K Mardon – Presentation to Hearings Panel

Submission S410

2 September 2024

Thank you for the opportunity to address the Hearings Panel today. My name is Kathy Mardon. I live in Collingwood St, in the area currently zoned low density, but proposed to be HD in Plan Change 29, and, I understand, included in the proposed High Accessibility Overlay.

I'm not a Planner, but I worked in the regulatory area of NCC a number of years ago, so I have a fairly good understanding of how the Nelson Plan works.

In my presentation today, I'll be focussing on

- The serious adverse effects of PC29 on amenity values
- The contradiction or the disconnect between the policies/objectives in Chapter 7 and the actual rules.
- The removal of the basic right of affected persons to be consulted or heard
- And the Social impact of PC29, effect on neighbourhood connectedness

But first, a bit about our situation

We downsized about 13 years ago, and built a modest energy efficient home. It was designed to capture maximum sunlight, and was built with high levels of insulation, double glazing, solar water heating and other passive energy design features.

As a result our home is warm and very energy efficient, with a very low environmental footprint.

We also have a large vege garden, which enables us to be self sufficient most of the year, as well as being able to regularly share any excess with neighbours, friends and family.

All this is dependent on receiving enough sunlight (not daylight, but sunlight).

I'm sure lots of other submitters have referred to the adverse effects on a property of the loss of sunlight, including cold damp homes, effects on health and wellbeing, higher energy use, solar panels becoming useless, solar lights not working, effects on food security.

Sunshine is not a luxury, it's essential, as Policy RE2.3 points out. Loss of sunshine would be devastating for properties such as ours, so it's very stressful to think we could be faced with that possibility, if a 19m dwelling were to be erected on or near our northern boundary.

Energy shortage is a serious issue for NZ, so it seems to be counter productive to be introducing measures which could increase the energy use of homes which had previously been quite energy efficient.

When I was preparing for my original submission, I took note of the Q & A section on the Council's website – and in particular a reply/suggestion from the Planner along the lines *"if you don't think we've got the Rules right, tell us what the rules should be"*

I looked first at the Objectives & Policies in Chapter 7, and then at the residential rules table. And what I discovered is that there seems to be a disconnect between some of the statements in the Objectives, and the actual rules.

I've listed these in my original submission, but I'd just like to highlight a few here

Starting with the Objectives/Policies section, Chapter 7

This chapter contains quite a few references to achieving a high quality living environment, to be supported by rules

RE1.2 talks about flexibility in development

In the original wording of this section, there were two clauses which have now been deleted, and it's the deletion of these clauses that concern me, namely:

- removal of clause (c) *"does not diminish the amenity of neighbouring sites"* ; and
- removal of clause (e) *"does not significantly affect the views or outlook from adjacent properties"*

The removal of these clauses appear to directly contradict the aims of other clauses in the policy section Chapter 7, eg

- **RE1.8.1** refers to the HDZ providing a *"quality living environment for residents'*

  And that the method to achieve that will be (i)
  RE1.8.ii having rules that will provide for amongst others… "*a high **Quality** living environment and residential amenity" and which* " RE1.8.iii *support a high quality built form which **minimises effects on neighbouring properties (RE1.8.iii)***

and

- RE2.9, headed "*quality living environment for residents"* which aims "*to create a **high standard of amenity** for residents within **and adjoining a development.**"*

Policy RE2.3 daylight and sunlight …. This to me is really crucial

RE2.3.i recognises that "*the reception of daylight and sunlight to each household unit is a **critical component of residential amenity** that provides warmth and energy efficiency, and is **vital** for outdoor activities such as gardening and recreation"* That's a pretty strong statement.

RE2.4 privacy and outlook

States that "*the location and design of buildings should not **unduly compromise** outlook and privacy of **adjoining** development.*

RE2.4.1 states that *"height of buildings and closeness to boundaries are the key determinants of privacy, outlook and views"*

These to me are very clear statements about the importance of these amenity values, ie. sunlight and outlook, and lead to an expectation that PC29 will have a mechanism to achieve this.

But as I went through the rules, I couldn't find many safeguards that would protect existing adjoining properties.

And on a very basic level it's pretty obvious that sunlight and outlook are going to be very adversely affected by having a 19m dwelling on or near their boundary.

Some of the Rules that I looked at

Rule RE.19s. Maximum building length – which sets "*a maximum length of 22m, after which there shall be a separation of 4m between any other building of the same form."*

And the explanation of this rule "*is to provide opportunities for sunlight and daylight access to neighbouring sites and manage visual dominance effects. The rule seeks to avoid a situation where long unrelieved building facades run the length of side boundaries."*

But this rule didn't give me much comfort – our house is just under 22m, so potentially we could have a 19m high building running the full length of our house, without getting any benefit from the sunlight entering through the 4m gap, unless this separation happened to exactly line up with our living areas.

So it seems to me that Rule RE.19s is a very inadequate tool to give effect to Policy RE2.3. And the use of the word "opportunity" is revealing, as it is almost meaningless.

Nor does this rule fit with policy statement RE2.4 which says that ..."*buildings should not unduly compromise outlook and privacy of adjoining development"*. A 4m separation isn't going to do much to relieve the dominance of a 19m building on the boundary.

rule 19L, "Outlook and Privacy", 19L.1.d.i states that "*outlook spaces must be clear and unobstructed by buildings"* - this is referring to new developments, but not to adjoining properties.

So it seems the rules of PC29 are going to create 2 classes of property – new builds with a guaranteed high standard of amenity, and existing properties which stand to lose those amenity values (sunlight, outlook etc) which Policies RE2.3 & 4recognise as critical.

Restricted Discretionary

I also have concerns about the narrowness of matters that can be considered when an application triggers the restricted discretionary status.

But discretion is limited to certain things, and often with the rider *"without limiting the ability to achieve the planned high density built character of the zone - eg (RE19B.4.c.i.a)* the rule relating to development of more than 3 res units on a site;

Again under Rule REr.19J.3.i (Maximum building height) – *"discretion is restricted to effects on the planned high density built character of the zone.* And under the explanation for this rule, is states that *"within this context, infringements to building height will be considered in terms of whether this character is achieved as a whole".*

This rider is repeated in a number of rules, eg. REr91.c (site coverage), 19d (front yards), 19E (other yards), 19H (permeable landscape area), 19J (maximum building height), and 19k (daylight).

So it would seem that when the Planner is considering whether to approve or decline an application for a restricted discretionary activity, the highest weighting will be given to whether the application achieves **the "high density built character"** – ahead of any other adverse effects on neighbouring properties – which seems to contradict Policy 2.9 which *"aims to create a high standard of amenity for residents within and adjoining a development"*

In summary, I believe that the Objectives and Policies, particularly 2.3 and 2.4, are not supported or given effect to, by the proposed rules.

NON-NOTIFICATION

I object to the rules allowing 11 or 19m high (4 or 6 storey dwellings) to be a permitted activity and therefore not requiring a resource consent and not needing to be notified to affected persons. The adverse effects of a buildings of these heights are very "major".

In the past, any infringement that was considered "more than minor" would likely require neighbour's approval.

The basis of the RMA has always about protecting the rights of "affected" persons.

These rules take away that right completely.

So PC29 is taking us from the current scenario where any effects that were more than minor would require a consent and/or neighbours' approval, to the scenario where even if a development causes very major adverse effects to an adjoining property, these effects are not taken into consideration.

The Social impact of PC29

Another matter I'd like to touch on is the effect of having high rise buildings dotted around a neighbourhood would have on the social cohesion of the neighbourhood.

The best way to get to know a neighbour is "over the fence". It's hard to get to know your your neighbour if you can't see them. This will not be possible for properties with a 6-storey apartment alongside them.

It will lead to a breaking up of social connections within a neighbourhood – people who live in a high rise apartment building may have the chance to interact with other residents in their Unit, but are less likely to interact with their neighbours, because they will simply

not see them. Social connections throughout a neighbourhood are vital for communal well-being, particularly in times of crisis. Neighbours who have no chance to see or get to know other neighbours will not be in a position to look out for each other.

Social connectedness in a neighbourhood can be very important for a person's mental wellbeing, particularly for people who live on their own, who are lonely, or who are elderly, un well or disabled.

IN SUMMARY

I appreciate the need for intensification, and that 4 or 6 storey developments may be necessary to ensure Nelson can provide enough housing to meet its projected population growth.

But they need to be in the right location, not just located anywhere in the HDZ.

I believe other submitters have talked about the need to thoughtfully plan and identify locations that would be suitable for intensification, without compromising the amenity of adjoining properties.

But I disagree strongly with making anything up to 19m in height a permitted activity.

I suggest that anything over the current maximum height of 7.5 m be made a discretionary or non-complying activity, requiring a notified resource consent, and allowing for affected persons to be heard

I believe this would then enable the Plan to give some meaning to Policies RE2.3 and 2.4