

NELSON CITY COUNCIL

Nelson Resource Management Plan

Proposed Plan Change 24
Freshwater

Section 32 Report

25 September 2010



1.0 Introduction

1.1 Purpose of report

Section 32 of the Resource Management Act 1991 (RMA) requires Council to consider alternatives and assess the benefits and costs of adopting any objective, policy, rule or method in a Plan or Policy Statement prepared under the RMA. Before publicly notifying a proposed Plan or Plan Change, the Council is required to prepare a Section 32 report summarising these considerations.

The purpose of this report is to fulfil these Section 32 requirements for proposed Plan Change 24 (Freshwater).

1.2 Steps followed in undertaking the Section 32 evaluations

The 7 broad steps which this section 32 evaluation follow are:

1. identifying the resource management issue;
2. evaluating the extent to which any objective is the most appropriate way to achieve the purpose of the RMA;
3. identifying alternative policies and methods of achieving the objective;
4. assessing the effectiveness of alternative policies and methods;
5. assessing the benefits and costs of the proposed and alternative policies, rules, or other methods;
6. examining the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods; and
7. deciding which method or methods are the most appropriate given their likely effectiveness and their likely cost, relative to the benefit that would likely deliver.

1.3 Description of proposed Plan Change

The Plan Change consists of two parts, as follows.

1.3.1 Plan Change 24.1 – Freshwater rules FWr.26 to FWr.29 to apply in all zones (rather than the Rural Zone only)

This Plan Change enables Freshwater rules FWr.26 to FWr.29 to apply in all zones (rather than the Rural Zone only as currently happens). A survey of plan users identified they did not like the increased bulkiness of the Resource Management Plan created by the freshwater rules being repeated in each zone. All the rules will be moved into an Appendix, which will apply to all zones. A Plan Change is not required to generally move the rules, as this does not change the effect of the rules. This will significantly reduce the size of the NRMP (by 40 pages per zone).

A Plan Change is required to apply the four rules that currently only occur in the Rural Zone to all zones. These are FWr.26 (stock fences), FWr.27 (stock access and crossings), FWr.28 (discharge of stock effluent onto or into land) and FWr.29 (establishment of, and discharges to, effluent disposal fields).

The three rules related to stock management will not have significant effect, but the one related to effluent disposal fields (FWr.29) will now be able to be applied in cases where developers choose not to join up to reticulated services, as provided for in Proposed Plan Change 14 and the NCC Land Development Manual 2010. Proposed Plan

Change 24 amends FWr.29 to more explicitly apply to all zones, and states that extensions to existing effluent disposal fields (as well as new disposal fields) require resource consent.

1.3.2 Plan Change 24.2 – Update of the water quality classifications in Ap28.4

This Plan Change amends the freshwater quality classifications to reflect the updated water quality classifications. The current water classifications in Appendix 28.4 of the Freshwater Plan Change are based on eighteen months of monitoring (up until 2002). After five more years of monitoring, the Council commissioned the Cawthron Institute to review the water classifications and set up a more uniform assessment process to ensure consistency of classification over the long term. The revised classifications are shown in Cawthron Report No. 1349 (September 2007).

This technical change does not result in any material change to policy or methods in the Plan, and is not discussed further in this report.

1.4 Consultation

Plan Change 24.1 was instigated following feedback from plan users (to reduce the bulk of the NRMP by moving all the freshwater rules to an appendix rather than repeating them in each zone. Amendments to FWr.29 to tailor it for all zones involved consultation with Resource Consents planners.

Plan Change 24.2 is reflecting scientific data only. Tiakina te Taiao will be considering the reclassifications further at their board meeting on 9 August.

2.0 Resource Management issue

2.1 Resource Management issue being addressed

An issue is an existing or potential problem that must be resolved to promote the purpose of the RMA. The RMA does not require the identification or analysis of issues within Section 32 evaluations. Notwithstanding this issues are being included in this report because it will be helpful to users to understand the basis and origin of the issue as this provides a context for the evaluations of the objectives and policies that follow.

The Plan Change relies on an existing operative issue within clause RI18 (Freshwater environments) of Chapter 4 (Resource Management Issues) of the Plan:

RI18.1.ix The potential for activities and discharges to adversely affect water quality and natural character. How to maintain or enhance water quality to a level appropriate to maintain the recognised uses and values.

The specific issue to be resolved in this Plan Change is how to extend the Rural rule for discharges to on-site effluent disposal fields to apply equally well to other zones.

3.0 Appropriateness in achieving the purpose of the RMA

3.1 Evaluation of the objective(s) – the environmental outcome to be achieved

Section 32 requires an evaluation of the extent to which the objective is the most appropriate to achieve the purpose of the Act. Appropriateness is not defined in the Act.

In undertaking the evaluation it has generally been helpful to consider alternative forms of the objective and test them in terms of how well they met the environmental, social/cultural, and economic outcomes in Section 5, plus achieving other Part 2 matters. Often these assessments require value judgements because they are not readily quantified. Usually the objective is also tested against how well it addresses the elements of the issue.

In the case of Plan Change 24 no new objectives are being proposed. Instead the Plan Change relies on existing operative objectives within Chapter 5 – District Wide Objectives and Policies of the Plan, specifically:

DO19.1 highest practicable water quality

All surface water bodies contain the highest practicable water quality.

DO19.2 contamination of groundwater

Contamination of groundwater is avoided to ensure the highest practicable water quality.

These objectives are operative and are not being altered by the proposed Plan Change, so no evaluation of the appropriateness of the objectives is required. The operative objectives are the most appropriate way to achieve the purpose of the RMA because they have already been through the statutory notification, decision and appeal process as part of the development of the NRMP.

3.2 Whether the policies, rules, or other methods are the most appropriate for achieving the objectives in terms of their efficiency and effectiveness, benefits and costs, and in regards to the risk of acting or not acting

3.2.1 Introduction

The evaluation of appropriateness assesses the alternative policy options under the headings of efficiency, effectiveness, benefits, costs, and the risk of acting and of not acting.

A range of criteria/matters have been used to assist in undertaking the evaluations:

| | |
|----------------------|---|
| efficiency | the ratio of inputs to outputs. Efficiency is high where a small effort/cost is likely to produce a proportionately larger return. Includes the ease of administration/administrative costs e.g. if the cost of processing a grant or collecting a fee exceeds the value of the grant or fee, that is not very efficient; |
| effectiveness | how well it achieves the objective or implements the policy relative to other alternatives. The likelihood of uptake of a method; |
| benefits | social, economic, environmental - as both monetary and non monetary cost/benefits; |
| costs | social, economic, environmental - as both monetary and non monetary cost/benefits; and |
| risk | the risk of taking action and not taking action in say the next 10 years because of imperfect information e.g. the cause/effect relationships are not fully understood. |

In the case of the proposed Plan Change rule FWr.29 (establishment of, and discharges to, effluent disposal fields) is amended to more explicitly apply to all zones. The rule

now clearly states that extensions to existing effluent disposal fields (as well as new disposal fields) require resource consent. (Previously the rule was silent on the status of extensions to existing effluent disposal fields.)

The report concludes with a summary of the analysis undertaken and outlines which option best meets the requirements of Section 32 of the RMA.

3.2.2 Format of the evaluation

The following tables provide an evaluation of the costs and benefits of the proposed policies, and considers whether these policies are the most appropriate for achieving the objectives, having regard to their efficiency and effectiveness. The terms efficiency and effectiveness are not defined in the RMA and, therefore, the criteria set out in Part 3.2.1 of this report have been used to help focus the analysis.

Costs and benefits have largely been assessed subjectively and or comparatively because of the great difficulty in assessing/quantifying intangible costs e.g. environmental costs. In some cases quantitative assessments of costs have been given.

The concept of risk has two dimensions, the probability of something adverse occurring and the consequence of it occurring. For example, if there is low risk associated with acting but high risk associated with not acting, then taking action is clearly the sensible thing to do. Risk is usually expressed as 'probability times consequence' and associated with a cost – usually a severe economic, social or environmental cost. Assessing the risk of acting or not acting means assessing the probability of a cost occurring and the size of that potential cost.

The policy alternatives assessed in this section will achieve the objective to different degrees and combinations of policy approaches will be used to form the final preferred option.

3.2.3 Plan Change 24.1 – Freshwater rules FWr.26 to FWr.29 to apply in all zones (rather than the Rural Zone only)

The broad alternative options are evaluated in Table 1 (Part 3.2.4 of this report):

- Option 1 Status quo – do not proceed with the Plan Change.
- Option 2 Proceed with the Plan Change – amend the Plan by applying the four freshwater rules that currently only occur in the Rural Zone to all zones. Amend FWr.29 (Establishment of, and discharges to, effluent disposal fields) to more explicitly relate to all zones. Explicitly state that extensions to existing effluent fields require resource consent.

3.2.4 Table 1: Assessment of Alternative Options for Plan Change 24.1

| | Option 1: Status quo Do not proceed with the Plan Change. | Option 2: Proceed with Plan change Apply the four freshwater rules that currently only occur in the Rural Zone to all zones |
|-----------------|--|--|
| Benefits | <p><u>Economic Benefit (Council):</u> Small financial saving from not having this Plan Change, and subsequent reporting and hearing costs.</p> | <p><u>Environmental Benefit (Community):</u> Supports Proposed Plan Change 14 and the Land Development Manual, which promote site specific design, including the option of on-site servicing where appropriate. A smaller Plan will result in a reduced demand for paper, in the long term.</p> <p><u>Social Benefit (Community):</u> Provides developers with certainty about the rules which will be applied when on-site servicing is proposed in zones other than Rural.</p> <p>This Plan Change supports a less bulky Plan, which was requested by Plan users.</p> <p><u>Economic Benefit (Community):</u> Supports the option of on-site servicing, which may be more a more economic option for some developments.</p> <p>This Plan Change promotes more efficient processing of resource consents for effluent disposal fields, and discharges to them, by providing clarity about the matters to be considered, regardless of the zone.</p> |

| | Option 1: Status quo Do not proceed with the Plan Change. | Option 2: Proceed with Plan change Apply the four freshwater rules that currently only occur in the Rural Zone to all zones |
|---|--|---|
| Costs | <p><u>Environmental Cost (Community):</u> Lack of clarity about the assessment criteria to apply when processing applications to establish, and discharge to, effluent disposal fields which are not in the Rural Zone. This could result in critical factors being overlooked.</p> <p><u>Social Cost (Council):</u> Perception that Council is not responsive to Plan user's concerns about the bulky nature of the Plan.</p> | <p><u>Economic Cost (Council):</u> Small financial cost of undertaking this Plan Change, and subsequent reporting and hearing costs.</p> |
| Benefit and Costs Summary | The costs far outweigh the benefits of the status quo option. | There environmental, social and economic benefits far outweigh the cost of undertaking the Plan Change. |
| Effectiveness and Efficiency | The status quo option is an inefficient and ineffective way to meet the objectives of the Plan, because it does not provide guidance for regulation of effluent disposal fields which are not in the Rural Zone. | The Plan Change is an efficient and effective way to address the operative issues and achieve the objectives. A shorter plan is more efficient and effective. Applying the principles for on-site effluent disposal (which were developed for the Rural Zone) to all zones is efficient and effective, because it will lead to a consistent approach to management of effluent fields, and their potential impacts on water quality. |
| Risk of Acting or Not Acting if there is uncertainty or insufficient information | Council has sufficient information on Option 1 to make a decision on its effects. Therefore there is no risk of acting of not acting. | Council has sufficient information on Option 2 to make a decision on its effects. Therefore there is no risk of acting of not acting. |

3.2.5 Plan Change 24.2 – Update of the water quality classifications in Ap28.4

The broad alternative options are evaluated in Table 2 (Part 3.2.6 of this report):

- Option 1 Status quo – do not proceed with the Plan Change.
- Option 2 Proceed with the Plan Change - amend the Plan to reflect the updated water quality classifications.

3.2.6 Table 2 - Assessment of Alternative Options for Plan Change 24.2

| | Option 1: Status quo Do not proceed with the Plan Change. | Option 2: Proceed with Plan change Apply the four freshwater rules that currently only occur in the Rural Zone to all zones |
|----------------------------------|--|---|
| Benefits | <p><u>Economic Benefit (Council):</u> Small financial saving from not having this Plan Change, and subsequent reporting and hearing costs.</p> | <p><u>Environmental Benefit (Council and Community):</u> Enables decision makers and the community to track changes in the quality of Nelson waterways. In the long term, worsening water quality will affect the activity status of the following activities:</p> <ul style="list-style-type: none"> - vehicle crossings in the beds of rivers and lakes, and wetlands (FWr.2), and - stock access and crossings <p>This Plan Change promotes more efficient and effective processing of resource consents by providing more up to date information about water quality, to be taken into account when considering the effects of activities with potential to affect water quality.</p> |
| Costs | <p><u>Environmental Cost (Council and Community):</u> Lack of clarity about water quality values to be protected or improved.</p> | <p><u>Economic Cost (Council):</u> Small financial cost of undertaking this Plan Change, and subsequent reporting and hearing costs.</p> |
| Benefit and Costs Summary | The costs far outweigh the benefits of the status quo option. | There environmental, social and economic benefits far outweigh the cost of undertaking the Plan Change. |

| | Option 1: Status quo Do not proceed with the Plan Change. | Option 2: Proceed with Plan change Apply the four freshwater rules that currently only occur in the Rural Zone to all zones |
|---|---|--|
| Effectiveness and Efficiency | The status quo option is an inefficient and ineffective way to meet the objectives of the Plan, because it does not provide guidance on progress towards meeting the objectives of the NRMP in relation to water quality. | The Plan Change is an efficient and effective way to address the operative issues and achieve the objectives. |
| Risk of Acting or Not Acting if there is uncertainty or insufficient information | Council has sufficient information on Option 1 to make a decision on its effects. Therefore there is no risk of acting or not acting. | Council has sufficient information on Option 2 to make a decision on its effects. Therefore there is no risk of acting or not acting. |

4.0 Conclusion

An evaluation of two alternative options of status quo (do nothing) and proceed with the Plan Change has been undertaken in Part 3.2.3 of this report. The report has evaluated these alternative options against the benefits, costs, effectiveness, efficiency, the risk of acting and the risk of not acting.

This evaluation has clarified that Option 2 (proceed with this Plan Change) has environmental, social and economic benefits which outweigh the cost of undertaking the Plan. It is the best option in regards to its efficiency and effectiveness with no risk of acting or not acting.

The alterations to the Plan as a result of the proposed Plan Change will be:

- applying the four rules that currently only occur in the Rural Zone to all zones. These are FWr.26 (stock fences), FWr.27 (stock access and crossings), FWr.28 (discharge of stock effluent onto or into land) and FWr.29 (establishment of, and discharges to, effluent disposal fields).
- amending FWr.29 to more explicitly apply to all zones, and to state that extensions to existing effluent disposal fields (as well as new disposal fields) require resource consent.
- amending the freshwater quality classifications to reflect the updated water quality classifications, as shown in Cawthron Report No. 1349 (September 2007).

The Plan Change relies on an existing operative issue (freshwater environments) and two objectives (highest practicable water quality, and contamination of groundwater). The issue and objectives are not being considered in this report because of their operative status.