not consider it is necessary, efficient or effective to include a separate rule framework for retirement villages. I do support the inclusion of matters of discretion to allow for some design flexibility when assessing applications where residents are subject to care. Residents who are subject to care may have less demand for the provision of unit size and outlook.

6.4.13 Recommendations

156. In summary, for Key Issue 3 Inner City Zone Building Standards, I recommend the following for the reasons given above:

a) Submissions be rejected, accepted in part or accepted as set out in Appendix 1; and

b) The following key changes to the Inner City Zone:

Provision(s)	Officer recommendations
ICr.35.3 Daylight admission - Boundary with Residential zone	Accept S947.002 amend as follows: Any building on a site with a boundary adjoining a Residential Zone ~~or an Open Space and Recreation Zone~~ must comply with the daylight angles ~~in Appendix 15 - Daylight admission – residential~~ for the adjoining Residential Zone on that boundary.
ICr.35.3 Daylight admission - Boundary with Residential zone	Accept S901.019 in part, amend as follows: ICr.35.3 Activities that contravene a permitted condition are restricted discretionary. Discretion is restricted to: i. effects on the planned built character of the zone; and

Provision(s)	Officer recommendations
	ii. effects on the safety and attractiveness of the street; and iii. effects on the quality of on-site living environments; and iv. visual dominance, privacy and shading effects on neighbouring sites; and *v.* the need to address other effects, including significant risks from natural hazards.
ICr.37C.4 Residential unit - minimum size	Accept submissions S898.023 and S901.022 and insert as follows: c. for accommodation where residents are subject to care, whether design flexibility is necessary and appropriate to respond to the functional requirements of the activity and the context of the site. This may include design flexibility for smaller room types.
ICr.40A.4 Outlook Space	Accept submissions S898.023 and S901.022 and insert as follows: f. for accommodation where residents are subject to care, whether design flexibility is necessary and appropriate to respond to the functional requirements of the activity and the context of the site. This may include design flexibility for outlook space.

6.5 Key Issue 4: Suburban Commercial Zone Building Standards

157. The commentary and analysis in this section includes a discussion on the issues raised by submitters regarding the Suburban Commercial Zone building standards and then evaluates those issues immediately below. The recommendations at Section 6.5.13 provide a summary of my recommended amendments to the objectives and policies which are discussed in the evaluation.

6.5.1 Notified PC29

158. PC29 proposes several changes to the Suburban Commercial Zone building standards including amendment to rule SCr.30 reducing the size and dimensions of outdoor living courts and the introduction of standards for residential unit minimum size, outlook space for residential units and daylight admission to adjacent residential zones.

6.5.2 Key matters raised in submissions

159. Multiple submissions were received on the building standards in the Suburban Commercial zone chapter. The key issues raised include:

a) Daylight admission;

b) Outdoor living court;

c) Outlook space;

d) Residential unit size;

e) Defaulting activity status of infringements of standards; and

f) New rule framework.

6.5.3 Key matters raised in submissions - Daylight admission

160. Nelson City Council (S947.003) seeks to amend Rule SCr.27 to make it clear that the daylight controls only apply to the specific boundary that adjoins a residential zone as the residential controls are aimed at ensuring that a residentially zoned property is not penalised for having a commercial rather than a residential neighbour.

161. Retirement Villages Association of New Zealand (S901.031) and Ryman Healthcare Limited (S898.032) sought to amend the Suburban Commercial Zone daylight admission rule so that an infringement to the permitted standards of SCr.27 is a restricted discretionary activity and focused matters of discretion are provided.

6.5.4 Evaluation - Daylight admission

162. The submissions seeking that rule SCr.27 be amended for clarity are accepted. The intent of this rule was that it only applied to the boundary adjoining the residential zones. The activity status of rules will be addressed generally below.

163. Retirement Villages Association of New Zealand sought to amend the daylight admission Rule SCr.27 to change the activity status when permitted standards are not met to Restricted Discretionary. I support changes to rule SCr.27 to default to a restricted discretionary activity for the following reasons:

(a) A restricted discretionary activity status is consistent with rule REr.17K;

(b) A restricted discretionary activity status enables an application to be considered on its merits on a case by case basis, and Council retains the ability to decline the application or apply conditions of consent (relevant to the matters of discretion); and

(c) Potential effects from infringement of daylight omission are well known and can be addressed in matters of discretion.

6.5.5 Key matters raised in submissions - Outdoor living court

164. Kent Inglis (S591.010) seeks to amend the outdoor living court requirements for residential units in all zones by requiring the net area of the outdoor living court to be a minimum percentage of the dwelling floor area, while also requiring minimum dimensions and allowing multiple spaces at different levels to be added together to contribute to the total sum of area provided.

165. Retirement Villages Association of New Zealand (S901.032) and Ryman Healthcare Limited (898.033) seek to amend rule SCr.30 to introduce preclusions for retirement villages including around size, communal areas, and exchange for indoor living spaces. Additionally, they seek for the activity status to be restricted discretionary.

166. NPHS-NM (S709.122) seeks to amend the assessment criteria at SCr.30.4 to include adequate space, access to sunlight, accessibility, and adequate shelter as it is important that outdoor living spaces have adequate space and access to sunlight. They provide the example of these factors being essential if the building occupants want to grow food and/or for someone in a wheelchair.

6.5.6 Evaluation - Outdoor living court

167. I do not support amendments sought by Kent Inglis to change the method of calculating living court requirements. In my opinion the method proposed in relief sought is overly complicated. Allowing multiple spaces at different levels to be added together to contribute to the total sum of outdoor area provided, could result in multiple small unusable spaces, which in my opinion will not effectively achieve the purpose of the rule.

168. I can accept that retirement villages may be designed to include communal outdoor living spaces, however, I do not support the specific relief sought by Retirement Villages Association of New Zealand and Ryman Healthcare Limited. Because retirement villages are defined as a Residential Activity under the NRMP, and have the same or similar effect to other types of accommodation where residents may be subject to care or provided with communal living areas. I therefore do not consider it is efficient to single out retirement villages for specific exclusions. I do support the inclusion of matters of discretion to allow for some design flexibility when assessing applications where residents are subject to care. Residents who are subject to care may have less demand for the provision of unit size and outlook.

6.5.7 Key matters raised in submissions - Outlook space

169. Kāinga Ora - Homes and Communities (S933.107) seeks to retain the rule framework as notified but include notification preclusions where compliance is not achieved. Kāinga Ora also seeks an amendment from the assessment criteria in SCr.30A.4 to remove the privacy effects on neighbouring sites. This standard is an onsite amenity control, with other standards managing offsite amenity outcomes (e.g. setbacks, height, height in relation to boundary controls).

170. Ryman Healthcare Limited (S898.034) and Retirement Villages Association of New Zealand (S901.033) seek to amend rule SCr.30A to provide for outlook space requirements that are appropriate for retirement villages and their functional and operational needs. They also seek to include any breach of this standard as a restricted discretionary activity with focussed matters of discretion included to manage the effects of the breach.

6.5.8 Evaluation - Outlook space

171. I do not support the amendments to assessment criteria proposed by Kāinga Ora. In my opinion the intention of the rule is to ensure adequate separation between residential activities to provide for appropriate residential amenity and privacy as detailed in rule reason SCr.30A.4. For

these reasons, I consider it is appropriate to undertake a notification assessment in accordance with the RMA.

172. I can accept that retirement villages may be designed to include communal living spaces, however, I do not support the specific relief sought by Retirement Villages Association of New Zealand and Ryman Healthcare Limited. Retirement villages are included in the definition of a Residential Activity under the NRMP, and have the same or similar effect to other types of accommodation where residents may be subject to care or provided with communal living areas. I therefore do not consider it is efficient to single out retirement villages for specific exclusions. I do support the inclusion of matters of discretion to allow for some design flexibility when assessing applications where residents are subject to care. Residents who are subject to care may have less demand for the provision of unit size and outlook.

6.5.9 Key matters raised in submissions - Residential unit size

173. NPHS-NM (S709.123) states that the size of the unit is particularly important for disabled people. For example, someone in a wheelchair needs an adequate amount of turning space. Therefore NPHS-NM seeks to amend rule SCr.30B.4 to include a new assessment criterion as follows:

d. the extent to which the unit is usable and accessible for disabled people

6.5.10 Evaluation - Residential unit size

174. NPHS-NM have sought to include a matter of discretion with respect to usability and accessibility for disabled people. I do not support the inclusion of this additional matter, because accessibility and internal design and layout of buildings are managed under the Building Code and in my opinion, it is not necessary to duplicate this compliance requirement.

175. As previously discussed, Mr Wallace in his evidence has addressed relief sought with respect to residential unit size. I rely upon the evidence of Mr Wallace and agree that the minimum residential unit size proposed in SCr.30B is appropriate and I do not recommend any changes to the minimum residential unit size.

6.5.11 Key matters raised in submissions - Retirement Village - New rule framework

176. Retirement Villages Association of New Zealand (S901.029) and Ryman Healthcare Limited (S898.030) seek the inclusion of a new rule framework to specifically provide for retirement villages where non-compliance with a permitted activity creates a restricted discretionary activity status.

"SCr.20C Retirement Village

SCr.30C.1 Permitted:

A retirement village is a permitted activity provided that

1. it is located above the ground floor of any building; and

2. habitable buildings used for the activity must be connected to a community water supply and the wastewater network; and

3. stormwater from the site used for the activity must not drain to any public road, except for secondary flow purposes

SCr.20C.2 Controlled: Not applicable

SCr.20C.3 Discretionary/Non-complying

Activities that contravene a permitted condition are a restricted discretionary activity.

Matters of Discretion are limited to:

1. The positive effects of the construction, development and use of the Retirement Village

2. Mitigation measures to address risk from any flood or inundation hazards.

3. The nature of any neighbouring activity, including in the case of any activity involving hazardous substances, any risk to human health posed by that substance

4. Where a retirement unit is proposed at ground floor level

a. the extent to which residential activity can occur on the ground floor without affecting the pedestrian circulation and interest along the road

b. the extent to which the design provides privacy for residents. activity can provide privacy

An application for resource consent made in respect of rule SCr.20C is precluded from being publicly notified

An application for resource consent made in respect of rule SCr.20C that complies with the relevant standards is precluded from being limited notified."

6.5.12 Evaluation - Retirement Village - New rule framework

177. PC29 does not propose to amend the fundamental of the 'residential activity; definition and Rule SCr.30C Residential Activity would apply to retirement villages, as such, I do not consider it is necessary, efficient, or effective to include a separate rule framework for retirement villages. I do support the inclusion of matters of discretion to allow for some design flexibility when assessing applications where residents are subject to care. Residents who are subject to care may have less demand for the provision of unit size and outlook owing to the different functional requirements and room types that can be offered.

178. The proposed amendments go some way to achieving the relief sought by Ryman Healthcare Limited and Retirement Villages Association of New Zealand regarding the inclusion of a specific rule with Restricted Discretionary criteria.

6.5.13 Recommendation

179. In summary, for Key Issue 4 Suburban Commercial Zone Building Standards, I recommend the following for reasons given above:

a) Submissions be rejected, accepted in part or accepted as set out in Appendix 1; and

b) The following key changes to the Suburban Commercial Zone:

Provision(s)	Officer recommendations
SCr.27.1 Daylight admission residential zone boundaries	Accept S947.003 amend as follows: Any building on a site with a boundary adjoining a Residential Zone ~~or an Open Space and Recreation Zone~~ must comply with the daylight angles ~~in Appendix 15 - Daylight admission - residential~~ for the adjoining Residential Zone on that boundary.
SCr.27.3 Daylight admission residential zone boundaries	Accept S898.032 and S901.031 and amend as follows: SCr.27.3 Activities that contravene a permitted condition are restricted discretionary. Discretion is restricted to: i. effects on the planned built character of the zone; and ii. effects on the safety and attractiveness of the street; and iii. effects on the quality of on-site living environments; and iv. visual dominance, privacy and shading effects on neighbouring sites; and v. the need to address other effects, including significant risks from natural hazards.
SCr.30.4 Outdoor living court	Accept S898.034, 901.033 and insert the following: d. for accommodation where residents are subject to care, whether design flexibility is necessary and appropriate to respond to the function requirements of the activity and the context of the site. This may include design flexibility for outdoor living courts.
SCr.30A.4 Residential Unit – Outlook Space	Accept S898.034, S901.033 and insert the following: c. for accommodation where residents are subject to care, whether design flexibility is necessary and appropriate to respond to the function requirements of the activity and the context of the site. This may include design flexibility for outlook space.
SCr.30B.4 Residential Unit – Minimum Size	Accept S898.034, S901.033 and insert the following: e. for accommodation where residents are subject to care, whether design flexibility is necessary and appropriate to

Provision(s)	Officer recommendations
	respond to the function requirements of the activity and the context of the site. This may include design flexibility for smaller room types

6.6 Key Issue 5: Buildings in Inner City and Suburban Commercial Zones

6.6.1 Notified PC29

180. PC29 proposes amendments to the Inner City and Suburban Commercial zones to apply a restricted discretionary activity status for new buildings with associated matters of discretion addressing the design and layout of development as set out in Rule ICr.37B and SCr.21.

181. Under the operative NRMP, buildings in the Inner City and Suburban Commercial zones are permitted, subject to compliance with standards.

6.6.2 Key matters raised in submissions

182. Multiple submissions were received on the rules in relation to new buildings in the Inner City and Suburban Commercial Zones.

183. Multiple submitters support the building of Inner City apartments as they offer an alternative solution to a 'retirement village' and this can free up the bigger homes for new families to occupy. The 'retired' occupants may also be less likely to be reliant on a vehicle which may more closely suit the growth model desired.

184. There was general support for multiple-storey units to be built in the CBD of Nelson.

185. GP Investments Limited (S845.035) seeks that with the inclusion of the proposed new rule ICr.37B, it is appropriate that ICr.73 External Appearance be deleted, as proposed by PC29.

186. GP Investments Limited (S845.029) and Trafalgar House Limited (S777.020) seek to amend ICr.37B.1 to clarify what constitutes a minor alteration.

187. Woolworths New Zealand Limited (S141.003) seeks to divide ICr.37B into two rules and divide SCr.21 into two rules, one applying to new buildings and one to minor alterations and additions because, as currently drafted, the rule appears to merge two separate matters into a separate rule being 'new buildings' and 'additions and alterations' which is not overly clear to the plan user.

188. John Fitchett (S732.032) seeks to amend the Inner City Zone rules to clearly stipulate what is permitted regarding the component parts of a building. He considers that requiring resource consent for every Inner City development means that the developer is thereafter at the mercy of the Council Planners as to "design" aspects and originality may be stifled. Mr Fitchett further seeks to delete ICr.37B requiring resource consent for every new building (S732.033, 732.034)

189. Woolworths New Zealand Limited (S141.007) seeks to amend the Restricted Discretionary Activity criteria of ICr.37B.3and to refer to the further assessment criteria set out under

ICr.37B.4 if this is intended to be assessed as part of an application for a Restricted Discretionary Activity resource consent.

190. Woolworths New Zealand Limited (S141.006) seeks to amend the SCr.21.3 Restricted Discretionary Activity criteria to refer to the further assessment criteria set out under SCr.21.4 as the criteria in SCr.21.3 i-iv by which the Council's discretion is restricted, does not refer to any further assessment criteria, however SCr.21.4 as drafted, suggests to the plan user that these criteria are also relevant. Woolworths New Zealand Limited (S141.002) seeks to retain the non-notification clause for Restricted Discretionary activities under Rule SCr.21.3 (S141.002).

191. Woolworths New Zealand Limited (S141.005) also sought to define 'minor alterations and additions' in the plan to enable rule SCr.21.1. to be utilised without the need for case-by-case checking with Council. As currently drafted the Proposed Plan Change does not include a definition of 'minor alterations and additions' and so it is assumed that any additions and alterations to a building that change its external appearance or design are not classed as minor, and therefore cannot be considered a permitted activity under rules ICr.37B.1 and SCr.21.1.

192. NPHS-NM (S709.119) seeks to amend assessment criteria in SCr.21.3 to include access to sunlight and to add the following addition to the non-notified clause of the rule: "... *unless there is concern for public health and wellbeing. Applications will be assessed by the Urban Design Panel*." Further submitter Kāinga Ora (FS709.119) opposes this and considers these additions to be too broad and open to interpretation and the rule as drafted is sufficient.

193. NPHS-NM (S709.120) seeks amendments to the assessment criteria in rule SCr.21.4 to include consideration of the effects on wellbeing for building occupants and visitors, the inclusion of micromobility, accessible design for disabled people and to strengthen the wording regarding natural cross ventilation. The submitter states that multistorey buildings that are only accessible by stairs are a barrier for disabled people therefore provisions that enable accessible design are encouraged. Further, they consider that natural cross ventilation and access to open space is important for wellbeing and as currently drafted the word 'encourage' may risk this being easily disregarded.

6.6.3 Evaluation

194. The proposed amendments to the buildings rule are discussed in detail in Table 34 – Issue 2: Activity Status for New Buildings in the Section 32 report. In summary, the purpose of the restricted discretionary activity status for new buildings and more than minor alterations and additions is to ensure high-quality design outcomes are achieved with the increased heights enabled by PC29.

195. I consider that the activity status of new buildings in the Inner City Zone is appropriate. The evidence from Mr Wallace talks to the importance of design assessment as building standards do not necessarily support positive urban design outcomes. The activity status allows for positive design outcomes as well as an avenue to address any adverse effects in the context of a particular site and proposal. I support the retention of the clause that resource consents will be considered non-notified, where compliance is achieved with performance standards, in recognition that this is a technical design assessment, and the Council is unlikely to obtain any additional information through the consent process.

196. While there could be some merit in splitting out the rules so that there are separate rules for new buildings and for additions and alterations. I consider this will double up the assessment criteria, effectively increasing the length and complexity of the zone rules and is in my opinion unnecessary. I consider that the definition of minor alterations and additions is not necessary. The rule specifies that minor alterations and additions should not change its external design and appearance. I consider that the dictionary definition of the word minor is sufficient in determining compliance with this rule. However, I would consider any alterative drafting put forward by submitters.

197. Changes have been recommended to the assessment criteria of this rule as the result of the heritage assessment undertaken by Dr Ann McEwan, which recommends the inclusion of the Hardy Street (South) Heritage Precinct. Amendments include text to consider the effects of the heritage values within or adjacent to heritage precincts or scheduled buildings. This is comprehensively addressed in the S42A - Heritage.

198. In relation to the submission points seeking changes to the assessment criteria to acknowledge the effects on access to sunlight, I do not consider these to be appropriate. Whilst I acknowledge that access to sunlight is important, sunlight may be compromised as a result of building height and proposed intensification within a city centre environment.

199. I do not support the submission point from NPHS-NM (S709.119) that seeks the additional wording to the clause regarding non-notification as I consider that the wording could be open to interpretation. Additionally, the detail in the assessment criteria has been developed to guide both the applicant as well as decision-makers to various factors which can contribute to the quality of development.

200. Additionally, I recommend that submission point NPHS-NM (S709.120) is accepted in part with the inclusion of "micromobility" added to b.i. to recognise the inclusion of this term in the plan change and the need for transport modes to be considered more broadly.

6.6.4 Recommendations

201. In summary, for Key Issue 5 – Buildings in Inner City and Suburban Commercial Zones, I recommend the following:

a) Submissions be rejected, accepted in part or accepted as set out in Appendix 1; and

b) The following key changes to the Suburban Commercial Zone:

Provision(s)	Officer recommendations
SCr.21.3	Accept in part S709.119 and amend as follows: iv. effects on residential amenity values for building occupants, including outlook, privacy, access to sunlight and storage.

Provision(s)	Officer recommendations
SCr.21.4 Assessment Criteria	Accept in part S709.120 and amend as follows: b. the ~~degree~~ effects on amenity values for building occupants, in particular: i. whether clearly defined and convenient pedestrian and micromobility access is provided from building entrances and tenancies from the street; and ...

6.7 Key Issue 6: Residential Activity within the Inner City and Suburban Commercial Zones

6.7.1 Notified PC29

202. The Inner City and Suburban Commercial Zone chapters see the addition new rules regarding residential activity requiring residential activities to be located above the ground floor level.

6.7.2 Key matters raised in submissions

203. Multiple submissions were received on the rules relating to residential activity in the Inner City. The key issues raised include:

a) Support for residential activities above ground floor level;

b) Opposition to rule IC.37D.1.a;

c) Amendments to provide for residential activities on the ground floor level;

d) Restricted discretionary activity status default; and

e) Site specific requests for residential activities.

204. Multiple submitters support residential activities above ground floor level and the retention of ICr.37D.

205. Several submitters seek opportunities for residential development on the ground floor. Kāinga Ora (S933.098) seek to amend ICr.37D to provide for opportunities where residential activities could be appropriately located at the ground floor and provide the example of when residential activities are located at the rear of the site with no street frontage.

206. John Fitchett (S732.031) opposes rule ICr.37D.1.a and seeks to permit residential activity on the ground floor in the Inner City Zone. Mr Fitchett (S732.026) further opposes any rule requiring that new buildings in the Inner City must have commercial use on the ground floor.

207. Robert Stevenson (S885.033) opposes the rule and seeks to undertake a cost-benefit study on the type of proposed building with ground-floor businesses and apartments above as this will establish whether these types of buildings are financially viable.

208. Nelson Tasman Climate Forum (S512.018) supports allowing residential units on the first floor of all buildings in the Inner City, Inner City Fringe, and Suburban Commercial zones. Jocelyn Smith (S461.004) seeks to encourage new commercial builds to have high-rise accommodations above the shops. Chris and Sandra Sutcliffe (S161.012) seek to increase housing above existing supermarkets.

209. Retirement Villages Association of New Zealand (S901.021) and Ryman Healthcare Limited (S898.022) seek to amend ICr.37D so that an infringement to the permitted standards of ICr.37D is a restricted discretionary activity and provide focussed matters of discretion.

210. BP Oil NZ Ltd, Mobil Oil NZ Ltd, and Z Energy Ltd (S257.010) seek amendments to the criteria assessment in ICr.37D stating the criteria need to be amended to be clear and this this will help to address reverse sensitivity effects on lawfully established non-residential activities occurring within the zone. Amendments sought as follows:

> *b. the nature of any neighbouring activity, including potential reverse sensitivity effects, and in the case of any activity involving hazardous substances, any risk to human health posed by that substance.*

211. Chris and Sandra Sutcliffe (S161.012) seek to increase housing above existing supermarkets. Stephanie Phillips (S597.017) and SPArchitect Ltd (S603.018) support allowing for residential accommodation in the Suburban Commercial area in Stoke and Tahunanui.

212. Equally several submitters oppose this rule and seek residential activity on the ground floor be enabled. Robin Whalley (S50.003) opposes the change to SCr20A.1.

213. Kent Inglis (S591.003) seeks to allow residential activity on the ground floor in the Suburban Commercial Zone as there is no need to prohibit this when there are areas where it may be appropriate, particularly given that residential activity is permitted. Mr Inglis considers that there are other thresholds that could better manage potential issues like noise and insulation requirements at road boundaries.

214. Kāinga Ora - Homes and Communities (S933.105) seeks to amend rule SCr.20A to provide for opportunities where residential could be appropriately located at ground floor as follows:

> *"A residential activity is a permitted activity provided that:*
>
> *i. it is located above the ground floor of any building or if located at ground level, does not have street frontage; and..."*

215. BP Oil NZ Ltd, Mobil Oil NZ Ltd, and Z Energy Ltd (S257.016) seek to amend the assessment criteria SCr.20A to more clearly address reverse sensitivity as follows:

"…b. the nature of any neighbouring activity, including potential reverse sensitivity effects, and in the case of any activity involving hazardous substances, any risk to human health posed by that substance."

216. Retirement Villages Association of New Zealand (S901.028) and Ryman Healthcare Limited (S898.029) seek to amend the activity status in SCr.20A.3 to Restricted Discretionary and include focused matters of discretion based on the assessment criteria.

217. MPHS-NM (S709.117) seek to amend SCr.20A.4 Residential activity Assessment Criteria by adding the following new criteria:

"f. the extent to which the design is usable and accessible for disabled people."

218. Catherine Larson (S819.009) seeks that residential apartments are encouraged to be built, designed and renovated above the shops and commercial areas in town streets within the square of Tasman, Nile, Halifax and Rutherford Street with small parks and lots of trees.

219. Chris and Sandra Sutcliffe (S161.010) seek to increase residential density above existing businesses within the CBD specifically within the area bordered by Collingwood, Bridge, Waimea and Hardy Streets and in the area where Fresh Choice is located and allow these areas to have 3-4 storey housing.

6.7.3 Evaluation - Residential Activities in Inner City and Suburban Commercial Zones

220. Submitters have largely sought to amend the provisions to retain the ability to establish residential activities at ground floor level within the Inner City and Suburban Commercial Zones, I agree with those submitters in part for the reasons set out below.

221. The provision of residential units in the Inner City and Suburban Commercial Zones is discussed in detail in Table 36 – Issue 3: Supporting Residential Amenity – Evaluation of Options in the Section 32 report. The Section 32 Report concludes that imposing a restriction over the entire ground floor to protect retail uses is the most appropriate "*based on the greater focus on retail and commercial uses within the commercial zone, option 2 recommends imposing a restriction over the entire ground floor to protect these uses. This restriction will also provide residential amenity and privacy for residential activity above the ground floor*"[5].

222. The report goes further to state there may be some situations where ground floor residential is appropriate, such as:

a. On larger sites where ground floor residential can be screened, through the utilisation of live / work units; and

b. Near or at the interface with established residential areas.

[5] Section 32 Evaluation page 193

223. The Section 32 report also concludes that equally there are a number of instances where ground floor residential uses may be inappropriate:

a) Where they are adjacent to highly trafficked footpaths which can create a conflict in terms of privacy for residents:

I. They are located on "key retail streets" and could undermine the retail experience;

II. They are located immediately adjacent to activities or operational areas which can give rise to adverse amenity impacts (e.g., loading and servicing area or outdoor dining area).

224. Having considered the submissions, I consider that PC29 is too restrictive regarding the limitation of residential at ground floor in the Inner City Zone, particularly when considered against the current economic climate and changing retail trends towards online shopping and loss of brick-and-mortar locations. I consider that the creation of a mixed-used environment of residential and commercial activities, with some residential at ground floor in appropriate locations, will enhance the vibrancy and vitality of the Inner City.

225. Beyond the economic benefits of increased presence of people, increased residential activity within, these zones, benefits include sustainability and public health (by reducing vehicle trips), efficient use of infrastructure, and benefits for increased housing choice.

226. Mr Wallace concludes in his evidence, *"that a more common, and in my opinion more appropriate method, for managing the potential impacts is to identify key retail/ commercial frontages such as a main street where it would be beneficial for ground floor residential to be avoided*". I rely upon his evidence, and I consider that provisions can be carefully crafted to ensure that the instances where ground floor uses are inappropriate can be managed by way of resource consent, and I consider that the blanket rules proposed are not the most efficient or effective method for achieving the objectives (Objective IC1 and IC4 / Objective SC1 / SC2A).

227. With respect to areas that may be inappropriate for residential activity at ground floor level in the Inner City, I note that NRMP operative rule ICr.33 restricts residential activity from occurring within scheduled frontages, being Trafalgar, Bridge and Hardy, plus Buxton and Montgomery Squares as shown in Figure 1 below:



Figure 1: Extract of NRMP Planning Map - Scheduled Frontage

228. The scheduled areas apply to the key pedestrian frontages within the Inner City Zone, which maintain an activity frontage and high presence of commercial, retail, food and beverage activities. In my opinion these scheduled areas appropriately indicate locations where residential units at ground level should not be permitted as they are key retail streets, with highly trafficked footpaths which can create a conflict in terms of privacy for residents. I therefore conclude that it is appropriate to retain operative rule ICr.33 subject to amendments as detailed below. These amendments include additional assessment criteria in ICr34B.4 that enable consideration of the circumstances in which residential activity may be appropriate at ground floor outside of the streets shown in Figure 1. This provides the opportunity to evaluate the characteristics of the site, and the design of the development at ground floor.

229. With respect to submissions seeking amendments to ICr.37D, in light of the above discussion I recommend that rule ICr.37D be deleted, therefore this relief sought is not necessary.

230. Several submitters have sought to enable residential activities at ground level within the Suburban Commercial Zones, I do not support the relief sought, in my opinion the Suburban Commercial Zones are located within smaller commercial areas, where it is important to encourage and provide for commercial activities. I consider that the assessment criteria proposed in rule SCr.20A provide sufficient ability for council to consider the location of the residential unit with respect to street frontage.

6.7.4 Recommendation

231. In summary, for Key Issue 6 - Residential Activity, I recommend:

a) The submissions be accepted, accepted in part or rejected as set out in Appendix 1; and

b) The following key changes to the Inner City Zone:

Provision(s)	Officer recommendations
ICd.11	Accept S933.098, 732.026 and 732.031 and amend as follows: The zone enables and encourages an increase in the density and diversity of quality housing in the City Centre by enabling residential activity above ground floor level on key retail streets and at ground floor level in other areas. It is expected that over time, more people will choose to live in the City Centre because of its easy access to offices, shops, entertainment and varied open spaces and experiences.
ICd.17	Accept S933.098, 732.026 and 732.031 and amend as follows: The quality of buildings and development and surrounding streets and open spaces in the City Fringe will influence the attractiveness of the area, and the adjoining City Centre, as places to visit, do business and live. The zone enables a broad range of activities, to provide the flexibility necessary to accommodate future growth and change, including more compact commercial activities and high density residential activity and encouraging a diverse mix of commercial activities at ground floor level on Vincent and Vanguard Streets ~~above the ground floor~~.
IC4A.1(a)	Accept S933.098, 732.026 and 732.031 and amend as follows: Enable residential activities, and ensure development achieves a good level of amenity for residents consistent with the vibrant mixed use character of the City Centre, including by: a) locating residential units above ground floor level on key retail and pedestrian focussed streets ~~to provide privacy~~; and
ICr.33 Residential activity ground floor	Accept S933.098, 732.026 and 732.031 and reinstate this rule.
ICr.37D.1 Residential Activity	Accept S933.098, 732.026 and 732.031 and amend as follows: a) ~~residential activity is a permitted activity provided that: a. it is located above the ground floor of any building; and~~
ICr.37D.4 Residential Activity	Accept S933.098, 732.026 and 732.031 and amend as follows: ~~a. the extent to which residential activity can occur on the ground floor without affecting the pedestrian circulation and interest along the main roads in the City Centre and City Fringe.~~ ~~b.the nature of any neighbouring activity, including in the case of any activity involving hazardous substances, any risk to human health posed by that substance.~~ ~~c.the extent to which the design provides privacy for residents.~~

Provision(s)	Officer recommendations
	~~e.the extent to which the ground floor is preserved for commercial uses.~~
ICr.37B.4 New buildings and alterations and additions to buildings	Accept S933.098, 732.026 and 732.031 and add the following assessment criteria ICr.37B.4 f. For streets not required to comply with REr.33, where residential is proposed at ground floor, whether it is designed to enable passive surveillance of the adjoining street and provide privacy for residents. This could be achieved by: i. Providing outdoor living areas overlooking the street; ii. Providing a planted setback and/or fenced setback where the site adjoins the street. These treatments should be low enough to allow for direct sightlines and passive surveillance; or iii. Raising the balcony and floor plate of the ground floor residential units above the level of the adjoining street to a height sufficient to provide privacy for residents and enable them to overlook the street. g. Whether residential activity at ground floor is designed with flexibility to accommodate commercial/retail activities in the future, particularly on other key streets, including Halifax, Collingwood and Rutherford Streets, Selwyn Place and Vincent and Vanguard Streets.

6.8 Key Issue 7: Rezoning and Other Matters

6.8.1 Notified PC29

232. PC29 did not propose to expand or alter the physical extent of the Inner City and Suburban Commercial Zones, with the exception of rezoning the Industrial Zone located on St Vincent Street and Vanguard Street to Inner City - Fringe. Figure 2 below shows the location of the block that is proposed to be rezoned.

233. Section 21.4 of the Section 32 report provides a detailed assessment of the zoning options, and in addition to the notified zoning considers the potential partial rezoning of this land as was proposed in the DNP. The Section 32 concluded that a full rezoning of this land to Inner City – Fringe was the more efficient and effective option for achieving the objectives, noting that the area was not needed to meet industrial demand in Nelson and Taman, and is highly accessible and otherwise well suited to mixed use development.

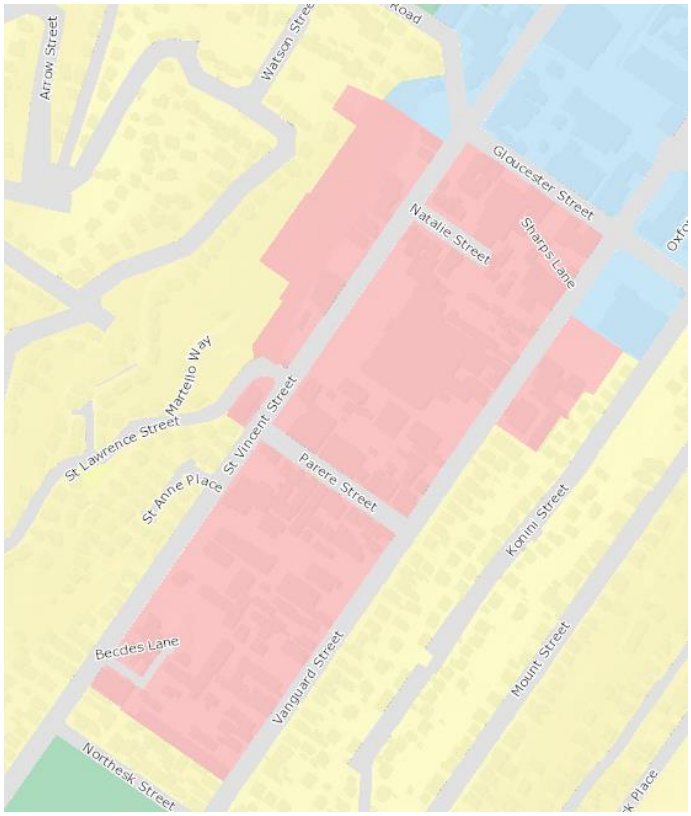


Figure 2: Showing the operative Industrial Zone, proposed to be rezoned to Inner City - Fringe

6.8.2 Key matters raised in submissions

234. Multiple submissions were received on Inner City and Suburban Commercial rezoning and related matters. The key matters raised included:

a) Various submitters supported rezoning of the St Vincent/Vanguard block from Industrial to Inner City – Fringe, including Waka Kotahi (S894.008), John Bullock (S726.012), Suzanne Gibbons (S846.010); Barbara Greene (S113.017), Bruce and Pamela Thomas (S817.015); Julie Strange (S601.006); John Karolyi (s419.015); Geoffry Hayes (S474.015); Stephanie Phillips (S597.016); SPA Architects (S603.017).

b) Jane Bayley (S560.009) opposed the rezoning of the land to Inner City – Fringe on this basis that industrial activities will be pushed out of Nelson.

c) Kirsten Brown (S561.007) sought to apply a separate set of City Fringe rules to the area, with a maximum 19.5m building height, controls on high flood hazard and inundation and more discretion for development in this area to guide its gradual evolution from semi-industrial into a good, desirable, prosperous, and multi-use extension from the city centre.

d) Carole-Ann Lewis (379.002) sought to create a design guide for the central city area, and Tord Kjellstrom (S731.001) and Sarah Holman (S617.030) stated this needs to be developed in consultation with the community. Similar outcomes were sought by Richard Hite (437.003) Stephanie Phillips (S597.019) and SPArchitect Ltd (S603.020).

e) Andrew Dunlop (S169.012), May Bronsteter (S42.045) and Inea Yeon (S329.032) opposed the Inner City – Fringe Zone Rutherford and Examiner Street, and 4 Examiner Street in particular.

f) Various other requests relating to the Suburban Commercial Zone including:

i) NPHS – NM (709.121) requested to consider retaining standard SCr.25 as the are concerned that the removal of the landscaping section may reduce the amount of greenery in the Suburban Commercial Zone;

ii) NPHS – NM (709.126 and 134) sought to amend SCr.39 and INr.42.1 – Closing Times from 7am – 3am daily to 8am – 3am daily, to comply with the default maximum national trading hours under s43 of the Sale and Supply of Alcohol Act 2012.

6.8.3 Evaluation

235. I continue to support the proposed rezoning of the St Vincent Street / Vanguard Street area from Industrial Zone to City Centre – Fringe for the reasons set out in Section 21.4 of the Section 32 report. The land is not required to meet industrial demand in Nelson and Tasman and is otherwise in a highly accessible and developable part of Nelson, that makes it particularly suitable to accommodate a broader range of uses. The rezoning would enable more people to live in an area close to the Inner City Zone (Objective 3) and would efficiently give effect to a compact and vibrant centres and neighbourhoods, a safer and attractive street environment and greater diversity of housing choices (Objective SO14.2).

236. I support the package of provisions that are proposed to apply to the Inner City – Fringe Zone as set out in the report above. I agree with Kirsten Brown (S561.007) that some consideration of the design of development in this area is needed to manage reverse sensitivity effects and the transition over time to a mixed use environment. I consider that PC29 has included various provisions to address reverse sensitivity effects, such as noise attenuation. Furthermore, I note that proposed rule ICr37D.4 includes assessment criteria directing consideration of the nature of any neighbouring activity. I consider that it is appropriate to include an additional assessment criteria to address the potential reverse sensitivity effects as a result of the proposed Inner City – Fringe rezoning.

237. PC29 proposes to delete the Inner City Heritage Precinct (commercial) and related design guide. This is addressed in the S42A Report – Heritage. Ms Morgan also addresses the issue of design guides in the S42A Report – Strategic and Overview. I agree with Ms Morgan that non-statutory Design Guides can support positive design outcomes and there is flexibility for these to be developed alongside or after PC29 is made operative. However, in my view Design Guides for the Inner City Zone are in not essential to give effect to the objectives as the matters of discretion and assessment criteria for new buildings/additions (ICr.37B) and alterations provide clear guidance on the urban design outcomes sought in the zone.

238. I continue to support the proposed zoning of Rutherford and Examiner Streets, noting that the Inner City – Fringe Zone extent is the same as the operative NRMP and is not proposed to change. While PC29 proposes to increase the building height to 24m in this location, I support this for the reasons set out in Section 6.3. of the report above.

239. I do not support reinstating SCr.25 – Landscaping in the Suburban Commercial Zone. The rule in the operative NRMP requires at least 5% of a site to contain landscaped area, which must be located along the road boundary. In my view, this is potentially contrary to proposed policy SC2.5 which seeks to contribute to the visual quality and interest of streets. This would be better achieved in my view, with buildings constructed to the street boundary, rather than set back with landscaping.

240. I do not support amendments to the SCr.39 and INr.42.1 – Closing Times from 7am – 3am daily to 8am – 3am daily. These rules are not proposed to be amended by PC29 and section 43 of the Sale and Supply of Alcohol Act 2012 overrides these requirements in any case.

6.8.4 Recommendations

241. In summary, for Key Issue 8 - Rezoning and Other Matters I recommend:

a) The submissions be accepted, accepted in part or rejected as set out in Appendix 1; and

b) The following key changes to the following key changes to the Inner City Zone:

Provision(s)	Officer recommendations
ICr.37B.4	Accept in part S561.007 and insert the following: c.iii. where adjoining any industrial activities in the St Vincent, Vanguard, Parere, Natalie and Gloucester Street block, whether principal living rooms and bedrooms are located and designed to mitigate potential reverse sensitivity or amenity effects.

7.0 Consideration of submissions – Infrastructure

7.1 Overview of submission received

242. A total of 161 submission points were made in relation to the infrastructure related provisions of PC29.

243. The submissions raised a broad range of matters that relate to PC29 and other Council planning functions.

244. The analysis undertaken in this report is informed by the Section 32 Report for PC29.The evaluation in this section is supported by evidence of Mr Ruffell. Where relevant, my analysis also includes an evaluation required under s32AA of the RMA for the amendments I recommend to the notified provisions of PC29.

245. Given the large number of submissions received, this report focusses on the key issues and key submitters. Having reviewed the submissions in detail, the following are what I consider to be the key issues and submitters in contention for this topic, and I therefore focus my analysis on these matters:

- Key Issue 1: Noise;
- Key Issue 2: Infrastructure related definitions;
- Key Issue 3: Infrastructure related objectives and Policies;
- Key Issue 4: Radiocommunications;
- Key Issue 5: Changes to the Services Overlay;
- Key Issue 6: Build over or alongside drains and water mains standard;
- Key Issue 7: National Grid;
- Key Issue 8: Telecommunications
- Key Issue 9 & 10: Nelson Airport and Port Nelson.

246. These key issues form the basis of my analysis below. For ease of reading, this report uses references to submission numbers sparingly and groups key submission points by issue.

247. My recommendations in relation to all submission points on this topic are included at Appendix 1.

7.2 Key Issue 1: Noise

248. This section of the report addresses submissions points relating to:

a) Proposed amendments to the acoustic insulation standards in the Inner City Zone and Suburban Commercial zones;

b) Proposed State Highway Noise rules.

249. In evaluating the submissions on this topic I am informed by the technical evidence of Mr Styles, who is an acoustic engineer with extensive experience in District Plan reviews. I refer to his technical evidence where relevant below.

7.2.1 Notified PC29

Inner City Zone

250. The operative NRMP permits acoustically treated residential activity in the Inner City Zone. Operative rule ICr.43A requires bedrooms of residential units in the Inner City Zone to be acoustically insulated and provides two compliance pathways:

a) Acoustic insulation in accordance with the standard constructions in Appendix 19 - AP19.3, Table 3; or

b) The façade of the new bedroom achieves a façade sound level difference of not less than 30 dB D2m,nT+Ctr. If windows must be closed to achieve the internal design noise levels, mechanical ventilation must be provided in accordance with Appendix 19.

251. PC29 did not proposed any substantial changes to ICr.43A, apart from modifications to minimum ventilation requirements in Appendix 19.3.

Suburban Commercial Zone

252. The NRMP does not contain any acoustic insulation requirements in the Suburban Commercial Zone apart from SCr.69A (Port Effects Control Overlay). PC29 proposed to introduce two additional insulation provisions in the SCZ which are as follows:

a) SCr.30C Residential unit - acoustic insulation. Through this rule, bedrooms of residential units are subject to the same standards as the acoustic insulation standards that apply in the Inner City Zone via Appendix 19.

b) SCr.36A State Highway noise - Acoustic insulation.

State Highway Noise

253. The operative NRMP does not contain any provisions to manage the effect road traffic noise on sensitive land uses. PC29 proposes to introduce acoustic insulation requirements for new buildings, and additions or substantial alterations to buildings in Residential Zones (REr.43A) and the SCZ (SCr.36A) with habitable spaces that are:

a) within 100m of a State Highway, or;

b) 40m from the edge of the nearest marked traffic lane of any State Highway and 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.

254. These rules apply to State Highway 6, which runs along the western edge of the city and through Tāhunanui.

255. For buildings in this location, the proposed standards require habitable spaces to achieve a maximum indoor design noise levels of 40 dB LAeq (24hr). Where this requires windows and

doors to be closed then a ventilation and cooling system is required. Demonstrating compliance with this rule requires a report to be prepared by a suitably qualified and experienced acoustics specialist. Development that infringes these standards is proposed to be a restricted discretionary activity and subject to the matters of discretion set out in REr.43A.3.

7.2.2 Key matters raised in submissions - the Inner City, City Fringe and Suburban Commercial zones

Inner City Zone (City Centre and City Fringe Areas)

256. Key submissions on the Inner City Zone acoustic provisions are as follows:

a) The Fuel Companies (BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited) (S257.011) seek to amend rules ICr.43A.1, ICr.43A.3, assessment criteria ICr.43A.4 and explanation ICr.43A.5 to replace the term “bedroom” with “habitable space”;

b) NPHS-NM (S709.160) seeks further advice around the removal of clauses under both sections a) and b) of Appendix 19.3.ii Acoustic insulation requirements for the Inner City Zone and Suburban Commercial Zone.

Suburban Commercial Zone

257. Key Issues raised on acoustic provisions in the noise provisions in the Suburban Commercial Zone are as follows:

a) NPHS- NM (S709.124) support the retention of SCr.30C;

b) RVA and R Ryman Healthcare Limited (S898.035 and 901.034) seeks amendments to SCr.30C to refer to retirement units;

c) Kāinga Ora (S933.108) seeks amendments to Appendix 19.3 to include new acoustic products;

d) The Fuel Companies (S257.017) seek to amend rules SCr.30C.1, SCr.30C.3, assessment criteria SCr.30C.4 and explanation SCr.30C.5 to replace the term “bedroom” with “habitable space”.

e) Port Nelson Limited (PNL) (S224.021) seek to address the apparent conflict between rules SCr.30C [Residential unit – acoustic insultation] and SCr.69A so there is a consistent approach. PNL supports the requirement for acoustic insultation for residential development in the Suburban Commercial Zone and the adoption of a 30dBA sound level. However, PNL is concerned that this requirement only applies to bedrooms in residential units and not other living spaces, and it is inconsistent with SCr.69A, which has a less stringent requirement but applies this to all buildings, not just to bedrooms.

f) PNL (S224.23) seeks to include a reference to Rule REr.69A in AP19.3.i and that this applies to new or altered buildings, not just residential. They also request to make any required amendments to ensure there is a consistent approach for acoustic insulation for

the Suburban Commercial and General Residential Zone where they are subject to the Port Effects Control Overlay.

7.2.3 Key matters raised in submissions - State Highway Noise

258. Multiple submitters seek that rule REr.43A. (State Highway Acoustic Insulation) is deleted. Multiple further submissions supported these submitters and requested that the rule be deleted. Key reasons for the requested relief are summarised as follows:

a) Mitigation (i.e. use of low noise surfacing) should be adopted by Waka Kotahi. Residential areas will continue to suffer excessive noise and vibration if mitigation is not applied in the road corridor.

b) Lack of road maintenance is a significant generator of adverse noise and vibration effects. Seek that Waka Kotahi puts measures in place to mitigate noise pollution.

c) The onus is on the homeowner to pay to keep sound out, rather than the maintainer and user of the road to use noise reduction surfaces and ensure the surface is well maintained, to keep noise low.

d) Impacts (these rules have) on construction costs, compliance and consenting.

e) Arterial roads also generate noise effects.

f) The section 32 Evaluation Report fails to quantify costs and benefits. The Report fails to evaluate whether the proposed rule is the most appropriate method to achieve a reduction in traffic noise to affected properties.

g) The proposed rule is not effects based.

h) The proposed rules lacks clarity.

i) If people choose to purchase a property on State Highway 6 they are aware of the noise and air quality. Submitters state that the Council does not need to regulate this.

259. Waka Kotahi New Zealand Transport Agency (Waka Kotahi) (S894.001 and 002) - seeks that 100m setback (in Rules REr.43A and SCr. 36A) be replaced with a variable noise sensitive overlay that is shown on District Plan maps. Waka Kotahi provided Overlay maps as part of their submission.

260. Port Nelson (S224.022) support State Highway noise insulation requirements.

261. GP Investments (S845.040) seek amendments to rule (SCr.36A) to ensure it provides more certainty and provides exceptions for minor works. They state that there is uncertainty created by the variable manner in which the words ‘substantial alteration’ could be interpreted. What is considered minor or substantial by one person may not be by another.

262. Kāinga Ora (933.029) seeks amendments to delete all provisions, being objectives, polices and rules in relation to the State Highway noise. Kāinga Ora further states that the rule framework should be amended so that it is based off modelled noise contours and an associated overlay. To

add mechanical ventilation standards to allow for alternative design, remove vibration from matters of discretion and remove inconsistencies between this rule and zone based fence standards. Additionally, they seek to amend the activity status (REr.43A and SCr.36A) to provide a restricted discretionary pathway.

7.2.4 Evaluation - Inner City, City Fringe and Suburban Commercial Zones

Inner City Zone

263. In response to the submission of The Fuel Companies (S257.011), I recommend changes to ICr.43 to refer to "habitable space" instead of "bedrooms". Mr Styles addresses this matter and states that referring to all habitable spaces will ensure that residents are adequately protected from external noise. I rely on Mr Styles and consider that this amendment better gives effect to IC4A and will ensure that future residents have a good level of amenity. The term 'habitable space' is defined in the operative NRMP as follows, "*means the interior parts of a building used for any residential activity but excluding any bathroom, laundry, water closet, pantry, walk-in-wardrobe, corridor, hallway, lobby, clothes drying room, garage, carport or other space of a specialised nature occupied neither frequently nor for extended periods*".

Suburban Commercial Zone

264. As with the Inner City Zone, I recommend modifying rule SCr.30C (Residential unit - acoustic insulation), to replace the term bedrooms with habitable spaces, which is a defined term in the NRMP.

265. RVA and Ryman (S898.035) seek amendments to rule SCr.30C to refer to 'retirement unit'. This matter has been addressed by the term "Residential Activity" and as discussed in the report above, I consider that retirement units are a residential activity as per the operative NRMP definition.

Appendix 19 – Acoustic Insulation Requirements

266. PC29 proposed changes to Appendix 19 of the NRMP. Key changes were as follows:

a) Modifications to AP19.3 so that so that the minimum ventilation requirements and construction schedule apply to the SCZ as well as the ICZ;

b) Removing the requirement to control the noise of the mechanical system itself;

c) Simplify the air change requirements to refer to clause G4 of the Building Code;

d) Require air flows of at least six air changes per hour in each habitable space;

e) Simplify the cooling requirements to require systems to achieve 25 degrees Celsius indoors at all times on every day of the year. This is a change from the operative NRMP which requires the 5% design weather conditions according to NIWA, (that allows the indoor temperature to exceed 25 degrees Celsius 5% of the time on the very hottest of days).

267. NPHS-NM (S709.160) requested that the Council seek further advice on the proposed updates to Appendix 19 and sought to reinstate the operative provisions if noise from ventilation systems could potentially impact people's ability to sleep. In response, Mr Styles has reviewed the proposed changes and recommends the following:

a) Recommend that the internal noise limit for the system is reinstated;

b) Reinstate the allowance for a statistical approach to design weather conditions (2.5%);

c) Reduce the need for six air changes per hour to one whilst maintaining compliance with clause G4 of the Building Code;

d) Reference to the Port Effects Control Overlay is removed from AP19.3. The minimum ventilation requirements for dwellings that are inside the Port Effects Control Overlay are already contained in AP19.2 Port Effects Control Overlay.

268. I agree with the amendments proposed by Mr Styles and note that they are based on other recent plan review processes in Waikato, Wellington and Waimakariri, which have involved input from HVAC experts. I note the advice from Mr Styles that the proposed amendments would reduce the capital and operational costs of ventilation and cooling systems by reducing the number of air changes per hour and reinstating an approach that enables some variation in weather conditions. Both of these factors would in my view improves the efficiency of the rule framework while continuing to effectively achieve the objectives relating to residential amenity (IC4A and SC2A). The requirement to account for the noise generated by the system itself also achieves these objectives by ensuring that the noise generated by the system does not interfere with living and sleeping.

269. Mr Styles notes that there may be situations where developments could be subject to different performance standards for mechanical ventilation and cooling, for example where a site is adjacent to the State Highway and also falls within the Airport/ Port Effects Overlay in (Appendix 19 - AP19.1/ AP19.2). Mr Styles recommends adding text to provide plan users with the discretion to choose which mechanical ventilation/cooling standard they will show compliance with. I agree with this approach and consider that it provides flexibility, while ensuring residents have an adequate level of ventilation and cooling within a unit.

270. In addition to the above, Mr Styles has recommended allowing mechanical ventilation and cooling requirements to be complied with through alternative designs provided that they are proposed by a suitably qualified and experienced HVAC expert as sought by Kāinga Ora (933.039 and 933.109). I agree with this approach and recommended changes to Appendix 19 to this effect. This amendment provides flexibility for new solutions to be proposed but importantly requires expert advice to be provided to ensure that a good standard of residential amenity is achieved as required by the objectives referenced above.

7.2.5 State Highway Noise

The Resource Management Issue

271. A number of submitters have opposed the proposed State Highway noise standards on the basis that the are unnecessary and that people living along this corridor are familiar with the effects

and are aware of the noise the road generates. As I read it, those submitters suggest that the effects of state highway noise on residents is not an issue that requires a planning response through regulation.

272. Section 6 of Mr Styles' evidence sets out the reasons for managing community exposure to noise. In that he refers to studies undertaken by the World Health Organisation on the effects of noise exposure on people, which is mainly based on research from western Europe. He goes onto state that recent research undertaken by Waka Kotahi suggests that New Zealanders may be even more sensitive to the effects of noise from transportation.

273. Relying on the evidence of Mr Styles, I understand that the main causes of adverse effects from noise are annoyance, which can lead to earlier onset of other stress-related disease such as hypertension and ischaemic heart disease) and a reduction in sleep quality and increased awakenings (sleep disturbance). In this respect the key resource management issue to address relates effects on human health and residential amenity.

274. These effects do not relate to reverse sensitivity i.e. complaints by residents about road noise limiting which would limit Waka Kotahi's ability to efficiently operate its network. Nor has Waka Kotahi provided any evidence to suggest that there is a reverse sensitivity effect that needs to be managed.

Requirements on Waka Kotahi to Reduce Noise

275. Waka Kotahi is the Requiring Authority for a number of designations in the NRMP. Designation DTR4 applies to all parts of the State Highway 6 identified on the planning maps. The designation provides for Waka Kotahi to control, manage and improve the State Highway network. The designation conditions set out in Appendix 24 of the NRMP do not require Waka Kotahi to install noise barriers or other measures within the road corridor that would otherwise support a reduction in noise generated by cars travelling on State Highway 6.

Modelled Contour versus standard 100m Distance

276. PC29 as notified proposed a set distance of 100m within which acoustic insulation controls apply to new and altered residential activity. A reduced distance of 40m was proposed to apply from the edge of the nearest marked traffic lane of any State Highway if 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.

277. In its submission, Waka Kotahi supplied the results of noise modelling that identifies the spatial extent of road-traffic noise across the land adjacent to SH6. This Overlay is based on modelling to reflect the unique circumstances of each receiving site (e.g. including speed environment, topography, permanent screening, noise barriers and other features) and the extent of noise generated by the State Highway. The Overlay does not increase the extent of the setback as it has been capped at a maximum of 100m from the state highway carriageway, with many sections being less than 100m. This Overlay is shown in the maps at Appendix 3.

278. Mr Styles has reviewed the methodology and inputs of Waka Kotahi's modelling and considers that the extent of the Overlay has been adequately modelled. He considers the use of the

notified buffer to be inefficient as it would include land that may not be subject to noise levels high enough to warrant any land use standards.

279. I rely on the advice of Mr Styles and recommend deleting the notified setbacks and applying a mapped Overlay as shown in Appendix 3, within which the standards recommended below would apply. The Overlay ensures that sites which bear the costs (e.g., cost of consents, noise reports and insulation) are the sites that experience the effects generated by the road and receive the benefits (through improved health and amenity). In my view, this approach more efficiently achieves the objectives of the proposed residential zones and Suburban Commercial zone that seek quality living environments for residents (RE2.9) and quality housing choices (SC2A) than the notified provisions.

State Highway: Rules (REr.43A and SCr.36A)

280. In his evidence, Mr Styles recommends modification to the State Highway Noise standards - REr.43A and Scr.36A to address multiple submitters concerns. In addition to the introduction of a mapped Overlay, Mr Styles recommends the following amendments:

a) '*Remove reference to vibration in the matters of discretion.'* The purpose of the rule is to manage noise rather than vibration and my recommendation is that the matters of discretion be amended to reflect the same. This change was sought by Kāinga Ora (933.029).

281. I also consider it necessary to amend the matters of discretion, which primarily to focus on indoor noise levels. This will address the resource management issue the rule seeks to manage. Accordingly, I support deleting references to reverse sensitivity effects on the safe and efficient operation of the State Highway network in the matters of discretion and assessment criteria.

282. The rules in PC29 as notified would trigger acoustic requirements for additions and substantial alterations to habitable spaces. GP investments (845.040) seek amendments to provides more certainty and provides exceptions for minor works. They state that there is uncertainty created by the variable manner in which the words 'substantial alteration' could be interpreted.

283. I agree and recommend modifying the rules to delete the reference to alterations and to apply the rules to new buildings or additions. I recommend applying the standards to additions of $10m^2$ or more that are intended to accommodate habitable spaces. The definition of habitable spaces in the NRMP applies to residential activities and excludes areas like laundries and garages. These amendments enable internal re-allocation of space between existing habitable rooms (such as partitioning or combining of existing bedrooms), and modest conversion of non-habitable space to habitable space (such as incorporation of a hallway or linen cupboard into an adjacent bedroom), in order to improve the function of a residential unit at minimal cost. Quantifying large additions (increases in gross floor area of habitable spaces by more than $10m^2$) will ensure that the addition of noise sensitive spaces are appropriately sounds insulated.

Definitions

284. The NRMP does not provide a definition for Acoustic Insulation. The plan defines Acoustic Treatment, but this is confined to the application of port noise controls.

285. I recommend including an Acoustic Insulation definition to address any potential conflict between terms and rules. Defining 'acoustic insulation' will help address the Port's submission seeking certainty and differentiation from the port-related definitions and provisions (S224.021).

286. Mr Styles also recommends modifications to the PC29 acoustic standards so that they apply to all noise sensitive activities that may be enabled by PC29. He recommends that the acoustic standards refer to the defined term "Residential Activity" as it captures a wider range of land use activities (including papakāinga) than the term "residential unit". I agree and consider that this amendment better achieves objectives RE2.9 and SC2A which refer to residential in the broader sense.

Other Roads

287. Mr Witte (S333) states that the notified State Highway rule does not appear to be effects-based as it only applies to land near to State Highways, and not near similarly busy local roads such as Waimea Road and Rutherford Terrace. On the basis of Mr Styles' technical evidence, I agree that it may be appropriate to extend this standard (or a version of it) to other roads in Nelson that accommodate a similar volume of traffic. However, this was not proposed as part of PC29 and there is no evidence in the submissions to suggest that such an approach is warranted on other roads in Nelson at this time.

Circumstances where more than one Acoustic Rule applies to a Site

288. The PC29 noise standards would introduce circumstances where residential activity could be subject to more than one rule requiring acoustic insulation or treatment. For example, The Port Effects Control Overlay, State Highway Noise Overlay and Suburban Commercial Zone could all apply to residential activity on certain sites. In these circumstances, neither the operative NRMP or PC29 state specifically whether more than one acoustic insulation rules should be applied cumulatively, or whether the most onerous applies. Through his review, Mr Styles has recommended that a cumulative approach should apply and recommends that the NRMP includes the following in the relevant acoustic provisions:

"*Where more than one rule/ standard applies that requires acoustic insulation of a habitable space from an external noise source, the standards must be applied cumulatively when determining the overall level of acoustic insulation that is required*."

289. In my view, the NRMP should be clear on which standard applies (cumulative or most restrictive). As the NRMP is currently silent on this matter, a reasonable interpretation is that all rules would apply cumulatively as recommended by Mr Styles. While there is no submission seeking this relief, in my view, the amendment it provides clarity for plan users and is consistent with how the rules would otherwise be interpreted.

7.2.6 Recommendations

290. In summary, for Key Issue 7 - Noise, I recommend:

a) The submissions be accepted, accepted in part or rejected as set out in Appendix 1; and

b) The following key changes to the standards and provisions and are included in full in Appendices 4-7 of this report.

Provision(s)	Officer recommendations
Chapter 2: Meanings of Words Include New Acoustic Insulation Definition	Accept in part S224.021 and insert the following definition: Acoustic Insulation Acoustic insulation means any construction modifications or treatments to a building to achieve a specified internal design sound level or façade sound level difference specified in a plan rule(s). Examples of acoustic insulation may include improved glazing, exterior constructions, linings or other building treatments. Where the specified internal design sound level or façade sound level difference specified in a plan rule(s) can only be achieved with ventilating windows closed, acoustic insulation also includes the installation of a mechanical ventilation and cooling system (as specified in the plan rule(s)) to achieve the specified internal design sound level or façade sound level difference. The purpose of the mechanical ventilation and cooling system is to provide occupants with thermally comfortable and adequately ventilated habitable spaces when windows of those spaces are closed to reduce external noise intrusion.
REr. 43A - State Highway Noise — Acoustic Insulation	Accept in part S894.001, S845.040 and 933.029 amend as follows: Refer to Appendix 4 to view the completed set of recommended rule changes, which include: • Replace the 100m set distance with an overlay. • Qualify additions as being increases in habitable space gross floor areas by 10m^2 or more. • Remove acoustic insulation requirements for internal alterations. • Remove reference to vibration as a matter of discretion. • Amend the matters discretion primarily to focus on indoor noise levels. • Remove references to reverse sensitivity effects on the safe and efficient operation of the State Highway network in the matters matter of discretion and assessment criteria. • Additional standard to address cumulative noise. • Additional standard relating to mechanical ventilation and cooling system compliance.

Provision(s)	Officer recommendations
SCr.36A State Highway noise — Acoustic insulation	Accept in part S894.001, S845.040 and 933.029 and amend as follows: Refer to Appendix 4 to view the completed set of recommended rule changes, which include: • Replace the 100m set distance with a overlay. • Qualify additions as being increases in habitable space gross floor areas by 10m^2 or more. • Remove acoustic insulation requirements for internal alterations. • Amend the activity status for infringing permitted standard in the Suburban Commercial Zone from discretionary to restricted discretionary. • Additional standard to address cumulative noise. • Additional standard relating to mechanical ventilation and cooling system compliance. • Remove vibration and reverse sensitivity effects from the assessment criteria.
ICr. 43A	Accept S257.011 and amend as follows: Refer to Appendix 6 to view the completed set of recommended rule changes, which include: • Replace the term bedroom with Habitable Space • Rule title change from “Acoustic Insulation of Buildings” to “Residential Activity- Acoustic insulation”
SCr.30C	Accept S933.029 and amend as follows: Refer to Appendix 5 to view the completed set of recommended rule changes, which include: • Replace the term bedroom with Habitable Space. • Rule title change from “Acoustic Insulation of Buildings” to “Residential Activity- Acoustic insulation”. • Additional standard to address cumulative noise. • Additional standard relating to mechanical ventilation and cooling system compliance.

Provision(s)	Officer recommendations
AP19.3 Inner city zone and suburban commercial zone	Accept S709.160, 933.039, 933.109 and S224.023 in part and amend as follows: Refer to Appendix 7 to view the completed set of recommended changes to AP19.3, which include: • Reinstate internal noise limit for mechanical ventilation systems. • Reduce the need for six air changes per hour to one whilst maintaining compliance with clause G4 of the Building Code. • Remove reference to the Port Effects Control Overlay is removed from AP19.3.

7.2.7 Section 32AA evaluation

291. A section 32AA evaluation for the above recommended amendments is provided below:

Effectiveness and efficiency

292. In my view, using an Overlay is more efficient trigger for acoustic insulation controls when compared to the notified set distance of 100m. The overlay takes into account the unique circumstances of each receiving site and excludes land that may not be subject to noise levels high enough to warrant any land use standards.

293. I consider that this approach will be more efficient in achieving quality living requirements for residents (RE2.9) and quality housing choices (SC2A) than the notified provisions.

294. The recommended amendments, including amendments to target assessment of effects on human health, are more appropriate in achieving the purpose of the RMA and managing adverse effects on the health and wellbeing of people and communities.

Costs/Benefits

295. The use of an overlay ensures that sites which bear the costs (e.g., cost of consents, noise reports and insulation) are the sites that experience the effects generated by the road and receive the benefits (through improved health and amenity).

296. The recommendation to apply acoustic insulation requirements to additions of $10m^2$ will enable minor internal alterations and minor additions while ensuring that any large additions are appropriately insulated. This will both ensure that there no additional costs for minor alterations whist at the same time managing the noise effects with larger habitable additions.

297. In terms of ventilation requirments, reducing the number of air changes per hour reinstating an approach that enables some variation in weather conditions will reduce construction costs, improve the efficiency of the rule framework while continuing to effectively achieve the objectives relating to residential amenity (IC4A and SC2A). Additionally, the recommended

approach will allow flexibility needed to test new solutions as long as those designs are approved by a suitably qualified HVAC expert.

Risk of acting or not acting

298. There is sufficient information to determine the effects of noise exposure on people. Therefore, the need to assess the risk of acting or not acting is not required.

Decision about most appropriate option

299. For the above reasons, the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version of PC29.

7.3 Key Issue 2: Infrastructure Definitions

7.3.1 Issues raised in submissions

Sensitive Activities

300. PC29 proposed a new definition of sensitive activity which reads as follows:

> means the use of land for a childcare facility, school, residential building, or hospital.

301. This definition is proposed to link with the proposed amendments to REr.51 – Activities near Transmission Lines.

302. NPHS-NM (S709.004) seek that the definition of 'sensitive activities' be amended as follows: Sensitive activities - means the use of land for a childcare facility, kohanga reo, school, kura kaupapa Māori, residential building, or health facility and hospitals.

303. Transpower (S198.011) also seeks amendments to this definition as follows: means the use of land for a childcare facility, ~~school~~ educational facility (including any preschool or day care centre), ~~residential building~~ residential activity, papakāinga, short term living accommodation, community activity, health facility, or hospital.

National Grid

304. PC29 proposed a new definition of National Grid as follows:

> means the network that transmits high-voltage electricity in New Zealand and that, at the commencement of these regulations, is owned and operated by Transpower New Zealand Limited, including:
>
> a. transmission lines; and
>
> b. electricity substations.

305. Transpower (S198.007) seeks to amend this definition so that it refers to the National Policy Statement on Electricity Transmission 2008.

National Grid Corridor

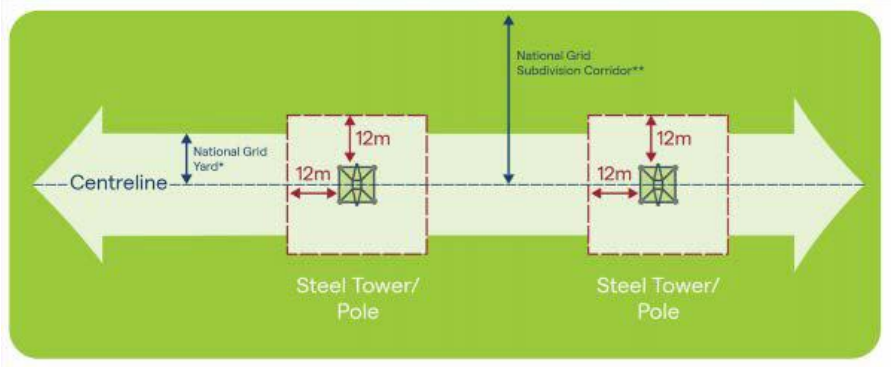
306. PC29 proposed a new definition of National Grid Corridor as set out below:

> means the area measured either side of the centreline of any above ground electricity transmission line as follows:
>
> a) 14m for the 110kV National Grid lines on single poles (HAM-MER A, ARI-HAM A).
>
> b) 16m for the 110kV National Grid lines on pi poles.
>
> c) 32m for 110kV National Grid lines on towers (HAM-MER B, HAM-WHU A, ARI-HAM B, HAM-KPO A).
>
> d) 37m for the 220kV transmission lines (HAM DEV A).
>
> For the avoidance of doubt the National Grid Corridor and National Grid Yard do not apply to underground cables or any transmission lines (or sections of line) that are designated.

307. Transpower supported defining National Grid Corridor but requested the following amendments (S198.008)

> National Grid Subdivision Corridor means the area measured either side of the centreline of any above ground electricity transmission line as follows:
>
> ~~a) 14m for the 110kV National Grid lines on single poles (HAM-MER A, ARI- HAM A).~~
>
> ~~b) 16m for the 110kV National Grid lines on pi poles.~~
>
> ~~c) 32m for 110kV National Grid lines on towers (HAM-MER B, HAM-WHU A, ARIHAM B, HAM-KPO A).~~
>
> ~~d) 37m for the 220kV transmission lines (HAM DEV A).~~
>
> a. 16 metres for 110kV transmission lines on pi poles;
>
> b. 32 metres for 110kV transmission lines on towers (including tubular steel towers where these replace steel lattice towers); and
>
> c. 37 metres for 220kV transmission lines.
>
> For the avoidance of doubt the National Grid Subdivision Corridor and National Grid Yard do not apply to ~~underground cables or~~ any transmission lines (or sections of line) that are designated.

The measurement of setback distances from National Grid transmission lines must be undertaken from the centre line of the National Grid transmission line, as shown in the diagram below. The centre line at any point is a straight line between the centre points of the two support structures at each end of the span."



National Grid Yard

308. PC29 proposed a new definition of National Grid Yard as set out below:

means:

a) the area located 12 metres in any direction from the outer edge of a National Grid support structure; and

b) the area located 10 metres either side of the centreline of any above ground 110kV National Grid line on single poles (HAM-MER A, ARI-HAM A); or

c) the area located 12 metres either side of the centreline of any above ground National Grid line on towers (HAM-MER B, HAM-WHU A, ARI-HAM B, HAM-KPO A, HAM DEV A).

309. Transpower (S198.009) seeks to amend the definition National Grid Yard as follows:

National Grid Yard means:

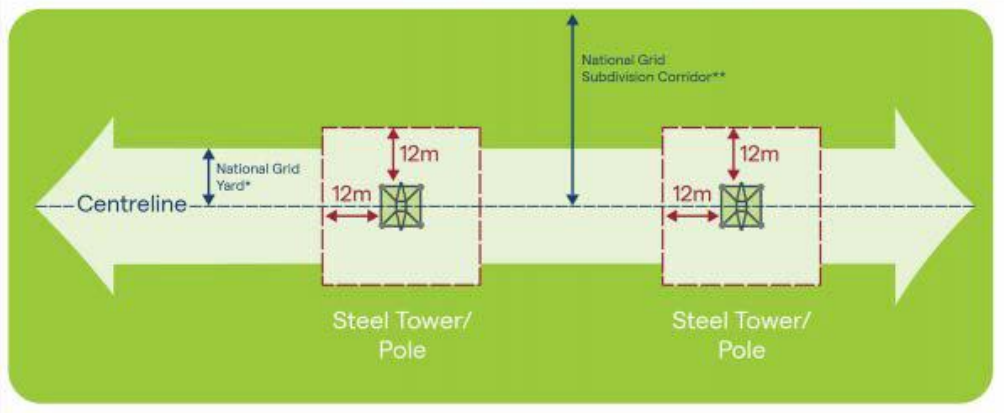
- ~~a. the area located 12 metres in any direction from the outer edge of a National Grid support structure; and~~
- ~~b. the area located 10 metres either side of the centreline of any above ground 110kV National Grid line on single poles (HAMMER A, ARI-HAM A); or~~
- ~~c. the area located 12 metres either side of the centreline of any above ground National Grid line on towers (HAM-MER B, HAM-WHU A, ARI-HAM B, HAM- KPO A, HAM DEV A).~~

a. the area located 12 metres in any direction from the outer visible edge of a support structure for an overhead 110kV or 220kV National Grid transmission line; and

b. the area located 12 metres either side of the centreline of any overhead 110kV or 220kV National Grid transmission line on pi poles or towers (including tubular steel towers where these replace steel lattice towers).

For the avoidance of doubt the National Grid Subdivision Corridor and National Grid Yard do not apply to any transmission lines (or sections of line) that are designated.

The measurement of setback distances from National Grid transmission lines must be undertaken from the centre line of the National Grid transmission line, as shown in the diagram below. The centre line at any point is a straight line between the centre points of the two support structures at each end of the span.



Nationally and Regionally Significant Infrastructure

310. Port Nelson (224.001) seek to include a definition of Nationally Significant Infrastructure as per the NPSUD.

311. The Telecommunications Companies requested a definition of Regionally Significant Infrastructure to include telecommunications networks and to link with the proposed amendments to Objective DO14.4 (S486.003, S487.003, S488.003, S490.003, S491.003).

7.3.2 Evaluation

Sensitive Activities

312. The sensitive activity definition is relevant to the implementation of rule REr. 51 – Activities near transmission lines. I agree with the with amendments sought by Transpower (S198.011) for the following reasons:

a) While the NRMP does not contain a definition of the term 'school', the operative NRMP defines education facility. Similarly, "residential activity" is defined, and "residential building" is not.

b) The wording within rule REr. 51.1 refers to "(including any preschool or day care centre)".

c) Papakāinga, short term living accommodation, community activities and health facilities are all defined terms in the NRMP and would be sensitive to the nearby presence of the National Grid.

313. I disagree with the relief sought by NPHS-NM (S709.004) as the activities that they seek are included in the definition are not otherwise defined terms. The relief they seek is addressed by the changes I recommend above.

314. I also support consequential amendments to REr.51.1(a) to delete the references to residential units, or education facilities (including any preschool or day care centre), as these will included in the definition.

National Grid, National Grid Corridor and National Grid Yard

315. I support the amendments to the definition of 'National Grid' so that it has the same meaning as the National Policy Statement on Electricity Transmission (NPSET) 2008, being those assets owned by Transpower NZ Limited. This ensures alignment at the national and local level regarding management of significant transmission networks.

316. I agree with the relief sought by Transpower to amend the definition of National Grid Corridor. Updating the title from 'National Grid Corridor' to 'National Grid Subdivision Corridor' reflects the purpose of the corridor, which is to restrict subdivision activities. The amendments reflect the National Grid infrastructure present in Nelson and assist plan users by providing a clear diagram of how the setbacks are measured. For the same reasons, I support Transpower's proposed amendments to the definition of National Grid Yard. I also note that the proposed amendments are consistent with the outcome of recent District Plan reviews around New Zealand, including the Waikato District Plan for example.

Regionally and Nationally Significant Infrastructure

317. Section 7.5.2 below contains my evaluation of the requests to define both '*Regionally Significant Infrastructure*' and '*Nationally Significant Infrastructure*'. In summary, I support introducing a new definition of regionally significant infrastructure, which would also include the nationally significant infrastructure such as the Port and Airport.

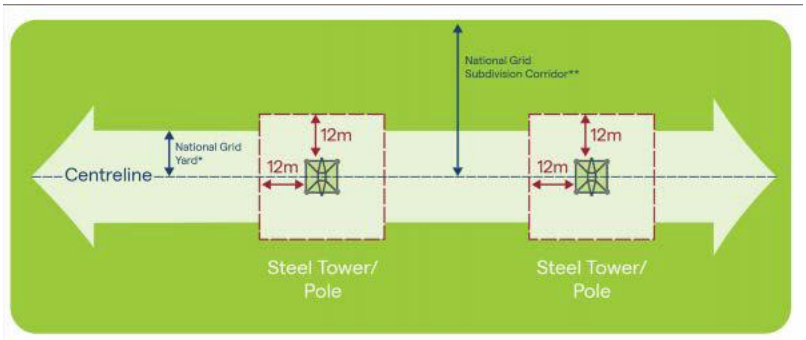
7.3.3 Recommendations

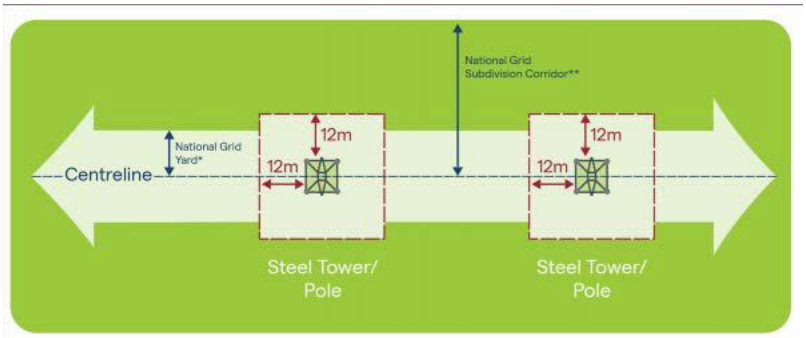
318. In summary, for Key Issue 1 - Infrastructure Definitions, I recommend:

a) The submissions be accepted, accepted in part or rejected as set out in Appendix 1; and

b) The following key changes to Chapter 2 Meaning of Words.

Provision(s)	Officer recommendations
Sensitive activities definition	Accept S198.011 and amend the definition as follows: means the use of land for a childcare facility, ~~school~~ educational facility (including any preschool or day care centre), ~~residential building~~ residential activity, papakāinga, short term living accommodation, community activity, health facility, or hospital. Note: consequential changes to REr.51 as set out in Issue 5 below.
National Grid definition	Accept S198.007 and amend the definition as follows: has the same meaning as provided in the National Policy Statement on Electricity Transmission 2008.

Provision(s)	Officer recommendations
	~~means the network that transmits high-voltage electricity in New Zealand and that, at the commencement of these regulations, is owned and operated by Transpower New Zealand Limited, including: a. transmission lines; and b. electricity substations.~~
National Grid Corridor definition	Accept S198.008 and amend the definition as follows: National Grid Subdivision Corridor means the area measured either side of the centreline of any above ground electricity transmission line as follows: ~~a. 14m for the 110kV National Grid lines on single poles (HAM-MER A, ARI-HAM A).~~ ~~b. 16m for the 110kV National Grid lines on pi poles.~~ ~~c. 32m for 110kV National Grid lines on towers (HAM-MER B, HAM-WHU A, ARIHAM B, HAM-KPO A).~~ ~~d. 37m for the 220kV transmission lines (HAM-DEV A).~~ a. 16 metres for 110kV transmission lines on pi poles; b. 32 metres for 110kV transmission lines on towers (including tubular steel towers where these replace steel lattice towers); and c. 37 metres for 220kV transmission lines. For the avoidance of doubt the National Grid Subdivision Corridor and National Grid Yard do not apply to ~~underground cables or~~ any transmission lines (or sections of line) that are designated. The measurement of setback distances from National Grid transmission lines must be undertaken from the centre line of the National Grid transmission line, as shown in the diagram below. The centre line at any point is a straight line between the centre points of the two support structures at each end of the span. 
National Grid Yard definition	Accept S198.009 and amend the definition as follows: means:

Provision(s)	Officer recommendations
	~~a. the area located 12 metres in any direction from the outer edge of a National Grid support structure; and~~ ~~b. the area located 10 metres either side of the centreline of any above ground 110kV National Grid line on single poles (HAM-MER A, ARI-HAM A); or~~ ~~c. the area located 12 metres either side of the centreline of any above ground National Grid line on towers (HAM-MER B, HAM-WHU A, ARI-HAM B, HAM-KPO A, HAM-DEV A).~~ a. the area located 12 metres in any direction from the outer visible edge of a support structure for an overhead 110kV or 220kV National Grid transmission line; and b. the area located 12 metres either side of the centreline of any overhead 110kV or 220kV National Grid transmission line on pi poles or towers (including tubular steel towers where these replace steel lattice towers). For the avoidance of doubt the National Grid Subdivision Corridor and National Grid Yard do not apply to any transmission lines (or sections of line) that are designated. The measurement of setback distances from National Grid transmission lines must be undertaken from the centre line of the National Grid transmission line, as shown in the diagram below. The centre line at any point is a straight line between the centre points of the two support structures at each end of the span. 
Regionally significant infrastructure	Accept S486.003, S487.003, S488.003, S490.003 and S491.003 and insert new definition as follows: Regionally Significant infrastructure means: • State highways • the national grid electricity transmission network

Provision(s)	Officer recommendations
	• facilities for the generation and/or transmission of electricity where it is supplied to the National Grid and/or the local distribution network; • Nelson Airport • Port Nelson • facilities and structures necessary for the operation of telecommunications and radiocommunications networks operated by network utility operators; • the local authority water supply network and water treatment plants; • the local authority wastewater and stormwater networks, systems and wastewater treatment plants;

7.3.4 Section 32AA evaluation

Effectiveness and efficiency

319. The proposed amendments to the definitions more efficiently and effectively achieve the objectives by aligning with other definitions in the NRMP, the NPSET 2008 and otherwise assisting with interpretation, clarifying the intent of the provisions and improving usability of the plan. The proposed definition of regionally significant infrastructure assists with interpretation of Objective DO14.4.

Costs/Benefits

320. The proposes amendments support interpretation of the plan and assist to reduce ambiguity and in relation to the national grid align with recently settled provisions in other District Plan reviews in New Zealand. This supports efficient administration.

Risk of acting or not acting

321. There is no risk in accepting the recommended amendments as there is sufficient information to act on the submissions.

Decision about most appropriate option

322. For the above reasons, the recommended amendments to the infrastructure related definitions are considered to be more appropriate in achieving the purpose of the RMA than the notified version of PC29.

7.4 Key Issue 3: Chapter 3 Administration

7.4.1 Key matters raised in submissions

323. The Telecommunication Companies (S486.004, S487.004, S488.004, S490.004, S491.004) seek to amend AD8.3 (*Information to be included with subdivision applications*) in Chapter 3 of the NRMP. They seek the following amendments:

> Applications for subdivision consents must include the information required for other resource consents, set out above (where relevant), and the following additional material:
>
> …
>
> o. Existing and proposed services such as storm water, sewerage, water supply, electricity and ~~telephone~~ telecommunications, to be indicated on the subdivision plan.
>
> Ae. Evidence of consultation with telecommunication network utility providers, to inform the location of proposed telecommunication services to be indicated on the subdivision plan required under o. above.

324. FENZ (589.023) seek to amend AD8.3 as follows:

> .....
>
> o. Existing and proposed services such as storm water, sewerage, water supply (including for firefighting purposes), electricity and telephone, to be indicated on the subdivision plan.

7.4.2 Evaluation

325. I agree that the term telephone should be replaced with telecommunications as this will capture a statutorily defined term which encompasses a range of different communication methods. I do not support including a new information requirement to show evidence of consultation with telecommunication network utility providers. While this will happen as a matter of course, it is unnecessary and inefficient to provide additional documentation. I disagree with the relief sought by FENZ as it is generally addressed by the term water supply.

7.4.3 Recommendations

326. In summary, for Key Issue 2 - Administration, I recommend:

a) The submissions be accepted, accepted in part or rejected as set out in Appendix 1; and

b) The following key changes to Chapter 3 Administration:

Provision	Officer recommendations
AD8.3	Accept in part S486.004, S487.004, S488.004, S490.004, S491.004 and amend AD8.3 as follows:

Provision	Officer recommendations
	Applications for subdivision consents must include the information required for other resource consents, set out above (where relevant), and the following additional material: …… o. Existing and proposed services such as storm water, sewerage, water supply, electricity and ~~telephone~~ telecommunications, to be indicated on the subdivision plan.

7.4.4 Section 32AA evaluation

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

7.5 Key Issue 4: Infrastructure Related Objectives and Policies

7.5.1 Key matters raised in submissions

Objective DO14.3 Services

328. Fire and Emergency New Zealand (FENZ) (S589.025) support objectives DO14.3 Services and seek that the objective is retained as notified.

Objective DO14.4 Network Utilities

329. FENZ (S589.027), Transpower (S198.026) and Radio New Zealand (S938.002) seek to retain DO14.4 Network Utilities as notified.

330. The Telecommunication Companies (S486.003, S486.006, S488.006, S486.003, S490,006, S490.003, S491.003, S491.006) support the proposed revision to DO14.4. However, these submitters seek to add a definition of regionally significant infrastructure. They state that the objective appropriately recognises that regionally significant infrastructure (a term which needs to be defined and include telecommunications) should not be restricted or compromised by subdivision use and development.

331. Port Nelson (S224.001) seek to amend the objective as follows, "DO14.4: Efficient use of network utilities infrastructure while avoiding, remedying, or mitigating the adverse effects of utilities on their surrounding environments and ensuring that regionally and nationally significant infrastructure is not restricted or compromised by subdivision, use and development of other activities." Additionally, Port Nelson seeks to define nationally significant infrastructure as per the NPS-UD.

Policy DO14.4.2 Transmission Lines

332. Transpower (S198.027) seeks amendments to Policy DO14.4.2 to replace part of the policy with a new policy that appropriately recognises the National Grid as a constraint that must be provided for in the planning of new development.

Objective DO15.1 Urban Form

333. Transpower (S198.028) and the Telecommunication Companies support DO15.1 as notified and seek that these provisions are retained.

Policy DO15.1.1 Encouragement of Infill Development

334. The Telecommunication Companies support DO15.1.1 and DO15.1.1.i as notified and seek that these provisions are retained. They note and support the integration between land use and infrastructure.

335. Port Nelson (S224.004) seeks to Amend Policy DO15.1.1 to include recognition in both the policy, and the explanation and reason, that there are areas in the city, including the Port Effects Control Overlay, where intensification should not be encouraged because of existing limitations on growth.

336. Transpower (S198.029) seeks amendments to Policy DO15.1.1 because the policy now seeks to encourage development more broadly and it should acknowledge that there will be constraints on development (such as the presence of the National Grid) that must be taken into consideration.

DO16.1.1.ii General Residential Zone

337. Port Nelson (S224.005) seeks to amend the Explanation and Reasons for policy 16.1.1 Zones, for the General Residential Zone, to include text which recognises that there are some parts of the city that are already subject to constraints and therefore are not suitable for intensification.

7.5.2 Evaluation

Objective DO14.4 Network Utilities

338. PC29 proposed to amend DO14.4 as follows, "Efficient use of network utilities infrastructure while avoiding, remedying, or mitigating the adverse effects of utilities on their surrounding environments, and ensuring that regionally significant infrastructure is not restricted or compromised by subdivision, use and development of other activities."

339. Port Nelson (S224.001) consider that the lack of a regionally significant infrastructure definition to be problematic. The Telecommunications Companies seek that a definition of regionally significant infrastructure is added to the NRMP and that it includes telecommunications networks. The Port seeks to modify the objective to also include nationally significant Infrastructure and for this to be defined as per the NPS-UD.

340. I agree with the Telecommunication Companies and consider that it is appropriate to include a definition of regionally significant infrastructure. This definition will assist in interpretation of District Wide Objective DO14.4 as it specifically references regionally significant infrastructure and the importance of appropriately managing such assets. I do not support including an additional definition of nationally significant infrastructure as sought by Port Nelson. While this is a defined term in the NPS-UD, this links to consultation and engagement requirements for Future Development Strategies (clause 3.15(e)) and Qualifying Matters (clause 3.32(c)). Nationally significant infrastructure is not defined in the National Planning Standards.

341. I recommend that the definition of regionally significant infrastructure includes Nelson's key infrastructure and telecommunications networks, including the Nelson Port and Airport. For the purpose of the NRMP, a single definition of regionally significant infrastructure is efficient and supports a clear interpretation of Objective DO14.4.

Policy DO14.4.2 Transmission Lines

342. I generally agree with the relief sought by Transpower in their submission (198.027) with a range of amendments. The proposed policy wording is considered necessary to give effect to the amendments to DO14.4, which seeks that regionally significant infrastructure is not compromised by subdivision, use and development in proximity to the National Grid. It will also provide a clear policy link between objective DO14.4, and the rules in the Residential Zone which give effect to it (REr.51 and REr.117).

Policy DO15.1.1 Encouragement of Infill Development

343. Port Nelson (S224.004) objects in part to the proposed amendments to this policy due to concerns that the proposed wording would signal that intensification is supported across the city, without recognising the potential implications of the Port Effects Control Overlay.

344. Transpower (198.029) has concerns with using the term "suitable" and states that the term does not, on its own, assist with plan interpretation. Amendments are sought to list specific areas where there could be amendments constraints on development (such as the National Grid).

345. I do not support the changes proposed to DO15.1.1 by Port Nelson or Transpower. The policy wording already includes 'in suitable locations' and DO14.4 seeks to protect regionally significant infrastructure. I recommend a sentence be added to DO15.1.1.i (Explanation and Reason) to reflect the submitters concerns.

DO16.1.1.ii General Residential Zone

346. I do not support the amendments to the explanation and reasons in Objective 16.1.1ii requested by Port Nelson Ltd (S224.005). For the same reasons as above, Objective DO14.4. sets clear direction for the protection of the Nelson Port and in my view, this does not need to be repeated throughout every activity-based policy of the NRMP.

7.5.3 Recommendations

347. In summary, for Key Issue 3 - Infrastructure Objectives and Policies, I recommend:

a) The submissions be accepted, accepted in part or rejected as set out in Appendix 1; and

b) The following key changes Chapter 5 District Wide Objectives and Policies.

Provision	Officer recommendations
DO14.4.2a	Accept S198.027 in part and insert a new policy as follows: DO14.4.2a effects on the National Grid

Provision	Officer recommendations
	Ensure that subdivision, use and development does not compromise the safe and efficient operation, maintenance, repair, upgrading, removal and development of the National Grid, including by mapping the National Grid and defining buffer corridors within which: a) the establishment or expansion of sensitive activities will be avoided to the extent reasonably possible; and b) subdivision and other development is managed to ensure the National Grid is not compromised. Explanation and Reasons DO14.4.2a.i The purpose of the policy is to ensure that the NRMP provides for the effective operation, maintenance, upgrading and development of the National Grid. This is achieved by managing sensitive activities within buffer corridors of the National Grid and specifying rules to enable the National Grid to be maintained, repaired, removed and upgraded. Methods DO14.4.2a.ii Rules in each zone controlling the proximity of sensitive activities to the National Grid. DO14.4.2a.iii Identifying the National Grid on the planning maps and defining buffer corridors in the rules. DO14.4.2a.iv Rules enabling the maintenance, repair, removal and upgrading of the National Grid.
DO15.1.1.i	Accept in part S224.004 and S198.029 and amend as follows: Explanation and Reason DO15.1.1.i This policy promotes a well-functioning urban environment with a compact urban form, ~~while as far as possible retaining existing character and amenities of localities~~. This is to conserve the recreational and visual amenity of the existing rural areas that surround the urban area of the District. It is also to promote the efficient use and development of infrastructure and land, and to provide a framework within which the true costs and benefits of new and existing infrastructure and reticulation are considered. Infill development may be appropriate in many parts of the city, and can involve new development, or redevelopment. It generally provides for greater intensity of use and development. In some circumstances, an increase in density may not be appropriate, such as within the Airport Effects Control Overlay and Port Effects Control Overlay or within close proximity of the National Grid.

7.6 Key Issue 5 - Radiocommunications

7.6.1 Key matters raised in submissions

348. Radio New Zealand (S938) requested a range of amendments to PC29 to ensure that continued operation of RNZ's national transmission network can occur unimpeded. RNZ operates AM radio transmission facilities at Saxton Field, Stoke (RNZ's Facilities). The site is designated DR1 in the NRMP.

349. Their submission states that the effects of electromagnetic radiation (EMR) from the RNZ transmitter masts are not well understood across New Zealand. Radiation from the masts can induce dangerous EMR levels into nearby tall metallic objects through EMR coupling. They further state that there is a risk that developers of adjacent properties unknowingly design and build structures which do not meet New Zealand EMR regulations which is dangerous to both construction staff and occupants of those structures. To address this, Radio New Zealand seek the following changes to PC29:

a) Amend Plan Change 29 to ensure that buildings and structures higher than 8m in proximity to RNZ's Facilities in the General Residential Zone are assessed and consented with regard being had to the safety risks associated with EMR (S938.001);

b) Amend REr.17J.3 and REr.17J.4 to ensure that the Council is able to properly take into account potential risks to the public when buildings that are above 8m in height are proposed to be constructed in the General Residential Zone (S938.008).

7.6.2 Evaluation

350. In my view, the submitter has provided insufficient evidence in their submission about the extent of potential adverse effects, why these effects become apparent above 8m (and not another height), and how this would practically be assessed through the resource consent process. The submitter also has not identified the spatial extent of the land surrounding the Radio New Zealand facility where the proposed assessment criteria would apply. Therefore, at this time I recommend rejecting their submission points, however, I would consider any additional evidence put forward by the submitter at the Hearing.

7.6.3 Recommendation

351. In summary, for Key Issue 4 - Radiocommunications, I do not recommend amendments to PC29.

352. The submission points that I recommended are accepted/accepted in part/rejected in relation to this topic are included at Appendix 1 to this report.

7.6.4 Section 32AA evaluation

353. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

7.7 Key Issue 6: Services Overlay and Other Infrastructure Rules

7.7.1 Notified PC29

354. The operative NRMP applies a Services Overlay as shown in Figure 3 below. The Services Overlay is intended to encompass an area where available services are either not yet available or where services are not considered adequate to support additional development. Under the operative NRMP, new buildings are a permitted activity (REr.63) provided that:

a) The buildings are not located over any of the proposed roads identified in the Road Hierarchy maps or structure plans; and
b) The buildings can be connected to existing water, stormwater and wastewater systems with sufficient capacity to cater for the development.

355. Development that infringes this standard is a restricted discretionary activity (REr.63.3).

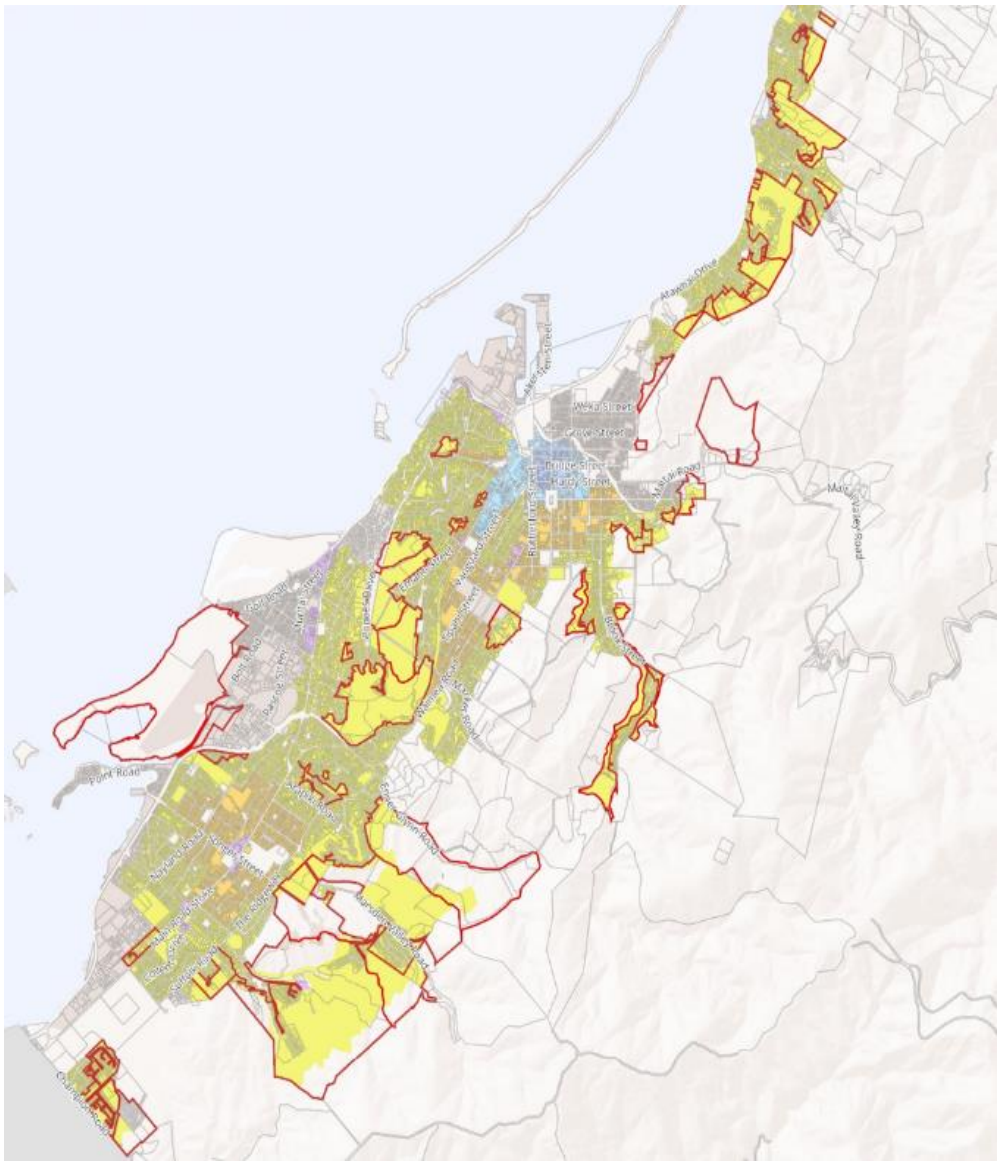


Figure 3: Location of the operative Services Overlay (in yellow outline)

356. PC29 as notified proposes to delete the Services Overlay from the General, Medium and High Density Residential Zones. In its place, PC29 proposed rules (REr.17A, REr.18A & REr.19A) that require habitable buildings to connect to water supply and wastewater networks. These rules also prevent stormwater from draining on a public road, except for secondary flow purposes. The rules are proposed to apply to all residential activity within the GRZ, MRZ and HDZ.

7.7.2 Key matters raised in submissions

Services Overlay

357. Nelson North Limited, 588 Limited and Bayview Nelson Limited made submissions on the Services Overlay. The key issues raised included:

a) Requests to delete rule REr.17A and retain the Services Overlay, or make necessary changes to the planning framework only after a thorough section 32 assessment has been undertaken of the relevant costs and effects (S755.005, S766.007 & S767.007).

b) Requests to reinstate the Services Overlay and extend the Services Overlay over all land where servicing constraints exist (S755.009, S766.026, & S767.026).

358. I note that the Services Overlay issue relates to submission points generally querying the capacity of Nelson's infrastructure networks to cater for intensification. These submissions are addressed in Section 11 of the S42A Report - Overview and Strategic prepared by Rachel Morgan.

Other Infrastructure Rules

359. Fire and Emergency New Zealand (S589.030, S589.032 & S589.035) has requested clarification on the application rules REr.17A.1, REr.18A.1 & REr.19A.1 and the relevance of assessment criteria to each activity status. FENZ note that while a connection may be able to be achieved, this does not necessarily mean that there is capacity available within the network. They consider that sufficient capacity availability should be considered as a permitted activity standard.

360. FENZ (589.015) also have seek to amend rule REr.22 to ensure that all Comprehensive Housing Development, regardless of activity status, is provided with a firefighting water supply (and access to that supply) in accordance with the New Zealand Fire Service Water Supplies Code of Practice.

361. Several submitters support the retention of REr.17A, 18A and/or 19A (Mark Fielding (S343), Wainui Properties Limited (S770) and MGT Holdings Limited (S782).

362. Kāinga Ora (S933.072, S933.038 and S933.054) sought to amend rules REr.19A.3, REr.19A.4, REr.18A.3, REr.18A.4 and REr.17A.3, REr.17A.4 to change the activity status for infringing the rule from discretionary/non-complying to restricted discretionary.

7.7.3 Evaluation

363. I do not support reinstating the Services Overlay requirements across the proposed residential zones. This recommendation is informed by evidence of Mr Ruffell who states:

a) The Services Overlay does not reflect where there are currently constraints in the network;

b) In the event that the Services Overlay was updated to reflect current infrastructure constraints, there is a risk that this mapping would become out of date.

364. For these reasons I support the notified approach of requiring an assessment of infrastructure at the time of resource consent or building consent (subject to the amendments set out below).

365. Proposed rules REr.17A, REr.18A & REr.19A require development to connect to water supply and waster networks. In addition, stormwater is required to be contained and dealt with on site. While these rules provide an availability assessment and connection requirement they do not provide a framework to assess the capacity of the network to serve proposed developments.

366. Submissions have also sought to reinstate and extend the Services Overlay over all areas where servicing constraints exist. Bayview Nelson Limited (S767.007) highlights that while individual servicing connections may be compliant, there is no trigger to manage wider servicing constraints.

367. In response to submissions, I recommend amendments to rules REr.17A, 18A and SCr.20A to more clearly require an assessment of infrastructure capacity. This is supported by Mr Ruffell, who points to the value of giving early consideration to the issue of adequate capacity in the public utility networks. I note that this is consistent with the operative Services Overlay rule (REr.63). I do not recommend including the requirement to consider roading and transport given that the indicative roads in the Roading Hierarchy Maps and on any structure plan have been constructed. For other development, effects on the transport network is a matter of discretion for four or more residential units in the proposed residential zones (refer REr.17B.3 / REr.18B.3 / REr.19B.3).

368. In my view, no changes are required to the subdivision rules as compliance with the mandatory matters in the Nelson Tasman Land Development Manual 2020 is an existing matter of control under these rules (REr.107 and SCr.71). This will allow any capacity constraints to be appropriately assessed at the time of subdivision.

369. I agree with Kāinga Ora (S933.072, S933.038 and S933.054) and see the merit in providing a restricted discretionary framework for non-compliance with rules REr.17A, REr.18A. & REr.19A for the following reasons:

a) A restricted discretionary activity status is consistent with operative rule REr.63;

b) A restricted discretionary activity status enables an application to be considered on its merits on a case-by-case basis, and Council retains the ability to decline the application or apply conditions of consent (relative to the matters of discretion); and

c) Potential effects from infringement of infrastructure capacity are well known and can be addressed in matters of discretion.

370. I consider that infringements should be subject to the normal tests for notification as notification may be appropriate depending on the nature and scale of the effects on the environment.

371. I support adding the same capacity standards to the residential activity rules in the Inner City (ICr.37D) and the Suburban Commercial Zones (SCr.20A) for the same reasons I set out above, however, submissions on PC29 do not provide scope to make these amendments.

372. Regarding FENZ's request to amend REr.22, I note that this rule does not apply to the proposed residential zones and applies only to those areas not proposed to be upzoned by PC29. I therefore do not recommend any changes to this rule.

7.7.4 Recommendations

373. In summary, for Key Issue 4 - Services Overlay and Other Infrastructure Rules, I recommend:

a) The submissions be accepted, accepted in part or rejected as set out in Appendix 1; and

b) The following key changes to the following key changes to PC29 as set out in the table below.

Provision	Officer recommendations
REr.17A/18A	Accept in part S589.030, S589.032 & S589.035 S933.072, S933.038 and S933.054 and amend REr.17A, REr.18A and REr.19A as follows: **Permitted** REr.17/18A.1 A residential activity is a permitted activity provided that: a. habitable buildings used for the activity must be connected to a community water supply and the wastewater and stormwater network, with sufficient capacity to service the development; and b. stormwater from the site used for the activity must not drain to any public road, except for secondary flow purposes. **Controlled** REr.17/18A.2 Not applicable. **Discretionary/Non-complying/Prohibited** REr.17/18A.3 Activities that contravene REr.17/18A.1 ~~.a are non-complying.~~ are restricted discretionary. ~~REr.17A.4 Activities that contravene REr.17A.1.b are discretionary.~~ Discretion is restricted to: a) The capacity and suitability of the existing reticulated network for the proposed development; b) The suitability of alterative utility networks or on-site facilities; c) Maintenance and operational requirements;

Provision	Officer recommendations
	d) The likely service needs for the future development of adjacent or nearby land considering the planned built character of the zone; e) The resilience of the services to the likely effects of climate change; and f) The timing of works and projects facilitated through the long term plan (or equivalent plans prepared by the reticulated network owner).

7.7.5 Section 32AA evaluation

Effectiveness and efficiency

374. The recommended amendments are more efficient and effective in achieving the objectives (DO14.3), by enabling consideration of the capacity of infrastructure networks to service subdivided lots and development.

Costs/Benefits

375. Amendments will allow for the capacity of infrastructure networks to be considered, which aligns with the requirements of the NTLDM 2020.

376. Amending the activity status for infringements to the permitted standard will ensure that the cost of any consent triggered by these rules are relatively lower that the notified discretionary/non-complying activity status, with the assessment appropriately focussed on the effects of the infringement.

Risk of acting or not acting

377. There is no risk in accepting the recommended amendments as there is sufficient information to act on the submissions.

Decision about most appropriate option

378. For the above reasons, the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version of PC29.

7.8 Key Issue 7: Building over or alongside pipes and drains

7.8.1 Notified PC29

379. The operative NRMP contains rules restricting development adjoining, on or over pipes and drains on private property (REr.34). These rules create a setback to preserve access to pipes and drains to allow for repair and maintenance. PC29 proposed to amend these rules as follows:

a) For a permitted activity, structures must be setback from a drain or watermain by 5m, an increase from 3m in the operative NRMP;

b) New requirements apply to structures that are located closer than the required setback distance, in particular to drains or watermains that are greater than 150mm in diameter, deeper than 1.2m depth to invert, less than or equal to 150mm in diameter, or less than 1.2m depth to invert;

c) Deletion of the allowance to have an overhanging structure above the line of the pipe or drain, unless the line of the pipe or drain is less than or equal to 150mm diameter and less than 12m depth to invert; and

d) Structures that that do not comply with the relevant rule requirements require resource consent for a restricted discretionary activity with additional matters of discretion, which is a controlled activity in the operative NRMP.

7.8.2 Key matters raised in submissions

380. One submission was received on the proposed amendments. Small Time Developments (S580.32) sought to amend REr.36A to follow a follow a proportional approach as is already used for easements in the NTLDM. i.e. if the gap between the pipe centreline and structures can comply with a distance of 1.5m (each side) plus the diameter of the pipe plus the depth of the excavation to lay then it should remain a permitted activity.

7.8.3 Evaluation

381. I support the proposed amendments in PC29 as notified for the following reasons:

a) Council-owned pipes and drains, including underground water supply and wastewater assets, are in some situations located on private property without legal protection and the proposed rule can ensure their on-going protection from infill and redevelopment projects enabled through the PC29.

b) As Mr Ruffell notes in his evidence, issues have arising from the operative rules with regard to ensuring practical construction access for repairs and replacement of underground utilities and the proposed rule can reduce the risk of damage to any properties that are adjacent to buried infrastructure.

c) PC29 will enable increased densities of development. This could create less space within individual sites for network utility operators to access and pass over that land for maintenance and repair purposes.

382. I agree with the evidence of Mr. Ruffell where he notes, that if a fully proportional approach is adopted, "*it would keep structures further away from the pipe or drain and all pipe sizes would be treated the same. However, it would also act to constrain the location of structures on some sites – particularly some smaller sites and this could possibly result in an increase in the number of resource consents required to develop those properties*."

7.8.4 Recommendation

383. Based on the above evaluation, I do not recommend any changes to rule REr.36A.

384. Consequently, I recommend that the submission from Small Time Developments (S580.32) be rejected.

7.8.5 Section 32AA evaluation

385. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

7.9 Key Issue 8: Telecommunication Facilities

7.9.1 Notified PC29

386. The NRMP provides for telecommunication facilities through operative NRMP provisions. PC29 did not propose to alter any of the operative aerial rules ICr.49, SCr.42 and OSr.52.

7.9.2 Key matters raised in submissions

387. A number of submissions have been received from the following which I collectively refer to as "Telecommunication Companies" in this section:

a) S486 Chorus New Zealand Limited (Chorus);

b) S487 Connexa Limited (Connexa);

c) 488 Aotearoa Tower Group Limited (trading as FortySouth);

d) S490 One New Zealand Limited (One NZ); and

e) S491 Spark New Zealand Trading Limited (Spark).

REr.49 Aerials– Residential Zones

388. The Telecommunication Companies seek to amend rule REr. 49. Aerials. The submissions seek to change the permitted height for aerials and supporting mast diameter. The requested amendments are as follow:

a) Aerials attached to any building do not exceed the height of the building by more than ~~3m~~ 5m.

b) Aerials that are not attached to a building do not exceed ~~10.5m in height~~,

i. 17m in height in the General Residential Area, Medium Density Residential Area, Standard Area, Comprehensive Area, Lower Density Area

ii. 25m in the High Density Residential Area

and are located ~~not closer than 4m from~~ so they are within a recession plane measuring 2.5m vertical and inclining at 45 degrees from any boundary (excluding a road boundary), and

c) The supporting mast does not exceed ~~450mm~~ 600mm in diameter, measured at a height of 6m above ground level up the mast.

ICr.49 Aerials– Inner City Zone

389. The Telecommunication Companies seek to increase the permitted height of an aerial from 18m to 25m in the Inner City Zone. The submitters also seek to delete subclause (f) as masts attached to buildings are provided for under the National Environmental Standards for Telecommunication Facilities (NES-TF).

Subdivision

390. The Telecommunication Companies have also requested that subdivision rules REr.107 (Residential Zone) and ICr.81 (Inner City Zone) be amended to explicitly list consultation with Telecommunications Companies as matter of control.

7.9.3 Evaluation

Aerials– Rules REr.49 and ICr.49

391. PC29 as notified did not include any changes to rules REr.49 and ICr.49. The building height limits of the Inner City Zone (City Centre and City Fringe) and the proposed Residential Zones (General and Medium Density Residential Zones) have been proposed to increase. Original submissions from the Telecommunication Companies have included technical detail which confirms that mobile telecommunication facilities rely upon line of sight to be able to perform their functions, as such masts are required to extend above local 'clutter'. While I see the merit in the relief sought, no changes were proposed to the aerial rules (REr.49 and ICr.49) apart from a consequential amendment to remove view shaft references. As such these submissions are potentially not within the scope of PC29 as they relate to provisions that are not proposed to be altered by the plan change.

392. I would consider any evidence put forward by the submitter on this matter, and this would also benefit from further direct discussions and conferencing with the submitter's experts.

Subdivision

393. I do not support amendments to the subdivision provisions to require evidence of consultation with the Telecommunications Companies. I agree that it is important for applicants to undertake consultation upfront, however, as per my discussion on Chapter 3 AD8.3 above, this would occur as a matter of course, and requiring additional evidence to be provided has the potential to slow down the consenting process unnecessarily.

7.9.4 Recommendation

394. In summary, for Key Issue 8 – Telecommunication Facilities, I do not recommend amendments to PC29.

395. The submission points that I recommended are accepted/accepted in part/rejected in relation to this topic are included at Appendix 1 to this report.

7.9.5 Section 32AA evaluation

396. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

7.10 Key Issue 9: Activities near National Grid (Transmission Lines)

7.10.1 Notified PC29

397. PC29 proposes new rules to manage the effects associated with housing and development near transmissions lines.

7.10.2 Key matters raised in the submissions

398. Transpower (S198) has sought the following amendments:

a) Seeks amendments to REr.51 to amend the title of the rule, as it better recognises that a range of activities are regulated by the rule and the rule should be specific to the National Grid, and those Transpower assets in the Nelson region (S198.032);

b) Supports a non- complying activity status for development near the National Grid that does not comply with permitted activity standards or is not otherwise provided for. It is proposed that the assessment criteria and explanation are amended to address this REr51.3 (S198.035);

c) In addition to rule REr.51, in order to give effect to the National Policy Statement for Electricity Transmission (NPS-ET), Transpower considers it necessary to amend the Residential Zone earthworks rules so that there is a specific rule and standard for earthworks within the National Grid Yard; and

d) Transpower considers that Papakāinga development is likely to include activities that are sensitive to the National Grid. Therefore, Transpower considers this development that breaches the permitted conditions should be a non-complying activity consistent sensitive activity rules (S198.052).

399. NPHS-NM (S709.094) sought amendments to ensure the plan and specifically REr.117.5 National Grid Corridor Subdivision aligns to the NPS-ET.

7.10.3 Evaluation

400. Prior to drafting this report, I met with Transpower to better understand their relief sought, I have considered this discussion in my evaluation and recommendations.

401. I consider that the changes proposed by Transpower to REr.51 to better recognise and provide for the National Grid are appropriate for the following reasons:

a) The changes to the rule reflect and are applicable to Nelson's Transpower assets, adding clarity to the rule;

b) The changes recognise that there are different standards for development around National Grid support structures and under National Grid conductors. These changes are in line with best practice and other district plan review processes;

c) Amendments sought clarify which sensitive activities are non-complying;

d) The addition of a non-notification clause improving efficiency of the rule but allows for input from Transpower, who are are resourced to provide assistance given the technical considerations of development in the National Grid yard.

402. However, I recommend slightly different wording to the permitted activity vehicle access standard to clarify that the requirement to ensure access is not confined to an existing access.

403. I consider the introduction of a rule relating to earthworks within the National Grid is appropriate. Transpower states the following reasoning in their submission, which I support:

"*Earthworks activities can compromise the National Grid. Specifically, uncontrolled earthworks can affect access, undermine the support structures or generate dust. The latter can result in the build-up of material on the National Grid lines and increase the wear on the equipment reducing its useable lifespan. Excavations or mounding mid-span can increase risks by reducing the clearance between the ground and conductors. Excavated areas or piles of earthworks can also restrict Transpower's ability to access and locate the heavy machinery required to maintain support structures and conductors around the lines and may lead to potential support structure failure and significant constraints on the operation of the lines, such as power outages.*"

404. The rule framework for earthworks sought by Transpower will in my opinion give effect to Policies 2 and 10 of the NPS-ET because it protects the integrity of the National Grid and the ability to maintain and operate it. It also gives effect to objective DO14.4, which seeks that the National Grid is not compromised by subdivision, use and development associated with other activities.

405. I recommend different wording to that proposed in the Transpower submission as follows:

a) Inclusion of reference to vertical holes to clarify the application of the rule. The wording is needed given the NPS-ET definition of earthworks excludes vertical holes. Vertical holes can still be an issue for the National Grid; therefore, I consider it is appropriate to include specific reference to these;

b) Insertion of a new clause c. to ensure vehicle access to National Grid support structures is available. This is an essential requirement, particularly for urban areas, as physical access to transmission lines is required for all maintenance and project work. Additionally, when a system fault occurs, the Grid would need to be restored quickly to reduce impacts on businesses and communities throughout the district, and beyond. Restoring supply becomes challenging if transmission lines are difficult to access due to intensive developments that may be constructed under and around them. I consider this is necessary to give effect to the NPS-ET, which provides clear a policy directive that decision makers must "*recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network*" (Policy 2) and ensure that "*operation, maintenance,*

upgrading, and development of the electricity transmission network is not compromised" (Policy 10); and

c) Inclusion of clauses c. and d. within the exemption clause.

406. Transpower sought specific amendments to REr.117 so that the rule refers to the National Grid Subdivision corridor, based on Transpower submissions I have also recommended the term be introduced to the definitions chapter. I consider the proposed amendments by Transpower for this rule appropriate. The amendments include:

a) Reference to residential unit updated to sensitive activity to recognise that subdivision could be for a range of activities. In my opinion this amendment ensures consistent protection of all activities which may be at risk to adverse effects in proximity to the National Grid.

b) Amendments to the standard to require subdivisions to be able to demonstrate the ability for compliance with, as opposed to specifically identifying a building platform.

c) When the submitter and Council met, access was discussed. It was noted that access did not necessarily have to be the existing access, but access that could be achieved. This reflects Transpower's 'model provisions' and allows for some flexibility.

d) Amendments to address the purpose of the NZECP 34:2001, and to clarify the effects that need to be addressed, and the addition of consultation with Transpower, changes to the assessment criteria to better assist with plan interpretation and implementation, changes to the explanation and a notification clause. These amendments are consistent with changes sought be Transpower in other District plan review processes.

407. I recommend an amendment to the vehicle access standard to clarify that the standard is not confined to an existing access.

408. Papakāinga development falls within the definition of sensitive activity. I consider it appropriate to be addressed in the same way other sensitive activities are treated when the permitted standards are breached. The non-complying activity status gives effect to Policy 10 and 11 of the NPSET and as per Objective DO14.4 in relation to National Grid and its presence as a constraint. PC29's notified Schedule AA already requires papakāinga development to comply with REr.51 and where compliance cannot be achieved, discretionary activity resource consent is required. Furthermore, taking account of the obvious health and safety considerations, and to ensure activities in relation to the national grid are consistently managed, I consider that a non-complying activity status is appropriate.

7.10.4 Recommendations

409. In summary, for Key Issue 7 - Activities near National Grid (Transmission Lines), I recommend:

a) The submissions be accepted, accepted in part or rejected as set out in Appendix 1; and

b) The following key changes to the following key changes to PC29 as set out in the table below.

Provision	Officer recommendations
REr.51	Accept S198.032, S198.034 S198.033, S198.035, S198.036, S198.037 and in part and amend title of rule REr.51 as follows: ~~Buildings~~ Activities near transmission lines
REr.51.1	Accept S198.032, S198.034 S198.033, S198.035, S198.036, S198.037 and in part and amend as follows: REr.51.1 a. Sensitive activities including ~~Residential units, or education facilities (including any preschool or day care centre)~~ must not be located within 20m of any existing above ground, or within 10m of any existing underground electricity transmission line with a capacity ~~greater than or equal to~~ of 66kV.
REr.51.5	Accept S198.032, S198.034 S198.033, S198.035, S198.036, S198.037 and in part and amend as follows: A limited number of ~~high voltage~~ transmission lines traverse the Residential Zone. These locations are shown on the Planning Maps. A separation distance between lines and ~~housing~~ activities ~~is appropriate for a range of reasons including physical aspects and possible long term health exposure risks which may affect some people living in close proximity to major lines. This reflects a precautionary approach to electromagnetic fields and other~~ effects ~~of major overhead transmission lines~~. The rule provides an opportunity for evaluation of such effects when ~~new housing~~ sensitive activities are ~~is~~ proposed in proximity to these lines (see also REr.53 for new lines).
REr.51A	Accept S198.032, S198.034 S198.033, S198.035, S198.036, S198.037 and in part and add new rule as follows: REr.51A Activities near National Grid transmission lines **Permitted** REr.51A.1 An activity, building or structure within the National Grid Yard is a permitted activity provided that: a) it involves alterations and additions to an existing building or structure for a sensitive activity that does not involve an increase in the building height or footprint; or

Provision	Officer recommendations
	b) it involves accessory buildings for sensitive activities located more than 12m from a National Grid support structure, that are no more than 2.5m in height and no more than 10m2 in area; and c) it is for network utilities as defined in section 166 of the RMA and for electricity generation that connects to the National Grid. d) Any fences are located at least 6m from a National Grid support structure. Other permitted activity standards b. All buildings or structures in the National Grid Yard must comply with the New Zealand Electrical Code of Practice for Safe Electrical Distances (NZECP34:2001). c. Any building, structure or activity within the National Grid Yard must ensure vehicular access to any National Grid support structure is available. **Controlled** REr.51A.2 not applicable **Discretionary/Non-complying/Prohibited** REr.51A.3 a. Activities that contravene a permitted condition or are not otherwise provided for are non-complying. Any application under this rule will not be publicly or limited notified except that limited notification must be given to Transpower (New Zealand Limited) unless it provides its written approval. **Assessment Criteria** REr.51A.4 a.There are no assessment criteria. **Explanation** REr.51A.5 National Grid transmission lines traverse part of the Residential Zone. These locations are shown on the Planning Maps. A separation distance is required between these assets and sensitive activities. This recognizes that the safe and efficient operation, maintenance repair, upgrading, removal or development of the National Grid must not be compromised by the potential adverse effects created by sensitive activities, new development and the subdivision of land near the National Grid. The rule provides an opportunity for evaluation of such effects

Provision	Officer recommendations
	when new sensitive activities are proposed in proximity to the National Grid (see also REr.53 for new lines). All buildings, structures, plant and excavations are also required to comply with NZECP 34 2001 for Electrical Safe Distances. In some situations, depending upon the length of span and operating temperature of the line, a greater separation distance than is provided for in the rule may be necessary. Advice should be sought from the line owner/ operator.
REr. 61B	Accept S198.038 and add new rule as follow: REr.61B Earthworks and vertical holes in the National Grid Yard **Permitted** REr.61B.1 Earthworks or vertical holes in the National Grid Yard are a permitted activity, provided they: a. do not exceed 300mm in depth within 6m of the outer visible edge of a National Grid support structure. b. do not exceed 3 m depth where located between 6m and 12 m of the outer edge of the visible foundation of any National Grid support structure. c. ensure vehicular access to any National Grid support structure is available. d. do not compromise the stability of a National Grid support structure. e. do not result in a reduction of the ground to conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances NZECP34:2001. The following earthworks or vertical holes are exempt from a. b. c and d above: i. earthworks or vertical holes, excluding mining and quarrying, that are undertaken by a network utility operator as defined by the Resource Management Act 1991; ii. earthworks or vertical holes, excluding mining and quarrying, as part of agricultural or domestic cultivation, or for the repair, sealing or resealing of a road, footpath, driveway or farm track; iii. earthworks subject to a dispensation from Transpower under New Zealand Electrical Code of Practice for Safe Electrical Distances (NZECP 34:2001).

Provision	Officer recommendations
	Controlled REr.61B.2 not applicable **Discretionary/Non-complying/Prohibited** REr.61B.3 Activities that contravene a permitted condition or are not otherwise provided for are non-complying. Any application under this rule will not be publicly or limited notified except that limited notification must be only to Transpower New Zealand Limited (unless Transpower New Zealand Limited provided its written approval). **Explanation** REr.61B.4 The National Grid transmission lines traverse parts of the Residential Zones. These locations are shown on the Planning Maps. A separation distance between lines, support structures and earthworks recognises that the safe and efficient operation, maintenance, repair, upgrading, removal or development of the National Grid must not be compromised by the potential adverse effects created by earthworks near the National Grid.
REr.117.3	Accept S198.050 and amend as follows: REr.117 **National Grid Subdivision Corridor** Subdivision REr.117.3 Subdivision within the National Grid Subdivision Corridor, ~~other than subdivision to provide for a network utility,~~ is a restricted discretionary activity, provided that: i. All resulting allotments, except allotments for access or a public work, demonstrate that they are able to accommodate ~~identify~~ a building platform for the likely ~~any residential unit~~ principal building(s) and any residential unit or sensitive activity ~~that is~~ located entirely outside the National Grid ~~Corridor~~ Yard; ii. existing vehicle access to National Grid assets is maintained. Discretion is restricted to: i. ~~impacts on the operation, maintenance, upgrade and development to comply with~~ subdivision allows for earthworks, buildings and structures to comply with the safe distance requirements of the NZECP 34:2001; and ii. technical details of the characteristics and risk on and from National Grid infrastructure; and

Provision	Officer recommendations
	iii. the extent to which the subdivision design and consequential development will minimise the potential reverse sensitivity effects on and amenity and nuisance effects of the National Grid asset; ~~location, design and use of the proposed building platform or structure as it relates to the National Grid transmission line~~; and iv. the risk of electrical hazards affecting public or individual safety, and the risk of property damage; and v. the extent to which the design and construction of the subdivision allows for activities to be setback from the National Grid to ensure adverse effects on, and from, the National Grid and on public safety and property are appropriately avoided, remedied or mitigated, for example, through the location of roads and reserves under the transmission lines; and vi. the provision for the on-going efficient operation, maintenance, development and upgrade of the National Grid, including the ability for continued reasonable access to existing transmission lines for maintenance, inspections and upgrading; and vii. the nature and location of any proposed vegetation to be planted in the vicinity of National Grid assets, and how such landscaping will impact on the operation, maintenance, upgrade and development (including access) of the National Grid; and viii. the outcome of any consultation with Transpower; and ix. the risk to the structural integrity of the National Grid. REr.117.4 Subdivision within the National Grid Corridor, other than subdivision to provide for a network utility, that contravenes a restricted discretionary activity is a non-complying activity. Any application under rules REr.117.3 and REr.117.4 will not be publicly or limited notified except that limited notification must be given to Transpower (New Zealand Limited) unless it provides its written approval. ~~REr.117.5~~ ~~a. any potential or cumulative effects on health of persons from exposure to electro-magnetic fields from existing facilities in the area.~~ ~~b. any effects to and from structures and lines including noise, visual impact and physical risk.~~ ~~c. access to the structures and lines.~~ REr.117.6 ~~A limited number of high voltage transmission lines traverse~~ The National Grid traverses parts of the Residential Zone. These locations are shown on the Planning Maps. A separation distance between lines, support structures and

Provision	Officer recommendations
	~~housing~~ sensitive activities. ~~is appropriate for a range of reasons including physical aspects and possible long term health exposure~~ risks which may affect ~~some people living in close proximity~~ to major lines. ~~This reflects a precautionary approach to~~ electromagnetic fields and other effects of major ~~overhead~~ transmission lines. ~~This~~ also recognises that the safe and efficient operation, maintenance, repair, upgrading, removal or development of the National Grid must not be compromised by the potential adverse effects created by sensitive activities, new development and the subdivision of land near the National Gride. The rule provides an opportunity for evaluation of such effects when subdivision is proposed in proximity to ~~these lines~~ the National Grid (see also REr.51A for new buildings).
Sch.AA.3	Accept S198.052 and amend Schedule AA to include new a provision 'AA.5A Non-Complying activity' that requires non-complying activity resource consent for papakāinga development that does not comply with permitted activity standards AA.3.c.xi.
Planning Maps	Amend the description of "Electrical Transmission Lines" in the planning maps legend to "National Grid".

7.10.5 Section 32AA evaluation

Effectiveness and efficiency

410. The recommended amendments are more appropriate in achieving the purpose of the RMA and giving effect to the NPS-ET as discussed, and recognise the functional and operational needs of network utilities, compared to the notified version of the PC29.

Costs/Benefits

411. Amendments will allow for Transpower operational constraints such as access to the National Grid and reduces potential for reverse sensitivity effects.

412. Sensitive activities will be protected from potential health and safety risks due to proximity to the National Grid.

Risk of acting or not acting

413. There is no risk in accepting the recommended amendments as there is sufficient information to act on the submissions.

Decision about most appropriate option

414. For the above reasons, the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version of PC29.

7.11 Key Issue 10: Nelson Airport

7.11.1 Key matters raised in submissions

415. A total of 15 submission points were received from Nelson Airport Limited (Airport). Submission points S478.001, S478.012, S478.013 and S478.014 are addressed in this report.

416. The Airport seeks to ensure that any land proposed to be zoned for General Residential, Medium Density Residential or High Density Residential under PC29 retains its existing zoning where that land is also located within the proposed Airport Effects Control Overlay area subject to PC30 (S478.001). This area of land is shown in Figure 4 below.



Figure 3: Area proposed to be zoned General Residential, which is affected by PC30

417. The Airport seeks to amend Policy RE2.1 to apply a consistent approach to managing noise from large scale infrastructure and for that approach to be consistent with Plan Change 30. This includes reference to rules requiring acoustic insulation in new residential units and alterations in areas specifically affected by noise from within the Airnoise Boundary and Airport Effects Control Overlay, as well as minimum site requirements for subdivision in areas affected by Airport noise. (S478.012 and S478.013).

418. The Airport (S478.014) seek amendments to situate Rules REr.64, REr.65, and REr.66 within the rule set that applies to all residential zones, including any consequential amendments necessary per the relief sought in Plan Change 30.

7.11.2 Evaluation

Planning Maps – Zoning

419. I acknowledge that there is a small portion of land where the proposed Airport Effects Control Overlay identified in PC30 overlaps with proposed General Residential zone under PC29. However, REr.64 – contains a density restriction for residentially zoned properties within the Airport and Port Effects Control Overlays. This is an operative rule that applies to every

residential zone, including the proposed General Residential zone. The rule requires every residential unit to have a net area of at least 600m2 as per the operative NRMP.

420. In addition, subdivision rule REr.107 requires sites within the Airport Effects Control overlay to have a minimum site area of 600m2 to be a controlled activity subdivision. Similarly, the acoustic insulation requirements contained in rule REr.65 also applies to every residential zone.

421. Accordingly, if the Airport Effects Control Overlay is extended by PC30, the restrictions of REr.64 will apply regardless of the underlying zoning. Further a decision on PC30 has not yet been made and I am uncertain at this time whether the extent of the Airport Effects Control Overlay will change.

422. Due to the above, I consider that no change is required as PC29 would not allow any additional intensification in the existing Airport Effects Control Overlay via REr.107 and REr.64. I note that a similar recommendation has been made for the Port Effects Control Overlay below.

Policy RE2.1 noise

423. The Airport seek to amend Policy RE2.1.viii and RE2.1.ix to read as follows:

> RE2.1.viii
>
> "Rules requiring acoustic insulation in new residential units and alterations to existing residential units, in areas specifically affected by noise from the Port Industrial Area, Airnoise Boundary, Airport Effects Control Overlay and the state highway."
>
> RE2.1.ix
>
> "Amend Policy RE2.1.ix Rules requiring minimum site areas for subdivision in areas affected by noise from the Port Industrial Area, Airport Effects Control Overlay and Airnoise Boundary."

424. I recommend accepting the relief sought in part i.e. to include the Airport Effects Control Overlay in RE2.1.viii. and RE2.1.ix as this clarifies the existing situation.

425. I recommend rejecting the request to include reference to the Airnoise Boundary in RE2.1.viii. and RE2.1.ix. Plan Change 30 proposes to define the Airnoise Boundary and include it in NRMP provisions. Provisions from PC30 will be integrated in the NRMP once that plan change process has been determined.

Rules REr.64, REr.65, and REr.66

426. I consider that no changes are required as a result of submission S478.014. This submission is not accurate as REr.64, REr.65A and REr.66 apply to all residential zones. I see the merit in updating the residential zone table of contents to improve clarity and readability.

7.11.3 Recommendations

427. In summary, for Key Issue 7 – Nelson Airport, I recommend:

a) The submissions be accepted, accepted in part or rejected as set out in Appendix 1; and

b) The following key changes to the following key changes to PC29 as set out in the table below.

Provision	Officer recommendations
RE2.1.viii	Accept in part S478.012 and amend RE2.1.viii as follows: Rules requiring acoustic insulation in new residential units and alterations to existing residential units, in areas specifically affected by noise from the Port Industrial Area, Airport Effects Control Overlay and the state highway.
RE2.1.ix	Accept in part S478.013 and amend RE2.1.ix as follows: Rules requiring minimum site areas for subdivision in areas affected by noise from the Port Industrial Area and Airport Effects Control Overlay.

7.11.4 Section 32AA evaluation

428. The recommended amendments primarily clarify the intent of the provisions. In my view, the amendments are more efficient and effective that the notified provisions in achieving the objectives as the make it clear that residential density is limited within the Airport Effects Control Overlay.

7.12 Key Issue 11: Port Nelson

7.12.1 Key matters raised in submissions

429. A total of 24 submission points were received from Port Nelson Ltd. Submission points S224.014 and S224.024 are addressed in the Papakāinga and heritage sections of the report.

Objectives and Policies

430. Submissions by Port Nelson on district wide objectives and policies are addressed in section 7.5 above. Acoustic related submission points are addressed with in section 7.2 above.

431. A key concern of Port Nelson is to ensure that the Port Effects Control Overlay, in conjunction with the Port Noise Management Plan and the Port Noise Mitigation Plan, continue to function effectively and that certainty is provided to plan users and existing and future property owners about the provisions which apply in the overlay.

432. Other matters raised by Port Nelson in relation to the objectives and policies can be summarised as follows:

a) Amend the Residential Zone description (REd) to include text to recognise that some parts of the residential area are not suitable for intensification (S224.006).

b) Port Nelson (S224.009) oppose the inclusion of habitable space reference in Policy RE2.1 (Noise).

c) Reallocate text included as RE1.5.ii to RE1.6. and RE1.5 (224.007).

d) Amend Policy RE2.9 (quality living environments for residents) to recognise there are some parts of a site which are already constrained and are not suitable for multiple residential units (224.011).

e) Amend Policy SC2A.1 (residential amenity) and the explanation and reasons to recognise that there are existing noise-generating activities within and adjacent to the Suburban Commercial Zone where effects may not be able to be mitigated (224.019).

NRMP Provisions

433. Port Nelson opposes residential rules (REr.17B, REr.23) and support existing rules (REr.64, REr.65A). Other key submission points on the provisions are as follows:

a) Amend the contents table to ensure that Rules REr.64 and REr.65A apply to the General Residential Zone.

b) Oppose rule REr.17B as the rule could enable intensification in the Port Effects Control Overlay.

c) Request clarification of the relationship between REr.17B and REr.64 (S224.013).

d) Ensure that the minimum site area requirements of the Port Effects Control Overlay apply in all areas subject to the overlay (S224.015 and S224.016).

e) Ensure that the minimum site area requirements of the Port Effects Control Overlay Acoustic insultation (SCr.69A) requirements apply to areas subject to the Port Effects Control Overlay. (S224.017)

f) Ensure that the wording in Subdivision rule REr.107 is explicit so as to avoid potential conflicts. (S224.018)

g) Oppose rule SCr.20A (Residential activity) in the Suburban Commercial Zone (S224.020).

h) Clarify the inconsistencies between various suburban commercial acoustic rules (SCr.30C, SCr.36A and SCr.69A and Appendix 19: Acoustic insulation requirements (S224.021 and S224.023).

7.12.2 Evaluation

Objectives and Policies

434. Port Nelson (S224.006) seek amendments to Residential Zone description (REd) to include text which recognises that there are some parts of the city that are already subject to constraints and therefore they are not suitable for intensification. I support amendments to this effect as they reflect the operative standards and I propose to address this in an amendment to RE1.6.

435. Port Nelson (224.007) seeks to delete RE1.5ii and insert new text as a new RE1.6ii to recognise that density is limited in the Port Effects Control Overlay and the Airport Effects Control Overlay

in the General Residential Zone. I agree as the Port Effects Control Overlay does apply to the General Residential Zone. I support retaining references to the Airport Effects Control Overlay.

436. Port Nelson (224.009) opposes the expansion of Policy RE2.1 to include noise in habitable spaces rather than received at the site boundary. This change reflects that noise rules for other purposes include 'habitable space' and not just noise received at the site boundary.

437. Port Nelson (224.011) oppose Policy RE2.9 quality living environments for residents and seek an addition to the policy to reflect that there may be constraints in some areas. Consistent with my position on similar requests from infrastructure providers above, I do not recommend further changes, as the Overlays are intended to manage these effects as outlined in REd.9.11 and this does not need to be repeated.

438. Port Nelson (224.019) oppose policy - SC2A.1 - residential amenity in the Suburban Commercial Zone and opposes the introduction of additional residential activity into an area which is already subject to higher noise levels than other parts of the city. They consider it lays the groundwork for reverse sensitivity issues for the Suburban Commercial Zone along Haven Road and Wakefield adjacent to the Port Industrial Area. I do not agree with this amendment on the basis that low rise apartments are enabled in this location under the operative NRMP and density is not restricted, and a high standard of acoustic treatment is required for residential under the Port Effects Control Overlay (SCr.69A).

Residential Density

439. Port Nelson seeks (S224.002) to ensure that no further intensification occurs in the Port Effects Control Overlay. PC29 will not allow additional intensification within the Port Effects Control Overlay. In the proposed residential zones, rule REr.64 (Minimum site area) and Subdivision Rule REr.107 apply to the Port Effects Control Overlay. As a result, properties that are affected by this Overlay will retain the operative minimum site area rules (600m^2). These rules apply to existing and proposed zones.

440. I consider that no changes are required to address the following submission points - S224.002, S224.012, S224.013, S224.015, S224.016, S224.017. I see the merit in making minor amendments to the residential zone table of contents to improve clarity and readability.

Suburban Commercial Density

441. The Port opposes Policy SC2A.1 (residential amenity) and rule SCr.20A (Residential activity) as it would seem to introduce further residential into the Suburban Commercial Zone within the Port Effects Control Overlay. As stated above, I do not support imposing more restrictive standards for residential activity in the Suburban Commercial Zone on the basis that residential intensification is allowed in this location under the operative NRMP and there are standards that require and high standard of acoustic treatment. In my view, Port Nelson has not provided sufficient evidence to demonstrate that there is a significant adverse effect in this location that would warrant further restrictions on residential activity.

Papakāinga

442. Similar to Transpower, Port Nelson Ltd's relief seeks that proposed Schedule AA is amended to ensure papakāinga development is designed and constructed to incorporate appropriate acoustic insulation to manage reverse sensitivity effects from Nelson's airport and port. While Port Nelson Ltd's exact relief is somewhat unclear, the issues and intentions of their relief is understood. It appears that operative NRMP rules REr.65 Airport Effects Control Overlay and REr.65A Port Effects Control Overlay applies to papakāinga developments irrespective of proposed Schedule AA, however, I agree that this is unclear. Papakāinga development located within the Airport and Port Control Overlays have the potential to give rise to reverse sensitivity effects. To manage this, I consider that it is appropriate to ensure that papakāinga developments are captured within the Airport Effects Control and Port Effects Control Overlays.

7.12.3 Recommendations

443. In summary, for Key Issue 9 – Port Nelson, I recommend:

a) The submissions be accepted, accepted in part or rejected as set out in Appendix 1; and

b) The following key changes to the following key changes to PC29 as set out in the table below.

Provision(s)	Officer recommendations
RE1.5.ii	Accept in part S224.007 and amend as follows: Amend paragraph RE1.5.ii (Explanation and Reasons) The Airport Effects Control ~~and Port Effects Control o~~Overlays~~s~~ also contains rules limiting the density of residential development. The purpose of the lower density areas adjacent to the airport ~~and the Port Industrial Area~~ (the Airport Effects Control Overlay ~~and the Port Effects Control Overlay~~) is to minimise the number of residences exposed to noise from the airport ~~and the Port Industrial Area,~~ rather than to preserve visual or related characteristics.
RE1.6	Accept in part S224.007 and amend RE1.6 as follows: RE1.6 general residential zone Increase housing choice and diversity by enabling a suburban planned built character comprising residential buildings generally up to two storeys, surrounded by open space. Explanation and Reasons RE1.6.i This zone enables a range of housing types, including detached and attached residential units, and achieves a suburban residential character by generally limiting the scale and form of buildings to two storeys and requiring on site landscaped areas and private open space.

Provision(s)	Officer recommendations
	RE1.6.ii The Airport Effects Control and Port Effects Control Overlays also contain rules limiting the density of residential development. The purpose of the lower density areas adjacent to the airport and the Port Industrial Area (the Airport Effects Control Overlay and the Port Effects Control Overlay) is to minimise the number of residences exposed to noise from the airport and the Port Industrial Area, rather than to preserve visual or related characteristics. Method RE1.6.~~ii~~ iii Rules setting minimum standards to provide for a high quality living environment and residential amenity. RE1.6.iv Rules setting minimum lot sizes in the Port Effects Control Overlay RE1.6.v Rules setting minimum requirements for acoustic treatment for residential development.
Schedule AA.3 Permitted activity	Accept S224.014 and amend AA.3.c to require compliance with REr.65 Airport Effects Control Overlay and REr.65A Port Effects Control Overlay.

8.0 Conclusion

444. This report has provided an assessment of submissions received on the Inner City Zone, Suburban Commercial Zone, infrastructure and industrial related provisions of PC29. The primary amendments that I recommend are outlined in the sections above and are listed in the executive summary.

445. Sections 6 and 7 of the report considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the topics addressed in this report should be accepted, accepted in part or rejected, as set out in my recommendations of this report and contained in Appendix 1 of this report.

446. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of the NRMP and other relevant statutory documents, for the reasons set out in the Section 32AA evaluation undertaken.