

# Part 1 – Introduction and general provisions

## How the Plan Works

### General approach

#### 1. Structure of the Nelson Plan

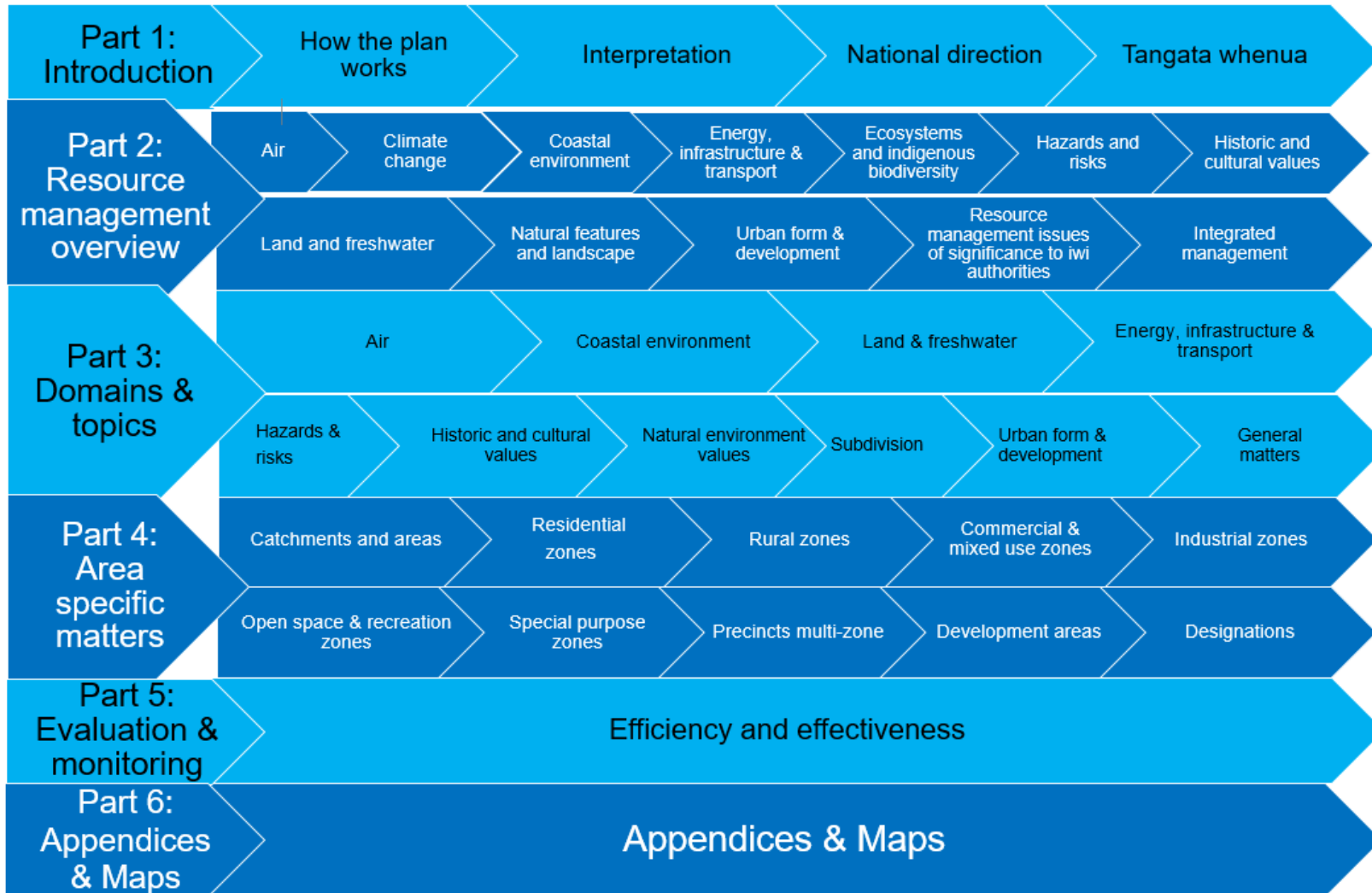
The Nelson Plan is a combined plan encompassing the Regional Policy Statement (RPS), Regional Coastal Plan (RCP), Regional Plan (RP) and District Plan (DP). The contents of the Nelson Plan therefore reflect the requirements for a regional policy statement as outlined in sections 59-62 of the RMA, a regional coastal plan as outlined in sections 64 and 64A of the RMA, a regional plan as required by sections 65-70 of the RMA, and a district plan as required by sections 73-77 of the RMA.

In accordance with the National Planning Standards, a hierarchical framework has been adopted for the structure of the Nelson Plan, with the higher-level RPS at the top, guiding the detailed RCP, RP and DP provisions which follow after.

The Nelson Plan is structured into 6 parts as described below and shown in General approach – Figure 1: Structure and content of the Nelson Plan:

1. Part 1 – Introduction and general provisions – outlines the purpose, structure, statutory framework and how the Nelson Plan works, to assist with understanding and implementing the Nelson Plan. It defines common resource management terms, relevant te reo terms, abbreviations and words specific to the Nelson Plan’s interpretation and implementation. Words that are defined, te reo terms or abbreviations are hyperlinked within the Nelson Plan.
2. Part 2 – Resource management overview – provides all regional policy content as required under the RMA. The RPS content for monitoring the efficiency and effectiveness of the RPS provisions is contained in Part 5 – Evaluation and monitoring. It outlines the significant resource management issues of Whakatū Nelson, including the resource management issues of significance to iwi authorities, and the intended response to these issues. It also contains outcomes for the integrated management of land, air, water and coastal environments across domains and topics.
3. Part 3 – Domains and topics – includes regional and district provisions that apply across Whakatū Nelson based on particular resources (being the domains of air, coastal environment, coastal marine area and land and freshwater), or values or sets of activities (by topic, such as natural environment or historical values, subdivision and signs).
4. Part 4 – Area specific matters – includes regional and district provisions that apply to specific freshwater management units and catchments, zones, precincts, development areas and designations.
5. Part 5 – Evaluation and monitoring – sets out the procedures to monitor the efficiency and effectiveness of the policies and methods in Part 2 – Resource management overview.
6. Part 6 – Appendices and maps – contains the appendices to the Nelson Plan which relate to specific sites and features, standards, criteria, technical requirements and general guidelines referenced earlier in the Nelson Plan. It also contains all the maps of the Nelson Plan which show the spatial layers such as catchments, zones, development areas, precincts, overlays and designations affecting the land, water and airspace.

**General approach – Figure 1: Structure and content of the Nelson Plan**



## 2. Identification of the different plan provisions within the Nelson Plan

With the Nelson Plan being a combined plan, it is necessary to identify the different RPS, RP, RCP and DP provisions.

The location of the types of provisions and their abbreviation within the Nelson Plan are outlined below in General approach – Table 1: Location of the types of provisions within the Nelson Plan.

**General approach – Table 1: Location of the types of provisions within the Nelson Plan**

<b>Regional Policy Statement provisions [RPS]</b>	<b>Regional Coastal Plan provisions [RCP]</b>	<b>Regional Plan provisions [RP]</b>	<b>District Plan provisions [DP]</b>
Part 2	Part 3, Chapter AIR	Part 3, Chapter AIR	Part 3, Chapter CE, Section NCFLC
Part 5	Part 3, Chapter CE Section CMA	Part 3, Chapter CE, Section CMAR	Part 3, Chapter LF
	Part 3, Chapter EIT	Part 3, Chapter CE, Section NCFLC	Part 3, Chapter EIT
	Part 3, Chapter HAZS	Part 3, Chapter LF	Part 3, Chapter CON
	Part 3, Chapter NH,	Part 3, Chapter EIT	Part 3, Chapter HAZS
	Part 3, Chapter HH	Part 3, Chapter HAZS	Part 3, Chapter NH
	Part 3, Chapter SASM	Part 3, Chapter HH	Part 3, Chapter HH
	Part 3, Chapter PA	Part 3, Chapter SASM	Part 3, Chapter TREE
	Part 3, Chapter LIGHT	Part 3, Chapter ECO	Part 3, Chapter SASM
	Part 3, Chapter NOISE	Part 3, Chapter NCFLC	Part 3, Chapter ECO
	Part 3, Chapter SIGN	Part 3, Chapter PA	Part 3, Chapter NATC
	Part 3, Chapter TEMP	Part 3, Chapter ASW	Part 3, Chapter NFL
	Part 4, Chapter PORTZ	Part 3, Chapter EW	Part 3, Chapter PA
	Part 4, PREC19 – Marina Precinct	Part 3, Chapter TEMP	Part 3, Chapter SUB

	Part 4, PREC18 – Port operational area	Part 4, Chapters FMU1 – FMU5	Part 3, Chapter UFD
	Part 6	Part 6	Part 3, Chapter ASW
			Part 3, Chapter EW
			Part 3, Chapter LIGHT
			Part 3, Chapter NOISE
			Part 3, Chapter SIGN
			Part 3, Chapter TEMP
			Part 4, Chapters FMU1 – FMU5
			Part 4, Chapter RESZ
			Part 4, Chapter RURZ
			Part 4, Chapter CMUZ
			Part 4, Chapter INZ
			Part 4, Chapter OSRZ
			Part 4, Chapter SPZ
			Part 4, Chapter PREC19 Marina precinct
			Part 4, PREC18 – Port operational area
			Part 4, Chapter DEV1
			Part 4, Chapter DEV2
			Part 6

Throughout Parts 3 and 4 of the Nelson Plan, each objective policy, rule and standard, are identified next to their heading with one or more of the following:

1. [RPS] – referring to the Regional Policy Statement;

2. [RP] – referring to the Regional Plan;
3. [RCP] – referring to the Regional Coastal Plan; and
4. [DP] – referring to the District Plan.

In some instances provisions relate to, and resource consent may be required for an activity under, one or more of the different plans. Where a heading is identified as relating to more than one plan, all of the provisions that follow apply to those plans.

The definitions and abbreviations chapters apply to the RPS, RCP, RP, and DP in their entirety.

### 3. Types of provisions within the Nelson Plan

Within the Nelson Plan different types of provisions are included. These, and their location in the Nelson Plan, are explained in General approach – Table 2: Types of provisions in the Nelson Plan below.

**General approach – Table 2: Types of provisions in the Nelson Plan**

Provision	Explanation	Location in Nelson Plan		
		Part 2	Part 3	Part 4
Significant resource management issues	Significant issues and matters for the region that require management in order to promote the purpose of the RMA.	✓		
Objectives	Statements of desired outcomes to achieve the identified issues.	✓	✓	✓
Policies	Describes the actions to be undertaken to achieve and implement the objectives. There may be several policies for one objective.	✓	✓	✓
Methods	Summarises the different methods, regulatory and non-regulatory, that Nelson City Council will use to implement the policies of the Regional Policy Statement.	✓		
Rules	Regulatory methods used in the regional and district plan provisions to achieve the stated objective and policies. Rules may prohibit, regulate or allow activities and determine whether a particular activity requires resource consent. Rules are grouped into activity status tables within all chapters, in Part 3 and 4 and also standards tables (largely but not exclusively in Part 4 chapters).		✓	✓

Anticipated environmental results	Results that are expected with the implementation of the Regional Policy Statement and how these results will be measured. Will allow for the effectiveness of the Nelson Plan to be evaluated over time.	✓		
Principal reasons	The reasons for the specific provisions in the Regional Policy Statement, providing rationale behind the adoption of these provisions and how the objectives manage the significant resource management issues and how policies meet the objectives.	✓		

#### 4. Regional Policy Statement (RPS)

The RMA requires every regional council or unitary authority to prepare a regional policy statement. Part 2 – Resource management overview of the Nelson Plan contains the RPS for Whakatū Nelson.

The RPS states the regionally significant resource management issues for Whakatū Nelson, including the resource management issues significant to tāngata whenua. The regionally significant issues in Chapter SRMR – Significant resource management issues for the region have been identified from:

1. state of the environment monitoring;
2. reviews of the effectiveness of operative plans; and
3. feedback received from the community.

To qualify as a regionally significant resource management issue, the issue must concern natural and physical resources as defined by the RMA, must be included within the regional council functions of the council, and one or more of the following must also apply:

4. the matter will be of widespread public concern or interest throughout Whakatū Nelson relating to actual or potential effects on the environment;
5. the values associated with natural or physical resources or any structure, place, feature or area will have shared region-wide, rather than local, significance;
6. the issue will relate to natural or physical resources, including any structure, place, feature or area, that are rare or unique to Whakatū Nelson, or nationally outstanding;
7. natural or physical resources, or effects on those, will be considered by tāngata whenua to have regional rather than local significance;
8. the issue will involve a matter that is of national or international significance;
9. natural or physical resources, or effects on natural and physical resources, will cross administrative boundaries and require co-ordination of policies, actions, and decision making;
10. the issue will involve any significant use or development of Whakatū Nelson's stock of natural and physical resources; or
11. potential cumulative effects of resource use, development or protection will be of regional or inter-regional significance.

The RPS also sets out the objectives, policies and methods that respond to those issues, to achieve the integrated management of Whakatū Nelson's natural and physical resources.

The provisions of the RPS are separate from the other provisions in the Nelson Plan. The RPS provisions have however been used to give direction in the development of the regional plan and district plan provisions.

## **5. Using the Nelson Plan**

The natural and physical resources of the Whakatū Nelson environment are inter-connected. Whilst it has been necessary to divide the natural and physical resources by topic in the chapters of the RPS and in the regional plan and district plan provisions, this does not mean that all provisions relating to the management of individual resources will necessarily be contained within one chapter of the Nelson Plan. Guidance on where to find provisions relating to specific topics, particularly where a topic crosses more than one chapter, is provided in more detail ahead of the activity status tables in each relevant chapter.

All of the relevant provisions of all chapters of the Nelson Plan, including the maps (inclusive of overlays), must be considered when determining the consent status of activities and land subdivision. In assessing applications for resource consent, notices of requirement for designation and plan changes, all of the relevant provisions of the Nelson Plan, including the RPS, RCP, RP and DP provisions, will be considered together.

### **1. Guide to rules**

Rules in the Nelson Plan are provided in Part 3 and Part 4 as follows:

- a. Part 3 – Domains and topics provisions – rules that apply across Whakatū Nelson or in specific overlays, in addition to area specific provisions, and based on particular sets of activities, values or resources; and
- b. Part 4 – Area specific matters provisions – rules that apply to the specific freshwater management units and catchments and land zones.

To determine if an activity is allowed, requires resource consent approval or is prohibited, the rules categorise activities into different activity classes. The classes are based on the actual or potential effect of the activity on the environment.

The different classes of activity are:

- c. Permitted activity – resource consent is not required for a permitted activity and the activity is allowed. The activity may need to comply with relevant standards;
- d. Controlled activity – resource consent is required for a controlled activity, but the Council must grant the consent. The Council has the power to impose conditions on the resource consent in relation to matters in which control is reserved by the Nelson Plan;
- e. Restricted discretionary activity – resource consent is required for a restricted discretionary activity. The Council may either grant or decline the consent, but only for reasons that are relevant to the matters stated in the Nelson Plan over which discretion can be exercised. If consent is granted conditions of consent may only be in relation to the matters in which discretion is reserved by the Nelson Plan;

- f. Discretionary activity – resource consent is required for a discretionary activity and the Council may either grant or decline the consent for any relevant resource management reason. Conditions of consent may or may not be imposed if consent is granted;
- g. Non-complying activity – resource consent is required for a non-complying activity and Council may decline the consent. The Council may only grant the consent where it is satisfied that the adverse effects of the activity will be minor or where the activity will not be contrary to the objectives and policies of the Nelson Plan; or
- h. Prohibited activity – resource consent cannot be sought for a prohibited activity, nor can the Council grant consent for a prohibited activity.

When assessing an application for resource consent for an activity that is classed as a restricted discretionary, discretionary or non-complying activity, in addition to other relevant legislation and national policy direction, the Nelson City Council will consider all relevant area specific matters and domains and topics objectives and policies that apply to that activity or site where the activity will occur.

The relationship between rules in Part 3 – Domains and topics and Part 4 – Area specific matters is specified ahead of the “activity status tables” in each relevant chapter.

## 2. Operation of the activity status tables

The activity status tables set out permitted, controlled, restricted discretionary, discretionary, non-complying and prohibited activities as explained in the example in General approach – Table 3: Example of how the activity status tables work in the Nelson Plan.

### General approach – Table 3: Example of how the activity status tables work in the Nelson Plan

Activity	Permitted activity	Controlled activity	Discretionary / Non-complying / Prohibited activity
States the activity or effect dealt with.  Whether it is a Regional Plan, Regional Coastal Plan or a District Plan rule.  Whether it has legal effect on notification.	Lists permitted activities, including any activity specific standards or general standards that must be achieved for the activity to be a permitted activity.	States the circumstances an activity is a controlled activity and the matters over which control is reserved.	States the circumstances an activity is either a restricted discretionary, discretionary, non-complying or prohibited activity, and where it is restricted discretionary, what matters of discretion is restricted to.
<b>INTRO-R2</b> <b>Example Activity</b> <b>[DP]</b>  Legal effect on notification: No	1. An example activity is a <b>permitted activity</b> , provided that it complies with any relevant standards specified under INTRO-S	2. Not applicable.	3. Any example activity that contravenes INTRO-R2.1 is a <b>restricted discretionary activity</b> .



	(reference to Standards Table).		Discretion is restricted to (for example): a. Hours of operation; and b. Extent of on-site parking.
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Each row of the activity status table sets out rules that regulate or allow an activity, including buildings or structures. Read along the row from left to right to determine whether the proposed activity is a permitted, controlled, restricted discretionary, discretionary, non-complying or prohibited activity. This progression across the activity status table is called a cascade of rules.

For example, if an activity is listed or satisfies the provisions stated in the permitted activity column, then it is a permitted activity. If not, look to the next column (controlled activity). If it is listed as or satisfies the provisions for the controlled activity column, it is a controlled activity. If not, then look at the next column (discretionary / non-complying / prohibited activity) to see if it is listed or fits the terms stated there.

There are important exceptions to the cascade approach described above:

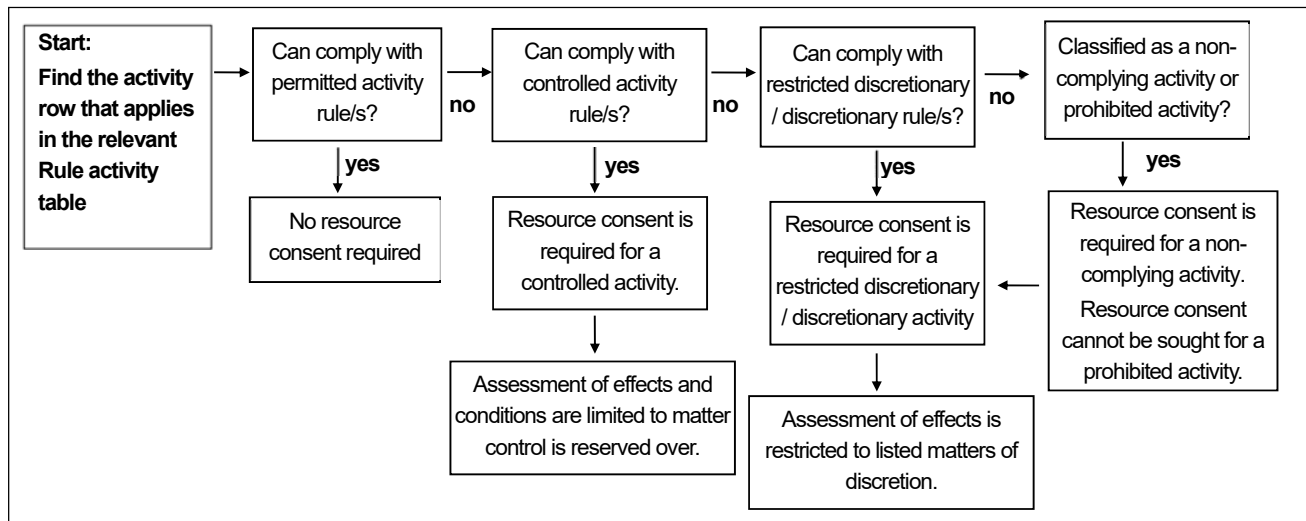
- a. in the activity status tables, rules relating to specific activities take precedence over broader groups or categories of activities. To use an example from the Rural zones, ‘farming’ is listed as a permitted activity. However, ‘intensive farming’ (a more specific category of ‘farming’) is listed as a discretionary activity and it is that rule that establishes the consent status of intensive farming, and not the rule relating to farming in general; and
- b. for all zones and the Coastal marine area, activities not otherwise listed in the activity status table default to a ‘catch-all’ resource consent status. This status may be restricted discretionary, discretionary or non-complying, depending on the nature and sensitivity of the zone in question. Where unlisted activities in the provisions relating to land and freshwater and air (Chapters LF and AIR) are concerned, section 87B of the RMA deems such activities as discretionary activities. As set out in the chapter How the plan works – Relationship between spatial layers, no additional resource consent requirements apply for activities that are not listed in the activity status tables for overlays and icons.

Some rules in the activity status tables have “not applicable” in one or more of the permitted, controlled or discretionary activity columns. This means that there is no activity class of that type for that particular activity. The cascade of rules still operates in the same way, moving from left to right across the row, even if not all activity types are applicable in a particular row.

In the zone chapters, the activity status table sets out the activity status for where an activity is not otherwise listed in that activity status table. The activity status for this situation may be different for each zone.

The flow chart in General approach – Figure 2: Cascade of rules illustrates the ‘cascade of rules’ and what this means in terms of resource consent requirements.

## General approach – Figure 2: Cascade of rules



### 3. Standards tables

In addition to the activity status tables in the zone chapters, a standards table is also applicable. Standards are provisions with limits which can apply to a number of different activities in the relevant zone. Provisions in the activity status tables indicate which of these standards apply.

Where an activity contravenes a particular standard, it usually assumes the status of a restricted discretionary activity, and the right hand column in the relevant standards table sets out the matter to which discretion is restricted.

### 4. Provisions that have immediate legal effect

Under section 86B of the RMA, a rule in a proposed plan has legal effect only when a decision on submissions relating to that rule has been made and that decision has been publicly notified by the Council.

Section 86B(3) of the RMA states that rules relating to the following have immediate legal effect upon notification of the Plan:

- a. protects or relates to water, air or soil (for soil conservation); or
- b. protects areas of significant indigenous vegetation; or
- c. protects areas of significant habitats of indigenous fauna; or
- d. protects historic heritage; or
- e. provides for or relates to aquaculture activities.

These rules are identified, through annotation, under each heading in the activity status tables of Parts 3 – Domains and topics and 4 – Area specific matters. Where a rule relies on or refers to a standard, definition or appendix, these are to be treated as part of the rule and therefore have immediate legal effect for the purpose of applying the rule.

### 5. Notification of a resource consent

When Nelson City Council is considering notification of a resource consent application the usual tests for notification under the relevant sections of the RMA apply, unless otherwise specified by a Nelson

Plan rule applying to the particular activity or if an applicant expressly requests that an application is notified.

Under the Nelson Plan, applications will generally not be publicly notified where:

- a. the resource consent application is for a controlled activity, unless the Plan expressly requires it must be notified; or
- b. Nelson City Council is satisfied that the adverse effects of the activity on the environment will be minor.

The Nelson City Council may serve limited notification of an application on persons who it has identified may be adversely affected by the activity, unless the written approvals of those persons are obtained and submitted as part of the application.

## **6. Step-by-step guide to using the Nelson Plan**

To determine if you can carry out a particular activity on a site or in a particular area, such as waterways or coastal areas, or whether you need consent to do so, follow the steps below:

### **Step 1 – Check the Nelson Plan maps**

Find the location of the site (using the ‘Property search function’) or area you are interested in on the Nelson Plan Maps and, using the map key, determine:

- a. What zone is it in?
- b. Is it in a particular area of the zone?
- c. Do any overlays apply?
- d. Are there any identified features or items of relevance, such as a notable tree, heritage item or landscape feature?
- e. Are there any designations?

### **Step 2 – Check the rules**

Work through the relevant activity status tables, following the table across from left to right, to determine the class of your activity, if there are any standards that must be complied with, and matters of control or discretion (where applicable) as follows:

- a. If the activity involves a land use, subdivision or occurs in the Coastal marine area:
  - i. Go to Part 4 and identify what provisions apply to your activity within the relevant zone and / or area.
  - ii. Go to Part 3 and determine what provisions apply to your activity for any relevant overlay/s.
  - iii. Go to Part 3 and determine if there are any Whakatū Nelson-wide provisions that apply to your activity. The following checklist may help with this:
    - A. Will the activity generate any noise? Go to NOISE – Noise.
    - B. Are any roads, accessways, parking, or pedestrian or cycle paths proposed? Go to EIT – Energy, infrastructure and transport.
    - C. Is the activity to be undertaken on contaminated land? Go to CON – Contaminated land.
    - D. Is the activity temporary? Go to TEMP – Temporary activities.

- E. Does the activity involve any hazardous substances? Go to HAZS – Hazardous substances.
  - F. Is the activity likely to be affected by a natural hazard, such as flooding? Go to NH – Natural Hazards.
  - G. Are any signs required? Go to SIGN – Signs.
  - H. Does the activity involve any historic heritage items or areas, cultural heritage areas or notable trees? Go to HH – Historic heritage, TREE – Notable trees and SASM – Sites and areas of significance to Māori.
  - I. Is the activity located in any special landscape or character areas? Go to CE – NCFLC – Natural character, features and landscapes in the coastal environment.
- b. If the activity involves any land disturbance, water use, or air discharge:
- i. Go to Part 3 and determine what rules apply to your activity for any relevant overlays.
  - ii. Go to Part 3 and determine if there are any Whakatū Nelson-wide rules that apply to your activity. The following checklist may help with this:
    - A. Will the activity generate any noise? Go to NOISE – Noise.
    - B. Are any discharges to land or water involved? Go to LF – Land and freshwater.
    - C. Will any water need to be taken or drained? Go to LF – Land and freshwater.
    - D. Is the activity to be undertaken on contaminated land? Go to CON – Contaminated land.
    - E. Is the activity temporary? Go to TEMP – Temporary activities.
    - F. Does the activity involve any hazardous substances? Go to HAZS – Hazardous substances.
    - G. Is the activity likely to be affected by or place impact on a natural hazard, such as flooding? Go to NH – Natural hazards.
    - H. Are any signs required? Go to SIGN – Signs.
    - I. Does the activity involve any historic heritage items or areas, cultural heritage areas or notable trees? Go to HH – Historic heritage, TREE – Notable trees and SASM – Sites of significance to Māori.
    - J. Is the activity located in any special landscape or character areas? Go to CE – NCFLC – Natural character, features and landscapes in the coastal environment.
    - K. Will the activity involve any earthworks? Go to EW – Earthworks.
    - L. Will the activity involve any soil disturbance or vegetation clearance in close proximity to water bodies or the coast? Go to CE – CMAR – Coastal margins and LF – Land and freshwater.

### **Step 3 – Check the definitions**

Go to Part 1 – Interpretation – Definitions and check the meaning of any specific words used in the relevant provisions.

Throughout the Nelson Plan words have been used that may have legal or special meanings that are sometimes different from commonly known meanings. Defined terms in the Nelson Plan are hyperlinked in the text of the chapters for easy identification.

#### **Step 4 – Is resource consent required?**

Once the activity status has been determined and the activity requires resource consent approval, contact the Nelson City Council or use the Nelson City Council website to:

- a. obtain a resource consent application;
- b. determine what information is required to accompany an application; and
- c. determine if any neighbours or affected parties' approvals are required.