Nelson City Council
Te Kaunihera o Whakatū

Council Reply
Residential and Subdivision

Plan Change 29 to the NRMP

Prepared by Rachel Morgan

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Appendix 1: Drafting Option 2 for PPC28/29

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
PPC28	Private Plan Change 28
HAO	High Accessibility Overlay
MDRZ	Medium Density Residential Zone
HDRZ	High Density Residential Zone
GRZ	General Residential Zone

2.0 Introduction

1. This reply statement for Plan Change 29 (**PC29**) to the Nelson Resource Management Plan (**NRMP**) has been prepared to address matters raised during the Hearing that are relevant to the Residential and Subdivision topic. Coralie Barker has since left the Nelson City Council and this reply is prepared by Rachel Morgan. My qualifications are as set out in the s42A report – Strategic and Overview. I have assisted Ms Barker through the process and am familiar with the issues relevant to the Residential and Subdivision topic.

2. The matters addressed in the report include:

   a) Manuka Street Hospital;

   b) Plan Change 28/29 integration - Drafting Option 2;

   c) Shading effects arising from the proposed standards in the MDRZ and the HAO;

   d) Zoning of the Karaka Street block;

   e) Other design changes sought by Kāinga Ora;

   f) Reverse sensitivity matters of discretion;

   g) Responses to tabled letters (Department of Corrections & Retirement Villages Association).

3.0 Further Evaluation and Recommendations

3.1 Manuka Street Hospital

3. Council officers and Mr Lile on behalf of Manuka Street Hospital Limited have made significant progress on Schedule Y following the close of the Hearing. The Joint Witness Statement dated 7 October 2024 sets out an amended version of Schedule Y that all planning experts agree with.

4. The further amendments to Schedule Y are intended to streamline the provisions and ensure that they can be efficiently administered. The substantive changes relate to the 'heritage adjoining' provisions to ensure that the matters of discretion and criteria are aligned with Ms Hewson's final amendments to the 'heritage adjoining' provisions set out in her reply statement.

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

3.2 Plan Change 28/29 Integration – Drafting Option 2

6. Appendix 1 contains a drafting option that aligns with Option 2 of the Joint Statement dated 21 August 2024 - Overlaps between Plan Change 29 and Private Plan Change 28 (**PPC28**). I have discussed this drafting option with Mr Lile (for CCKV Dev Co LP and Bayview Nelson Ltd) and Jason Jones (Council's reporting planner for Private Plan Change 28). Both agree that the drafting option would appropriately ringfence PPC28 from PC29 in the event that drafting Option 1 is not progressed due to timing or otherwise.

7. Drafting Option 2 would introduce a new rule to the Administration section of the NRMP that specifies the rules that are varied, or which do not apply to the Maitahi Bayview area. For those rules that are varied, proposed Schedule Z sets out those rules (the current operative rules). While unusual, this drafting responds to a unique issue and provides a way through the timing and scope issues associated with the Environment Court process for PPC28. As at the date of drafting, there has been nothing further from the Environment Court in relation to Private Plan Change 28. A final decision is still pending.

3.3 Shading Effects

8. At the Hearing, several submitters discussed their concerns regarding the potential shading effects associated with PC29, with a particular focus on the Medium Density Residential Zone (MDRZ) and the High Accessibility Overlay (HAO) (and former High Density Residential Zone (HDRZ)). The concerns expressed orally reflected the issues raised in written submissions, with many focussed on sunlight access being a key amenity for people in Nelson. Many referenced the high sunshine hours Nelson experiences and its colloquial title as the 'sunshine capital of New Zealand'. To address these issues the submitters sought to retain the operative daylight standards (Appendix 15 of the NRMP).

9. In his oral submission, Stephen Webster provided 2D shading analysis and compares the shadow cast by a theoretical building in the MDRZ (as notified), the HDRZ (as notified) and the HAO. Mr Webster then compared this with the NRMP standards and accounted for sloping sites. Mr Wallace has responded to Mr Webster's analysis in his reply statement of evidence. Ms Barker also addresses the issue of shading in detail in the Section 42A Report - Residential and Subdivision.

10. I agree that sunlight access is relevant amenity value for residents of Nelson. However, this does need to be balanced with other resource management objectives. As outlined in the analysis undertaken by Mr Wallace[1], the operative daylight standards in Appendix 15 would generally limit development to a single storey across much of the MDRZ, including those with typical site dimensions. The restriction on the southern boundary is particularly limiting given the predominant east-west orientation of blocks in Nelson. Accommodating a third storey under the operative daylight standards would require setbacks of approximately 18.25m and 12.15m respectively[2]. This would essentially rule out three storey / medium density development on typical sized sites and would be more restrictive again for high density development. For this reason, in my view, the operative daylight standards would not efficiently or effectively achieve an increase housing choice and diversity (Objective DO14.1 and DO14.2).

11. I acknowledge that the recommended recession planes would potentially result in greater shading effects than the operative NRMP, although this is highly site and development specific. This is a necessary consequence of enabling taller buildings and density within Nelson's existing urban footprint. While there is potentially adverse shading effects associated with the recommended recession planes (a cost in s32 terms), there are also wider strategic benefits

[1] Refer to paragraphs 5.41-5.52 of Mr Wallace's Technical Evidence.
[2] See discussion at paragraph 5.44 of Mr Wallace's Technical Evidence.

associated with enabling greater heights and densities, which I have outlined in detail in the S42A Report – Strategic and Overview[3].

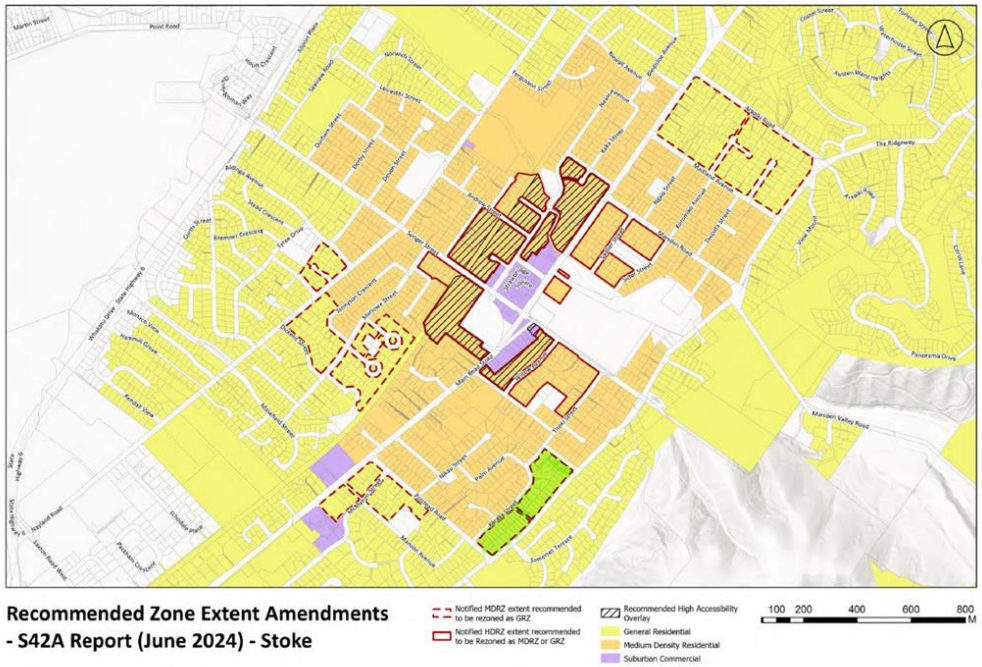
12. With that said, the matters of discretion and assessment criteria for four or more residential units in the General Residential Zone (**GRZ**), MDRZ and HAO allow for consideration of whether there are opportunities for sunlight access to adjoining sites through building placement or breaks in building form along side or rear boundaries[4]. While the matters of discretion are clear that this does not limit the ability to achieve the planned built character of the zone, it enables consideration of effects on neighbours and allows for consideration of optimal building placement relative to a neighbours outdoor living space for example. This in my view strikes an appropriate balance between enabling density, while ensuring that larger scale development responds to the context of the site and surrounding area.

13. For the reasons given above, I do not recommend any changes to the recommended daylight standards in response to matters raised by submitters at the Hearing.

3.4 Zoning of the Karaka Street Block

14. At the Hearing Brendon Liggett for Kāinga Ora requested that the MDRZ be reinstated for the Karaka Street block shown in Figure 1 below. This site was included in the MDRZ in PC29 as notified but was recommended for inclusion in the GRZ in the S42A Report - Residential & Subdivision. This was on the basis of the revised accessibility analysis undertaken by Mr Wallace.

Area requested to be retained as MDRZ shown in Green



[3] See the discussion at Section 12 of the S42A Report – Strategic and Overview.
[4] See assessment criteria for REr.17B and REr.18B.

Figure 1: showing the Karaka Street block in Stoke (see Appendix 2 of Mr Liggett's statement).

15. Mr Wallace has commented on this matter in his reply evidence. He states that the blocks are identified as having lower relative accessibility but are still located within 400m of a primary school and 400m of sports fields and other reserves, while the northernmost blocks are located within 800m of both the Stoke Town Centre and New World Supermarket. Essentially, these sites do not have poor accessibility, but are lower relative to other more accessible areas.

16. I understand that the two blocks are approximately two hectares and are 50 per cent publicly owned. The sites therefore present the opportunity for comprehensive and integrated redevelopment. This is a unique opportunity, with the larger site size providing greater design flexibility and ability to internalise effects. For these reasons, I support including the block within the MDRZ. While it is 'on the margins' in terms of accessibility, its consolidated landholdings provide a unique opportunity to ensure land is used efficiently for housing in the existing urban area in a manner that can effectively respond to the context of the site and surrounding area (Objective DO13A.1).

3.5 Other Design Changes sought by Kāinga Ora

17. My Liggett for Kāinga Ora addressed a range of other requested design changes in his Hearing evidence, including the following within the HAO:

    a) Increasing the building height from 19.5m to 22m / six storeys in height on the grounds that it provides greater design flexibility for six storeys;

    b) Increasing the recession planes from 8m and 60 degrees to 19m and 60 degrees within the first 23.5m of the front boundary and 8m and 60 degrees beyond that, on the grounds that it provides a more efficient development layout for apartments and encourages building bulk to the street;

    c) Reducing side yards from 3m to 1m on the grounds that it reduces design flexibility and creates on site inefficiencies.

18. In relation to the MDRZ, Mr Liggett supports the revised recession plane of 4m and 35 degrees, but only where this is located on the southern boundary.

19. Regarding the HAO, I do not support the requested amendments to the standards sought by Mr Liggett for the following reasons:

    a) I agree that a 22m height limit would provide greater design flexibility, and as observed by Mr Wallace, it would also potentially enable seven storey development. While this is not a negative outcome per se, in my view a 19.5m height limit is sufficient to enable quality six storey development. Six storeys is generally feasible for apartments, noting that in the Nelson context the overall demand for this type of housing is relatively muted over the medium and long term. The impetus for greater heights in the HAO is therefore more limited compared to Tier 1 cities.

    b) Similarly, I agree that increased recession planes and reduced yard requirements would increase design flexibility and design efficiencies. However, the revised provisions in my view

more effectively respond to the context of Nelson and ensure that high density development visually integrates with the surrounding area and sites. This is in the context of more muted demand for apartments as noted above, where the MDRZ and HAO are likely to accommodate a wide range of intensification outcomes (e.g. infill and terraced development across one-three storeys). More moderate recession planes and yard requirements will enable a more gradual visual transition over time, while continuing to enable a significant level of development capacity.

20. I do not support applying the 4m and 35 degree recession plane to rear boundaries that also have a southerly orientation. Much of Nelson's cadastral pattern has lots orientated east-west in the MDRZ. Applying Mr Liggett's recommended standard would mean the lower recession plane would only apply in very limited circumstances (north facing lots only). Further, the purpose lower recession plane on the rear boundary is not limited to shading/sunlight access. It is also intended to reduce building bulk at the rear of sites recognising that it is the more constrained part of the site from an amenity perspective, with greater potential for overlooking and visual dominance effects to neighbours. The lower recession plane also has the effect of enabling and encouraging greater building bulk to the street.

21. For the reasons given above, I do not recommend further changes to the MDRZ and HAO in response to the matters raised by Mr Liggett.

3.6 Reverse Sensitivity Matters of Discretion

22. Ms Barker recommended including an additional matter of discretion for four or more residential units in the GRZ, MDRZ and HAO to allow consideration of reverse sensitivity effects on any existing non-residential activities on neighbouring sites. Mr Liggett opposes this inclusion on the grounds that mitigation of effects and management of unreasonable noise should be the primary responsibility of businesses generating noise.

23. Mr Liggett refers to the approach taken by Mr Gopinath to State Highway noise and the removal of the references to reverse sensitivity effects as an example of inconsistency in recommendations between reporting planners. While Mr Gopinath has not recommended the relief sought by the Fuel Companies, he has recommended that additional assessment criteria apply to allow consideration of reverse sensitivity effects in the Inner City – Fringe Zone, particularly where industrial and residential activities interface.

24. I support the recommendation of Ms Barker to allow consideration of reverse sensitivity effects on any non-residential activities on neighbouring sites in the GRZ, MDRZ and HAO. While this interface is generally existing, the recommended zoning allows for greater intensification to occur adjoining these existing activities that have operational requirements and provide an important community service. Noise limits do apply to those activities (or conditions of consent), however, allowing discretion to address reverse sensitivity would allow consideration of other design techniques where appropriate, including unit orientation and landscaping etc. As this is a matter of discretion there is flexibility to respond to the specific site conditions and nature of effects arising from any adjoining lawfully established non-residential activities.

25. For these reasons I do not recommend further changes to the matters of discretion for four or more residential units.

3.7 Response to Tabled Letters (Department of Corrections and Retirement Village Association)

26. Ara Poutama Aotearoa – Department of Corrections tabled a letter requesting a further minor change to the definition of residential activity. This change was made by Ms Barker in the S42A Addendum 1.

27. The Retirement Village Association tabled a letter requesting minor changes to the include the words "(including retirement villages)" where it follows references to "accommodation where residents are subject to care". This appears in various assessment criteria and policies. In my view this amendment is unnecessary and excludes other similar activities. It would be more effective to include this reference for clarity in the definition of 'residential activity' which also defines 'residents subject to care' as a sub-clause. On this basis, I recommend the following further change to the definition of residential activity.

> **Residential activity**: 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.
>
> 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. retirement villages, homes for persons with disabilities, and homes for the elderly), but not ~~d.~~ custodial facilities.

28. As the change is minor and assists with plan interpretation no S32AA analysis is required.

4.0 Conclusion

29. The above analysis sets out my opinion on the matters raised by the submitters at the Hearing, on matters relating to Residential and Subdivision. I recommend further changes in respect of the Manuka Street Hospital and other minor changes to assist with plan interpretation in response to the matters raised. I have also provided the Panel with a drafting option to address the relationship between PPC28/PC29. In my view, these amendments are efficient and effective in achieving the relevant objectives of the NRMP, including as they are proposed to be amended by PC29.