Nelson City Council
Te Kaunihera o Whakatū

Council Reply
Flooding

Plan Change 29 to the NRMP

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1.0 Acronyms and Abbreviations

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

2.0 Introduction

1. This reply for Plan Change 29 **(PC29)** to the Nelson Resource Management Plan (**NRMP**) has been prepared to address matters still in contention raised at the hearing by the Panel, submitters, experts, and through further expert conferencing relating to the flooding provisions.

2. The reply is organised by key issue and recommends further amendments. The amendments are also included in the consolidated Reply version of the provisions available on the PC29 Hearings webpage. All further amendments are shown in red text with green underline and ~~strikethrough~~.

3.0 Further Evaluation and Recommendations

3.1 ISSUE 1 Flood Policy D02.2.4 flood hazard: subdivision, use and development in flood and amendments to other flood related policies

3.1.1 Issues raised in submitter evidence

3. In association with the Manuka Street Hospital Limited's (**MSHL**) submission point on Flood Policy DO2.2.4 flood hazard: subdivision, use and development in flood areas (S881.006), David Carlson-McColl for Manuka Street Hospital Limited provided a Summary Statement of Evidence dated 9 September 2024 which included comment (paragraph 18) on Policy DO2.2.4 flood hazard: Subdivision, use and development in flood areas.

4. Mr Lile for MSHL in his Summary Statement of Evidence, 9 September 2024 also provides comment on Policy DO2.2.4 (paragraphs 7-11). In paragraph 10, Mr Lile states '*I read this policy as not allowing new development in the flood area as this could be interpreted as increasing risks, and may not be able to demonstrate operational or functional need for being in that location.'*

5. In paragraph 11, Mr Lile also suggests an amendment to clauses 2 and 3 of the policy to include the words 'appropriately managed' and 'or mitigated' respectively (see green highlight):

DO2.2.4 flood hazard: subdivision, use and development in flood areas

Control subdivision, use and development within Flood Areas to ensure:

1. *the type, frequency and scale of projected flooding, and likely damage and effects is appropriately assessed; and*
2. *the building, land use or activity being proposed is suitable and its vulnerability to risk from the flood hazard is appropriately managed, not increased, or is appropriate having regard to the functional or operational need of the building, land use or activity within that location; and*
3. *significant risk to people, property, infrastructure and the natural environment, including social and cultural effects, from the flood hazard is avoided or mitigated; and*
4. *any adverse effects on the function of the floodplain, including flood storage capacity and conveyance are mitigated; and*
5. *any adverse effects beyond the subject site including any exacerbation of, and transfer of, risk is appropriately managed; and*
6. ~~*building platforms are not located within land identified in the High Flood Hazard, Floodways, or Flood Paths;*~~
7. *the design, location, layout and construction of buildings and structures, including building platforms, ground/floor levels and adaptation methods provide resilience against and mitigate the projected effects of the flood hazard; and*
8. *any adverse effects on infrastructure and access from flooding in a Flood Areas are mitigated; and*
9. *the storage and use of hazardous substances in relation to the flood hazard is appropriately managed.*

3.1.2 Evaluation

6. In my opinion Mr Lile's amendment 'appropriately managed' is ambiguous and significantly weakens the policy. A building addition to the existing Manuka Street Hospital would fall under the second part of clause 2 of the policy, as it would have an *operational need* to be in that location (refer to the Section 42A Natural Hazards Report Addendum 1B-Flooding, p12, Meaning of Words for the definition). The qualifier recommended by Mr Lile is therefore not required.

7. I recommend accepting the amendment to clause 3 is accepted with some modifications. Policy DO2.2.4 does not seek to prohibit development rather it is to ensure that significant risk from

flood hazard is avoided. However, if mitigation could result in avoiding significant risk then it is appropriate to provide for that by qualifying the policy.

8. Refer to Appendix 1 for the amended policy DO2.2.4.

3.1.3 Recommendation

9. I recommend the following:

- that 'appropriately managed' is not included in Policy DO2.2.4 clause 2.
- in clause 3 of Policy DO2.2.4, the following is included 'or mitigated where avoidance can be achieved through mitigation':

Provision(s)	Officer recommendations
Policy DO2.2.4 flood hazard: Subdivision, use and development in flood areas	Include the following amendment in clause 3. significant risk to people, property, infrastructure and the natural environment, including social and cultural effects, from the flood hazard is avoided or mitigated where avoidance can be achieved through mitigation.

3.1.4 S32AA Evaluation

Costs/Benefits

10. The proposed amendments may assist with the clarity of the policy and ensure that the pathway is open to mitigate flood hazards where it will result in the avoidance of significant risk to people, property, infrastructure and the natural environment. I consider that this clarification will allow consistent interpretation and implementation of the policy and therefore reduce time and financial costs to applicants, ratepayers and Council.

Risk of acting or not acting

11. There is no risk in accepting the recommended amendments as there is sufficient information about the subject matter.

Decision about most appropriate option

12. For the above reasons, in my view, the recommended amendments are more appropriate than the notified version of PC29.

3.2 ISSUE 2 Permitted activities

3.2.1 Issues raised in submitter evidence

13. Two submissions prepared by Mr Lile on behalf of MSHL (S881.0026 and S881.0027) and GP Investments Limited (S845.041, 042 and 043) raised concerns with the flood related rules. In

most instances the relief requested was that the flood related rules in the Residential and Industrial zones are deleted.

14. Additionally, the submission of Margaret Whiting and the Anmar Trust (S883) pertains to the Industrial zone (S883.003 and S883.005) and the flood related rules. The submission requests the deletion of the PC29 rules INr.60B and INr.60E and comments on the increase in the number of resource consents and flood assessments required.

15. Mr Lile elaborated in subsequent evidence on his concerns regarding resource consents, stating that the PC29 approach to flood will result in a greater number of resource consents and the need for flood assessments, resulting in increased costs to applicants.

16. Further to this, the Panel has asked the following question:

If PC 29 Hazards was confirmed how many potential resource consents would the council have to process?

17. The Panel accepted that a 'ball park' figure would be appropriate to respond to this question.

18. The response below has been divided into three parts:

a) the potential resource consent numbers in relation to flood (Panel question);

b) consideration of increasing the number of Permitted activities in flood areas in order to reduce compliance costs;

c) consideration of tools/processes that could reduce costs to applicants associated with resource consents and possibly building consents within Flood overlays.

3.2.2 Evaluation

Potential resource consent numbers in relation to flood (Panel question)

19. To determine a 'ball park' figure of resource consents triggered under the recommended flood rules, Council's planning consents database was queried for land use consents approved that involved a NRMP flood rule for the Residential, Industrial, Inner City and Suburban Commercial zones (PC29 extent) from 1 July 2022 to late August 2024 (approximately 2 years). Subdivision consents of all types were excluded because subdivision requires a consent under the NRMP and PC29 does not propose to amend that.

20. There were 24 granted land use consents that involved an Operative NRMP flood rule from a total of 583 resource consents for the period 1 July 2022 to the end of August 2024 (excluding coastal, discharge and water permits and subdivisions). The August 2022 weather event appeared to generate only one application in the period 1 July 2022 to the end of August 2024.

21. Analysis of the properties within the PC29 extent shows that there are approximately 2,553 properties affected by an Operative NRMP flood overlay(s) (including properties possibly affected by multiple overlays). Applying the number of land use consents (24) granted in the period 1 July 2022 to the end of August 2024 as above, this equates to 0.09% consents over two years or 0.05% per year. Using the PC29 layers (Inundation, Flood Hazard and High Flood Hazard

overlays) it was determined that there were 5,079 properties affected by these overlays (approximately double the number of properties affected by the Operative NRMP overlays). If 0.09% was extrapolated to PC29 extent properties over a comparable period, the result is 48 consents over two years. While the land use rules within the Flood overlays are proposed to change with PC29, in my view, these changes are too nuanced to determine a reasonably reliable 'ball park' figure given that some of the rules are more enabling and some are more restrictive.

22. In my opinion, this shows that the number of consents granted could potentially double with the PC29 flood overlays. If this is a reasonable representation, it also shows that the projected number of resource consents is not likely to be significant. However, it should be noted that these numbers are indicative only and the matters below should be taken into account.

23. There are many matters that could affect the actual number of resource consents. Some of these may be (in no particular order):

    a) The introduction of new planning provisions may modify behaviour and thus decisions on development design. This may impact the number of consents required and the nature of any such consent applications.

    b) The state of the economy.

    c) Not all land use applications will require a comprehensive site-specific flood assessment. Depending on the nature of the application some may only require a raised floor level (which can be derived from the Council flood information report, see below).

    d) The PC29 amendments in relation to residential intensification may alter the number and type of applications.

Increasing the number of permitted activities in flood areas

24. The Panel has requested that I consider whether it is possible to allow for more permitted activities than those included in the notified PC29 and subsequent amendments to the flood related rules. I conclude below that there is scope to allow an increase in the size of building additions in the Industrial zone.

25. In considering this matter, I have reviewed the submissions and evidence and considered the permitted flood provisions in other Aotearoa New Zealand district plans (both in force and proposed). I have also discussed the matter with Mr Kay and Mr Velluppillai and taken into account the following:

    a) The need for a balance between allowing development and the management of potential flood risk.

    b) The matters that would allow some additional permitted activities such as the flood flow velocities and depth in the Flood Hazard overlay being low (in the instance of Flood Hazard the 1% AEP event at 2130 is up to 0.3m deep and velocity is less than 2m/s, refer to p70 of the Section 32 report).

26. However, there are matters that limit having an extensive permitted activity pathway in my view, which include:

a) Access for people and vehicles in some flood hazard areas in relation to flood flow velocities and depth;

b) There being no pluvial secondary flow (overland flow) path mapping for the Council district. Stormwater network modelling is currently being undertaken by the Council (refer to Mr Velluppillai's Reply).

27. Given the above considerations and based on the further analysis undertaken below, in my opinion there is limited opportunity to increase permitted activities within PC29. However, I do recommend an increase in the size of permitted additions to a building in the Industrial zone.

28. I have also considered whether there is scope in the submissions to allow for additional permitted activities or amendments to the thresholds.

Scope of submissions to allow for additional permitted activities or an amendment to the thresholds

29. The primary submissions below and submissions such as the telecommunication companies submissions (Connexa Limited (Connexa) [S487.005], Chorus New Zealand Limited (Chorus) [S486.005], Aotearoa Tower Group Limited (trading as FortySouth) (S488.005, One New Zealand Limited (One NZ) [S490.005], Spark New Zealand Trading Limited (Spark) [S491.005] and Nelson Airport Limited (NAL) (S478) provided scope for the amendments included in the Section 42A Natural Hazards report and Addendum 1B-Flooding however, these were limited to certain zones or activities.

30. There are three primary submissions (as outlined above) which stated that they did not support the PC29 rules in relation to flood for the Residential or Industrial zones. The submissions are:

Manuka Street Hospital Limited (S881)

31. The Manuka Street Hospital submission (pertaining only to the Manuka Street Hospital site, submission point numbers S881.026 and S881.027) requested the deletion of the PC29 rules in relation to:

- REr.83C Flood Areas except Flood Paths or Floodways Fence, wall, retaining wall, outside storage;
- REr.83E Flood Areas except Flood Paths or Floodways Earthworks.

and the amendment to the notification provisions in REr.83B Flood Areas except Flood Paths or Floodways Building and below ground swimming pools (S881.026).

32. These submission points were supported in evidence from:

- Mark Lile on behalf of Manuka Street Hospital Limited, 9 September 2024, paragraphs 13, 14 and 15;

- Mark Lile on behalf of Manuka Street Hospital Limited, 10 July 2024, paragraphs 115 and 116;
- David Carlson-McColl on behalf of Manuka Street Hospital Limited, 9 September 2024, paragraph 20.

GP Investments Limited (S845)

33. The GP Investments Limited submission (S845) comments pertain to the Industrial zone (submission points S845.041, S845.042, and S845.043). The submission requests the deletion of the PC29 rules INr.60C and INr.60E and are concerned with the increase in the number of resource consents and flood assessments required.

34. These submission points were supported in evidence from:

- Mark Lile on behalf of GP Investments Limited, 9 September 2024, paragraphs 5-13.
- Mark Lile on behalf of GP Investments Limited, 10 July 2024, paragraph 25.

Margaret Whiting and the Anmar Trust (S883)

35. As stated above, the submission of Margaret Whiting and the Anmar Trust (S883) requests the deletion of the PC29 rules INr.60B and INr.60E in the Industrial zone.

36. In considering whether there is more opportunity for permitted activities via the above submissions, I have reviewed each of them in relation to the two aspects of scope matters which must be considered:

1. whether a submission is within scope of PC29;
2. whether the relief is within scope of a submission.

37. Firstly, whether a submission is within scope of PC29. Each of these primary submissions reference specific PC29 flood rules. Given this, I conclude that the above submissions are within the scope of PC29 noting that they only relate to provisions in the Residential (Manuka Hospital is zoned Residential) and Industrial zones.

38. Secondly, in relation to whether the relief is within the scope of a submission. I consider that the proposed relief; increasing the size of an addition to a building for a notified permitted activities is within scope.

39. I consider that the proposed relief I recommend is fairly and reasonably within the range of options between what was originally notified, and the relief requested in the submissions. I suggest that the comments provided in the evidence of the MSHL, GP Investments Limited Margaret Whiting and the Anmar Trust associated with the submissions allow for an extension of permitted activities as they request the deletion PC29 rules (meaning that the activities would be permitted by default).

New buildings

40. The Operative NRMP rules (which are proposed to be deleted in PC29) REr.83.1, SCr.55.1, ICr.59.1 and INr.60 have an exception which allows dwellings to be erected where a lot has been created through an approved subdivision or through a resource consent for site filling. This exception is as follows:

> *…(the restrictions in this clause do not apply where ground levels on the building site has been filled according to a resource consent granted since the notification of this Plan and all floor levels are not less than 150mm above the approved ground level),*

41. I do not recommend that this rule is 'carried over' to the PC29 rules relating to buildings as it cannot be assumed that the ground level of the lots will be at the required 1% AEP flood level at the time the building would be erected. The Council Flood Information Report (as outlined below) will assist in determining the flood floor level.

Building additions in the Industrial Zone

42. I recommend amending INr.60B.1 Flood Areas except Flood Paths and Floodways Building and below ground swimming pools. Specifically, I recommend amending INr.60B.1(c)(i) and (ii) to increase the permitted threshold for building additions from 10m² to 30m². This rule only applies to the Flood Hazard and Inundation Overlays in the Industrial Zone. It does not apply to the High Flood Hazard Overlay.

43. I consider that it is appropriate to allow an increase in the threshold for additions from 10m² to 30m² in the Flood Hazard overlay within the Industrial Zone as the flood flows and depths in this overlay are lower. In relation to the Inundation overlay, noting that it is a historical overlay, I consider that as many of the lots are larger there is the opportunity to only have a small proportion of the addition within the flood overlays. Additionally, the site size provides greater flexibility to incorporate mitigation measures into the building design. An addition to a building of 30m² is relatively small for most buildings in an Industrial zone.

44. I consider that the scope for the proposed amendment in relation to additions arises from the submissions outlined above as they ask for the rules to be deleted; so, an increase in the thresholds provides some relief.

45. Refer to Appendix 2 for the amended rule.

Earthworks

46. Mr Carlson-McColl (for MSHL) in his evidence dated 9 September 2024 recommends the following change to (blue text) REr.83E.1 - Flood Areas except any Flood Path or Floodway Earthworks:

In Flood Areas, except any Flood Path or Floodway, earthworks are a permitted activity provided that the earthwork:

either:

a. does not permanently alter overland flow paths beyond the site boundary; or

b. is for the installation of an aerial;

or:

c. is not more than $3m^3$ in each calendar year of excavation or cleanfill material per site; and

d. has a maximum cumulative volume of filling and excavation of $25m^3$ per site, within any continuous period of 10 calendar years~~; or~~.

47. I do not support the amendment proposed by Mr Carlson-McColl. As stated above, the Council does not have secondary flow path mapping. Given this, it would be difficult for many people proposing to undertake earthworks in the Residential zone to be certain that they were complying with the rule. It would also be difficult to enforce the rule from a compliance perspective as the overland flow path mapping has not yet been completed.

Council tools and processes

Flood Information reports

48. Council currently provides a free flood information report for any property, on request. The report contains ground levels for river and coastal flood. It does not provide a minimum flood floor level. However, it is possible to determine this from the information in the report. The report does not provide information on secondary flow paths as the stormwater network modelling and subsequent mapping is currently being developed by the Council.

49. Resource and building consent applicants and those proposing to undertake permitted activities are encouraged to obtain a flood information report prior to the lodgement of an application or undertaking a permitted activity. The report assists applicants with the siting and design of the proposed development and whether the development needs to include flood mitigation strategies. It is suggested that this information may contribute to the efficiency of the consent process, as requests for further information in relation to flood may be reduced.

50. Once the stormwater network modelling and associated mapping has been completed (refer to the Section 32 report and Mr Velluppillai's Reply (Flooding) it will be possible to include secondary flow path mapping for properties in the flood information reports and on Council's online flood webmap.

Flood hazard certification linked to allowing permitted activities

51. Christchurch City Council allows certain permitted activities on land shown in flood overlays, provided that a floor level certificate, issued to the applicant on request (and nominal fee) stating the required floor level is complied with.

52. I have considered this approach in association with Mr Kay and Mr Velluppillai. Whilst I consider that the approach has merit, given the above situation in relation to the mapping of secondary flow paths and the need to include coastal flood mapping[1] in the NRMP as a future plan change, in my opinion it would not be appropriate to include this approach as part of PC29 at this time.

53. Recommendation I recommend the following amendments:

Provision(s)	Officer recommendations
INr.60B.1 Flood Areas except Flood Paths and Floodways Building and below ground swimming pools	Amend the text to the following: • INr.60B.1(c)(i) and (ii) change 10m² to 30m²

3.2.3 S32AA Evaluation

I consider that the proposed amendments to INr.60B.1(c)(i) and (ii) provide a balance between the flood risk and achieving the flood related policy aims.

Costs/Benefits

54. The proposed amendment may reduce the number of consents required in the Industrial Zone. Whilst it does not negate the need for the consideration of flood hazard, it may reduce the costs associated with development, such as the need to obtain a resource consent. It is anticipated that this will reduce financial costs to applicants.

Risk of acting or not acting

55. There are no risks as there is sufficient information.

Decision about most appropriate option

56. For the above reasons, the recommended amendment is considered to be more appropriate than the notified version of PC29.

[1] Refer to paragraph 116 in the Section 42A Natural Hazards report and the Section 32 report.

3.3 ISSUE 3 Nelson Airport Limited and flood related policies and rules

3.3.1 Issues raised in submitter evidence

57. NAL (S478) in their submission and associated evidence suggested that the PC29 Flood rule INr.60B Flood Areas except Flood Paths or Floodways – Building and below ground swimming pools and other flood related rules were not commensurate with the activities of Nelson Airport. Alongside this, PC30 was being considered.

58. Following the submission of the PC29 Section 42A Natural Hazards Addendum 1B-Flooding to the Panel, Mr Kay, Mr Velluppillai, Ms Carter and Ms Morgan and myself representing Council met with Mr Bonis and Mr Craig representing NAL to discuss the natural hazards rules pertaining to the Airport land within the Industrial zone. As a result of the conferencing, the Joint Witness Statement-Natural Hazards and Airport was provided to the Panel on 10 September 2024.

59. The Joint Witness Statement-Natural Hazards and Airport agrees that within PC29 there will be a specific natural hazard policy (DO2.2.19 Nelson Airport activities in Flood Areas) and specific flood and liquefaction rules for the Airport land within the Industrial zone. The rules will be included in Appendix 31 of the PC29.

3.3.2 Evaluation

The PC29/PC30 approach to natural hazard provisions

60. The Joint Witness Statement-Natural Hazards and Airport and Nelson Airport Limited Plan provisions) for the Airport land in the Industrial zone addresses the matter raised by NAL in relation to the rules needing to be commensurate with the scale and type of activities of an airport. In my opinion the nature and scale of Airport activities require a bespoke solution and the provisions agreed to are appropriate.

61. An advisory note has been added to rules INr.60A-INr.60F to indicate where to find the rules for the Airport in relation to the Industrial Zone (this is included in the agreed provisions in the JWS).

3.4 ISSUE 4 Hardy, Tasman, Domett and Nile streets area, Lower Brook Stream and the Flood Overlays

3.4.1 Issues raised in submitter evidence

62. As outlined in the Section 42A Natural Hazards report (p60-p62) numerous submissions were received in relation to the Hardy, Tasman, Domett and Nile streets area concerning the flood mapping and the proposed zoning of the land. I recommended that no amendments were required.

63. Mr Velluppillai provided further comment on the matter in his Rebuttal Statement of Evidence, 15 August 2024. Both Mr Kay and Mr Velluppillai responded to questions from the Panel in relation to flood mapping and mitigation on Tuesday 27 August 2024.

64. The Panel heard presentations from Mr Bayley (S20) and Mr Gibson representing the Domett St/Hardy St/Tasman St/Nile St block group (S719) on Wednesday 4 September 2024. Powerpoint

presentations from Mr Bayley and Mr Gibson and a text document from Mr Bayley were provided to the Panel.

65. The Panel has asked that the *Reply directly respond to Mr Bailey's submission (and the others addressing the same issue/location) regarding the confluence of the Brook and Matai and the assumptions on peak flow and backwater effects and associated flood levels from The Brook*.

66. Mr Velluppillai's Reply (Flooding) responds to the Panel's question and provides comment on Messrs Bayley and Gibsons' documents.

3.4.2 Evaluation

67. I have considered Mr Velluppillai's Reply (Flooding) particularly his comments at paragraph 26 in his Reply and conclude that from a natural hazards land use planning perspective there is no need to change the proposed zoning as requested by the submitters, in the Hardy, Tasman, Domett and Nile streets area. This position is supported by the revised modelling and associated mapping included in Mr Velluppillai's Reply (Flooding).

68. As the revised modelling has only recently been undertaken, it requires refinement and peer review. The mapping also shows 'newly affected property owners'. Given this, I consider it inappropriate to include the revised, but as yet not 'peer reviewed mapping' in the PC29 Flood Overlay and that this should not delay the implementation of PC29.

3.4.3 Recommendation

69. I recommend no amendments to the PC29 Flood Overlay and proposed PC29 zoning in the Nile Street and Brook Stream area.

3.4.4 S32AA Evaluation

70. As no changes are recommended to PC29 no further evaluation is required under S32AA.

3.5 ISSUE 5 Other matters raised in the PC29 Hearings

71. During the Hearing, a Panel member asked about progress regarding 2 Little Todd Valley (S949.001).

72. To address the management of the secondary flowpaths (flooding) in this area, an upgrade to the culverts and remedial work on the stream parallel to Little Todd Valley Road is proposed by Council. The design of this work has commenced, and it is anticipated that the work will be completed in 2026.

4.0 Conclusion

73. The Reply report has considered the submissions and associated documents and the expert evidence in addition to reviewing the flood related provisions for PC29. I have recommended amendments to some policies and rules. I conclude that the amendments will be beneficial in implementing the flood related provisions in an efficient manner which will effectively manage flood risk to new development and benefit the community and Council.