Nelson City Council
Te Kaunihera o Whakatū

Addendum 1A to the Section 42A Report – Geotechnical

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
JWS	Joint Witness Statement

2.0 Introduction

1. This addendum to the Section 42A report for Plan Change 29 **(PC29)** to the Nelson Resource Management Plan has been prepared to address matters raised in expert evidence and expert conferencing on behalf of submitters.

2. The addendum is organised by key issue, consistent with the analysis of submissions in the Section 42A Report – Natural Hazards. A list of the further amendments to PC29 recommended in relation to these matters is provided in the body of the report below. The further amendments are also included in the consolidated addendum version of the provisions available on the PC29 Hearings webpage. The further amendments are shown in red text with yellow highlight.

3. This addendum also notes corrections and amendments to the submission point I recommend accepting/accepting in part/rejecting in the Section 42A Report.

4. I attended expert conferencing on flood hazard mapping and provisions on 30 July and 8 August 2024 and on geotechnical hazard mapping and provisions on 31 July and 1 August 2024.

5. The addendum below provides further assessment of issues that remain in contention.

3.0 Further Evaluation and Recommendations

3.1 ISSUE 1 Liquefaction rules – notification and activity status

3.1.1 Issues raised in submitter evidence or the JWS

6. The outstanding issue in respect to the liquefaction provisions are:

- Whether a non-notification clause is appropriate for REr.74A (Evidence of Mark Lile, Manuka Street Hospital, para 79 (s881.025).
- Whether the activity status of INr72A should be controlled activity rather than restricted discretionary (Evidence of Matt Bonis, para 9.12; Appendix 2 p21 and 22).

3.1.2 Evaluation

7. I have considered the evidence of Mark Lile and agree that adding a non-notification clause is appropriate in respect to the liquefaction hazard rules. Mr Lile states that *'…foundation and building design from a liquefaction hazard perspective, would not have an effect on other persons.*[1]' I generally agree with that view. Consequently, having considered the points raised in evidence I have changed my original recommendation to reject this submission point. I now recommend that submission point S881.025 be accepted.

[1] Evidence of Mark Lile – July 2024 paragraph 79.

8. I have also considered the evidence of Mr Bonis for Nelson Airport Limited (NAL), who has clarified the relief sought by NAL. I agree that a controlled activity pathway for liquefaction hazard rule INr.72A is appropriate. I consider that as a controlled activity the outcome will be similar in terms of management of liquefaction hazard and could in principle provide greater consenting certainty. A matter for which the Councils control is reserved over is also suggested by Mr Bonis in his evidence at page 22 in relation to regional and significant infrastructure but I do not consider it is needed, given that any application under this rule would not be able to be declined.

9. Given that the evidence of Mr Bonis has clarified the relief sought by NAL I have changed my original recommendation to submission point S478.015 from reject to accept in part (see Paragraph 571 of the s42A report for natural hazards). Kainga Ora also sought controlled activity status in respect to REr.74A, and I recommend that this submission point [S933.111] can now also be accepted. The submission from BP Oil NZ Ltd, Mobil Oil N Z Ltd, and Z Energy Ltd [S257.022] to retain INr.72 as notified is now recommended to be accepted in part. The entire change to the rule is provided in the consolidated addendum version of the provisions available on the PC29 Hearings webpage.

10. I consider it appropriate that these changes be included in all the Zone Chapters with the liquefaction hazard rule.

3.1.3 Recommendation

11. I recommend the following additional changes to the liquefaction hazard overlay provisions:

Provision(s)	Officer recommendations
REr.74A, INr.72A	Amend the activity status of REr.74A and INr.72A from restricted discretionary activity to controlled activity. Add the following clause to each rule: Resource consent applications for controlled activities will be considered without notification or obtaining written approval of affected persons. (add these changes as a consequential/ plan consistency amendment to the other zones).

3.1.4 S32AA Evaluation

12. As I recommend changes to the liquefaction hazard rules further evaluation is required under s32AA. I consider that the changes made to the liquefaction hazard rules discussed above will result in greater certainty of outcome to property owners seeking resource consent, while still enabling the risks associated with liquefaction hazards to be recognised and managed, consistent with Objective DO2.2.

3.2 ISSUE 2 Fault deformation and fault awareness mapping and provisions

3.2.1 Issues raised in submitter evidence or the JWS

3.2.2 The outstanding issues in respect to the fault deformation and fault awareness overlay mapping and provisions are:

- Additional amendments required to the fault mapping located at Bayview and Nile Street. (JWS) (this is covered more fully in the evidence of Dan Chamberose).
- Rule REr.73C applying in the Fault Awareness overlay, [S203.022, FS41.023]
- The $10m^2$ limit for permitted activity status for buildings, additions to buildings and accessory buildings in REr.73A and REr.73B (JWS).
- The rules as they apply to areas with a consented subdivision and geotechnical assessment (s42A report paragraph 462, 619, and JWS)

3.2.3 Evaluation

13. At section 3 of his evidence Dan Chamberose confirms his assessment that it is appropriate to further amend the fault deformation overlay at Bayview. I accept this advice and recommend that the map be redrawn as shown in Figure 1 of Mr Chamberose's evidence. As the submission point S767.002 was accepted in my original s42A report no changes to my recommendation is required.

14. An amendment is also being sought by Sally Hargreaves to the fault awareness overlay at Nile Street. I understand the Mr Chamberose is supportive of that change and will be in a position to confirm that at the hearing (see section 3, evidence of Dan Chamberose).

15. In my original section 42A report I considered that it may be more appropriate to delete the proposed rule REr.73C and my reasons for that are contained at paragraph 616-617 of the original Natural Hazards s42A report. I further considered whether the rule could be restricted to higher density/taller residential buildings, rather than deleted in its entirety. While medium and higher density residential buildings are potentially at higher risk of damage and loss of life if they collapse, Mr Chamberose has advised that it will still be difficult to determine on individual lots (unless they are very large) where the fault is located in order to determine an appropriate set back or other mitigation (building design). If sites are to be amalgamated to provide a larger lot for a larger residential complex the subdivision provisions will enable investigation and assessment within the fault awareness overlay. Consequently, I consider that REr73C can be deleted and reliance placed on the subdivision rules. No change to my original recommendation to accept FS41.023 is required.

16. The JWS records my agreement to review the $10m^2$ permitted activity limit in REr.73A and REr.73B. I have relooked at this issue and it is difficult to determine an appropriate trigger point for permitted activity status. A $10m^2$ gross floor area threshold enables a small addition to a dwelling for example (this would amount to a bedroom) or a garden shed, without the need for an RDA resource consent. I have considered lifting this threshold but consider that any trigger

will be arbitrary to an extent. An increase to 30m^2 has been suggested but I consider that this amounts to a studio apartment and does not support the policy intent of DO2.2.13 to require geotechnical assessments to determine appropriate setbacks of buildings from the fault zone. No change to my original recommendation is required.

17. The JWS indicates that I would continue to work on a new rule to provide an engineering certification process or exemption process for sites which already have recent site-specific geotechnical assessments including conditions and consent notices as part of the subdivision process. This exemption could be applied to a number of rules in the natural hazard overlays. No change is required to my original recommendation. The proposed exemption rule is listed below:

3.2.4 Recommendation

18. I recommend the following additional changes to the fault awareness overlay provisions:

Provision(s)	Officer recommendations
REr.73C	Confirm recommendation to delete REr.73C rather than amend.
DO2.2.12	Consequential amendment - delete reference to 'residential buildings' in policy DO2.2.12
REr.73, REr.73A, REr.73B	Amend REr.73, as follows: In the Fault Deformation Overlay a building or a network utility is not a permitted activity~~.~~ except where: a. the building or network utility occurs on an allotment which was created by a subdivision that obtained resource consent (and is not on balance land), and where the subdivision works included: 1. a site-specific Site Certification Report and Statement of Suitability of Land for Building Construction in general accordance with Schedule 2A of NZS 4404:2010 Land Development and Subdivision Infrastructure geotechnical report, dated not more than 7 years old at time of application, for the allotment prepared by a suitably qualified and experienced Geo-professional as defined by

	NZS 4404:2010 and included: i. conditions/ geotechnical development recommendations as consent notice conditions to mitigate the risk from fault rupture hazard that are applicable to the site. Include a similar exception for REr.73A (additions) and REr.73B (accessory buildings)

3.2.5 S32AA Evaluation

19. As I recommend changes to the fault deformation overlay rules a further evaluation is required under s32AA. I consider that the proposed exemption for REr.73, REr.73A, and REr.73B, is more appropriate than the notified version as it will recognise work already consented that has a geotechnical report to address the risk of fault rupture. In my opinion the proposed amendments are therefore more efficient than the notified version as they will result is the need for less resource consents but will still remain effective in terms of achieving Objective DO2.2.

3.3 ISSUE 3 Slope instability areas and debris run-out area mapping and rules

3.3.1 Issues raised in submitter evidence or in the JWS

20. The outstanding issues in respect to the slope instability provisions are:

- Naming of the combined Slope Instability Areas 2 & 3 (JWS).
- The rules that should apply to the combined area (JWS).
- The rules as they apply to areas with a consented subdivision and geotechnical assessment (s42A report paragraph 462, and JWS).
- Whether areas that have been engineered certified/modified should be excluded from the overlays (JWS).
- Whether the small area within Slope Instability Area 3 should be removed from the property at 27 Bay View Road (JWS).
- Provision in the slope instability natural hazard subdivision rules for unit titles to not need a geotechnical report if there is no change to the existing building (JWS).
- The appropriate activity status for subdivision in the (combined) slope Instability area 2 and the debris run-out area overlays (JWS).

3.3.2 Evaluation

21. Agreement to combine Slope Instability Susceptibility Areas 2 & 3 is recorded in the JWS. A further matter in respect to that is the name that the combined area would take. I consider it important that the name include 'Slope instability susceptibility' for the reasons I gave in the original s42A report at paragraph 513. I recommend, therefore, that this broader area be renamed Slope Instability Susceptibility Area 2 and the words '(elevated)' be removed and replaced with the more general geographical label '(Nelson Hills)' referencing the wider area that this overlay now applies to. No changes to my original recommendations are required as I accepted in part submissions which sought renaming of the slope instability areas.

22. Discussion on the rules that should apply in the combined Slope Instability 2 & 3 Area were not completed during expert conferencing so the JWS only references the earthworks rule, the stormwater and wastewater rule and subdivision.

23. I have considered my earlier assessment in the s42A report at paragraph 456 where I stated that the suite of rules applying to this large Slope Instability Area 3 area are likely to cause a significant number of resource consent applications, the administration of which may not be justified for the benefit gained which is not otherwise covered in the subdivision and building consent processes. Consequently, I considered it more appropriate to delete the rules relating to structures, new residential activities, additions and alterations and accessory buildings (REr.75O, REr.75P, REr75Q and REr75R).

24. The combining of the larger Area 3 with the smaller Area 2 is now problematic for these land use rules in Area 2 as a similar argument to that above can be applied. Not applying these rules in Area 2 to the combined area appears to be more appropriate than retaining them (which would have the effect of reinstating them over Area 3). I have turned my mind to a permitted activity rule for residential units, additions and accessory buildings that could apply across the combined area, but permitted activity rules of this nature are difficult to draft and are unlikely to be supported by the submitters who have raised concerns with these rules. Overall, I consider it more appropriate to rely on the subdivision and building consent processes and the remaining earthworks and stormwater and wastewater rules in the recommended combined area until more work is done in the future to identify a more robust 'elevated' slope instability susceptibility area where building related rules could find greater justification.

25. Having considered the points raised in expert conferencing and outlined above I have changed my original recommendation to reject submission points which sought to delete all the rules in Slope instability Area 2. I now recommend that submission points S755.007, S768.011, S767.013, S766.012, S845.048,[2] be accepted in part.

[2] Note these submission points identified are representative submission points and cover multiple submission points raised by Nelson North Limited, Suffolk Heights Limited, Bayview Nelson Limited, 588 Limited, and GP Investments Limited.

26. In respect to the earthworks rule that would now apply to the combined Slope Instability 2 & 3 Area, I have sought advice from Mr Chamberose who recommends a slight adjustment to rule REr.75H as follows. The adjustment is provided in the recommendation below and provides a new maximum cut height of 1.2m and cut volume control of $3m^3$. In respect to fill, the maximum volume of $3m^3$ and minimum area of spread of $30m^2$ is replaced with a simpler height of fill control of 0.6m and a maximum volume of $10m^3$.

27. It is considered by Mr Chamberose that earthworks in excess of these quantities could affect the stability of these areas and initiate further movement of the slope. I accept the advice of Mr Chamberose that these amended provisions, while being relatively minor, will be an appropriate slope instability management mechanism for earthworks in the combined area.

28. Given that in the combined slope Instability 2 & 3 area the rules relating to residential units, additions, accessory buildings and structures have been recommended to be deleted, there is no need in my view for an exemption rule for a consented subdivision with a geotechnical assessment.

29. Mr Chamberose acknowledges at Section 4 of his evidence that the susceptibility overlays do not explicitly consider previously engineered certified modified land that has occurred since the LiDAR information used to create the overlays was flown. Mr Chamberose covers this in his evidence and addresses submitters requests to be removed from the overlay where their sites have been substantially re-contoured (see section 7). Mr Chamberose does not agree with removing this more recent previously engineered certified modified land from the overlays.

30. The slope instability overlays are based on a regional level assessment to act as a high-level trigger for obtaining a geotechnical assessment and are not based on site specific information. I accept the reasoning provided by Mr Chamberose in his rebuttal evidence that in these circumstances it is not appropriate to amend the overlay in some places and not others with site specific information. I understand that Mr Chamberose considers it would not be practical to undertake the detailed work required to include an overlay for the geographical extent of the Nelson Hills at a site-specific level, and is one of the reasons the regional assessment is used as a trigger as a land use planning mechanism to enable further site-specific assessment when development is being undertaken. Overall, based on the advice from Mr Chamberose, I have not changed my original recommendation to reject submission points on this matter.

31. The issue of the small area of Slope Instability Area 3 covering the site at 27 Bay View Road has been covered in the evidence of Mr Chamberose at section 7. I accept the evidence of Mr Chamberose that it is appropriate to retain this site in the Slope Instability Area 3 Overlay (which will become part of the combined Slope Instability Area Overlay). The main reason for concluding this is the presence of hummocky terrain that is likely to extend under the property and steep sloping areas on either side of the property. Consequently, I have not changed my original recommendation to reject this submission point [S517.007].

32. The JWS also records that I was to consider further the issue of unit titles within the subdivision rules and whether it was reasonable to require a geotechnical report for development that does not change the buildings on the site (that is: the unit title subdivision merely divides an existing house into two units). I have discussed this issue with subdivision and land use consent planners at the Council. Their response, with which I agree, is that unit titling an existing building is a

form of subdivision and is required to be assessed as a subdivision regardless of the natural hazard matters. Subdivision is not a permitted activity and the plan currently provides separate slope instability subdivision rules (and for other natural hazards), which are also subject to s106 RMA. Where a site is in a slope instability area the unit title subdivision of an existing dwelling would be a restricted discretionary activity (if my recommendation above is accepted). If it is not in a slope instability area it might be able to be considered a controlled activity (if all the matters of control are complied with). I understand one of the issues raised by the submitter is that they only have a small slither of slope instability area on their property [S517.007] and may only wish to do a unit title subdivision and do not consider they should need to provide a geotechnical report. It is correct that that this proposal on this site might trigger the need for a geotechnical assessment; however, it also may not.

33. I understand from discussing this with the Councils subdivision processing planners that they would consider matters such as:

a) How old is the dwelling and land?
b) Was it consented in any form, was it assessed for stability etc?
c) Are there any risks the planner can perceive such as:
    - is the building to be units on moderately sloping land?
    - are there gully features near or pointed in this direction of the units?
    - the proximity of large steep slopes near the dwelling that could slip?
    - stormwater control on the site that could affect foundations or the existing building?

34. Overall, I have not changed my original recommendation to reject this submission point.

35. Finaly, I have agreed (JWS) that the activity status of subdivision in the combined slope instability area and the debris run-out area can be amended from discretionary activity to restricted discretionary activity (specifically excluding Slope Instability Area 1 – Tāhunanui Slump, from this). I have made this change in the Revised Chapters in the consolidated addendum version of the provisions available on the PC29 Hearings webpage, but consider more work needs to be done to put appropriate words around this in relation to the relationship with general subdivision matters and also devise appropriate matters of restricted discretion. I propose to provide this at the hearing for consideration, but would also welcome suggestions from the submitters who requested this amendment.

3.3.3 Recommendation

36. I recommend the following additional changes to the Slope Instability provisions:

Provision(s)	Officer recommendations
Mapping of Slope Instability Areas 2 & 3	Combine the mapped area of Slope Instability Area 2 and 3 throughout the plan change.
Name of combined slope instability Areas 2 & 3	Delete Slope Instability Susceptibility Area 3 (General Hills) and rename the combined

	slope instability areas 2 & 3 as Slope Instability Susceptibility Area 2 (Nelson Hills)
REr.75H Earthworks	Amend REr.75H as follows: In the Slope Instability Susceptibility Area 2 Overlay earthworks are a permitted activity provided: a. any cut does not exceed ~~0.6m~~ 1.2m in height and 3m^3 in volume; and b. on any site the placement of fill does not exceed 0.6m in height and 10~~3~~m3 in total volume~~, and is spread over a minimum area of 30m2~~.
REr.75I, REr.75J, REr.75K, REr.75L (Structures, New residential Units, Additions to an existing residential unit, Accessory buildings)	Delete rules REr.75I, REr.75J, REr.75K, REr.75L
Subdivision activity status in Slope Instability 2 &3 (combined) and Debris run-out area	Amend the activity status for subdivision in the Slope Instability Area 2 & 3 (combined) and the Debris Run-out Area from discretionary to restricted discretionary. [Add additional words to clarify and incorporate general subdivision matters and add appropriate matters of restricted discretion.]
DO2.2.17 & 2.2.18	Consequential amendments to the slope instability polices as a result of combining Slope Instability Susceptibility Areas 2 and 3, renaming the combined overlay, and deleting provisions in respect to residential units, additions, accessory buildings and large structures [note these have not yet been made in the consolidated addendum version and their final make up will be presented during the hearing].

3.3.4 S32AA Evaluation

37. As I recommend changes to the slope instability provisions further evaluation is required under s32AA. I consider combining the Slope Instability Areas 2 & 3 and deleting the rules discussed above recognises the difficulties in introducing new rules over a wide area. The proposed amendments recommended will reduce administration costs and costs to property owners of additional resource consents being required over a wide area of Nelson covered by Slope

Instability Areas 2 & 3, but still enable the risks associated with natural hazards to people, property and infrastructure in Whakatū Nelson to be recognised and managed. This will primarily be through the remaining earthworks rule, the stormwater and waste water rule, and the subdivision provisions within the plan, but also placing some reliance on the building code. While this outcome is potentially more cost effective and efficient, it may not result in as robust an outcome as the notified version. On balance, though, I consider this will be sufficient. The outcome is likely to be more efficient, due to reduced consenting costs, and will still be effective in terms of achieving Objective DO2.2.

38. Changing the activity status of subdivision in the combined and recommended renamed Slope Instability Susceptibility Area 2 (Nelson Hills) from discretionary activity to restricted discretionary activity will reduce uncertainty and focus the assessment of resource consent applications on slope instability hazards. This will be more efficient and targeted than the notified version.

4.0 Conclusion

39. I have examined the JWS and considered the rebuttal evidence of Mr Chamberose and have further considered the issues raised in submissions and further submissions that remain in contention in respect to the liquefaction hazard overlay, the fault deformation and fault awareness overlays and the slope instability and debris run-out overlays. The discussion above outlines additional amendments to the provisions and mapping that I consider appropriate. These additional recommended amendments in my view are more appropriate in achieving the purpose of the RMA and objective DO2.2 than the notified version of the plan.