

NELSON CITY COUNCIL

**Nelson Resource Management Plan**

Proposed Plan Change 15 (Heritage)

**Section 32 report**

**Notification date: 6 February 2010**

**Submissions close: 5 March 2010**





# **SECTION 32 REPORT - PROPOSED PLAN CHANGE 15 (HERITAGE) TO THE NELSON RESOURCE MANAGEMENT PLAN**

## **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 the District Plan. Before publicly notifying a proposed 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 15 (Heritage) (the Plan Change) to the Nelson Resource Management Plan (the Plan).

### **1.2 Approach followed in undertaking Section 32 evaluations**

The 7 broad steps which Section 32 evaluations 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
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

Further clarification on how this is undertaken in this report is outlined in section 1.2.1-1.2.3 below.

#### **1.2.1 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 Plan Change relies on the existing operative issues within clause RI13.1 of Chapter 4 – Resource Management Issues of the Plan. These operative issues are:

- *RI13.1.i Loss of important heritage features and sites for present and future generations due to their demolition, desecration, or modification for activities unsympathetic or incompatible with the inherent value of these resources.*

- *RI13.1.ii Recognition of the cultural affiliations of tangata whenua with their ancestral lands, waters, sites, waahi tapu, and other taonga.*
- *RI13.1.iii Recognition of the status of the protection of historic heritage from inappropriate subdivision, use and development as a matter of national importance in the Resource Management Act 1991.*

### **1.2.2 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 RMA.

In the case of the Plan Change no new objectives are being proposed, instead the Plan Change relies on the existing operative objective within clause DO4 of Chapter 5 – District Wide Objectives and Policies of the Plan. This operative objective is outlined below:

*“Retention and enhancement of heritage items that contribute to the character, heritage values, or visual amenity of Nelson, in a setting that enhances such items. “*

Because of the operative status of this objective, it is considered that this is the most appropriate way to achieve the purpose of the RMA.

### **1.2.3 Evaluation of alternative policies and methods (including rules) – what is Council going to do to achieve the objective**

This evaluation assesses the alternative policy options under the headings of benefits, costs, effectiveness, efficiency, the risk of acting and the risk of not acting. A range of criteria/matters have been used to assist in undertaking the evaluations:

- benefits - social, economic, environmental and cultural - as both monetary and non monetary cost/benefits;
- costs - social, economic, environmental and cultural - as both monetary and non monetary cost/benefits; and
- 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, then that is inefficient;
- effectiveness - how well it achieves the objective or implements the policy relative to other alternatives. The likelihood of uptake of a method;
- 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.

In the case of the Plan Change no new policies or rules are being proposed within the relevant zone Chapters of Volumes 1 and 2 of the Plan, instead the Plan Change relies on the existing operative policies and rules within these parts of the Plan. The Plan Change instead proposes to add additional buildings and an additional object to Appendix 1 ‘Heritage Buildings, Places and Objects’ of Volume 3 of the Plan, see section 2.0 below for details.

In other words, although Appendix 1 is part of the heritage rules, additions to them do not alter how existing operative heritage policies and rules are worded within the relevant zone Chapters of Volumes 1 and 2 of the Plan.

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

## **2.0 APPROACH TO PLAN CHANGE**

The Plan Change proposes to include the following additional buildings and object in Appendix 1 'Heritage Buildings, Places and Objects' of the Plan. These are:

- 43A Brook Street – proposed category A for regional significance
- Warwick House - 64 Brougham Street - proposed to be raised from category B to category A for regional significance
- 8 Brunner Street – proposed category A for regional significance
- 95 Halifax Street – proposed category B for local significance
- 205 Haven Road – proposed category A for potential national significance
- 278 Nayland Road – proposed to be raised from category B to category A for regional significance
- 140 Nile Street – proposed category B for local significance
- 9 Rentone Street – proposed category B for local significance
- 8 Russell Street – proposed to be raised from category B to category A for regional significance
- Smith family grave, Maitai Valley Road – proposed category A for regional significance

The inclusion of these buildings and the Smith family grave as historic items will provide additional protection, recognition and the potential for financial assistance for the restoration and maintenance of these items.

## **3.0 CONSULTATION**

During 2007 and 2008 the Council received requests from the owners of the properties identified in Section 2.0 above to be listed as heritage items under the Plan.

The investigation necessary to confirm whether these properties warranted scheduling under the Plan was delayed until a wider assessment of the heritage resources of the city was commenced. This study, called the Heritage Inventory Project was commenced in June 2009 and is being undertaken by a team of consultants headed by Mr Ian Bowman. The scope of the Heritage Inventory Project is identified in the project's scope of services, and includes:

- Recommending a methodology for the identification and assessment of heritage resources. This includes a thematic assessment element; and
- Identifying and assessing the value of any additional heritage resources requiring protection; and
- Recommend any additional listings in the NRMP, and changes to existing listings

The buildings referenced in Section 2.0 above have been treated as a priority by the Council because the owners of the properties have requested that they be listed as historic items and the length of time they have been on Council records as needing assessment for their heritage significance. This heritage assessment has now been completed and provides support for scheduling these buildings under the Plan.

During June 2009 Council sought input from the public and from heritage groups to identify whether additional heritage buildings, places and objects should be added to the list already within the Plan. Over 100 heritage nominations were received during this period. These nominations will be assessed by the consultant team for their heritage significance in early 2010 and will likely result in a further heritage proposed Plan Change in the mid to latter part of 2010.

#### **4.0 WHETHER THE RULES, OR OTHER METHODS ARE THE MOST APPROPRIATE FOR ACHIEVING THE OBJECTIVE IN TERMS OF THEIR EFFICIENCY AND EFFECTIVENESS, BENEFITS AND COSTS, AND IN REGARDS TO THE RISK OF ACTING OR NOT ACTING**

##### **4.1 Introduction**

Table 1 below provides an evaluation of the costs and benefits of the proposed Plan Change and whether it is the most appropriate method for achieving the operative objective, having regard to their efficiency and effectiveness. The terms efficiency and effectiveness have not been defined in the legislation and, therefore, the criteria set out in the introduction has 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. cultural 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.

##### **4.2 Alternative Options**

The following four broad options are evaluated in table 1 below:

- Alternative 1 – Status Quo - Do nothing (do not proceed with the Plan Change);
- Alternative 2 - Proceed with Plan Change – add additional heritage items to Appendix 1 of the Plan;

- Alternative 3 - Use of non statutory measures only (i.e. education and incentives) for the protection of items of Heritage significance;
- Alternative 4 –Alternative Plan Change which reviews all heritage provisions of the Plan. This would involve the review and alteration of the operative objective, policies and rules relating to heritage to ensure a more stringent level of statutory protection

**Table 1 – Assessment of Alternative Options**

	<b>Option 1 - Status Quo (Do Nothing)</b>	<b>Option 2 - Proceed with Plan Change</b>	<b>Option 3 - Use of non statutory measures</b>	<b>Option 4 - Proceed with an alternative Plan Change</b>
<b>Benefits</b>	<p><u>Social Benefit (Landowner)</u> There would be no restriction under the heritage provisions of the Plan if the owners of these items wished to demolish or alter them.</p> <p><u>Economic Benefit (Council)</u> No monetary costs to Council of proceeding with the Plan Change, because Plan Change would not be developed.</p>	<p><u>Cultural Benefit (Community)</u> The proposed Plan Change will protect heritage items which currently do not have any heritage protection under the Plan. This is consistent with Section 6(f) of the RMA “<i>the protection of historic heritage from inappropriate subdivision, use, and development</i>” which is a matter of national importance.</p> <p><u>Social Benefit (Community)</u> The Plan Change will utilise the existing operative heritage objectives, policies and rules which have been through the statutory process and are known and understood within the community.</p> <p><u>Economic Benefit (Landowners)</u> Owners of heritage buildings will be eligible for financial help for heritage properties once the Plan Change is notified.</p>	<p><u>Social Benefit (Landowner)</u> There would be no restriction under the heritage provisions of the Plan if the owners of these items wished to demolish or alter these items.</p> <p><u>Economic Benefit (Council)</u> There would be no monetary costs to Council associated with researching, notifying, hearing submissions and making decisions on the Plan Change.</p>	<p><u>Cultural Benefit (Community)</u> This option will protect heritage items which currently do not have any heritage protection under the Plan. It will also involve the review and alteration of the operative objective, policies and rules relating to heritage. This is consistent with Section 6(f) of the RMA “<i>the protection of historic heritage from inappropriate subdivision, use, and development</i>” which is a matter of national importance.</p> <p><u>Economic Benefit (Landowners)</u> Owners of heritage buildings will be eligible for financial help for heritage properties once the Plan Change is notified.</p> <p>There are no Council fees imposed for resource consents which propose to conserve and restore heritage items.</p>

	<b>Option 1 - Status Quo (Do Nothing)</b>	<b>Option 2 - Proceed with Plan Change</b>	<b>Option 3 - Use of non statutory measures</b>	<b>Option 4 - Proceed with an alternative Plan Change</b>
		<u>Economic Benefit (Landowners)</u> There are no Council fees imposed for resource consents which propose to conserve and restore heritage items.		
<b>Costs</b>	<u>Cultural Cost (Community)</u> There would be no statutory protection or recognition of 7 of the 10 heritage items listed in section 2.0 above and the 3 heritage buildings which are currently category B would remain as such.  Potential risk for items to be demolished or altered without consideration of the heritage values of the items. This could result in a loss of historic heritage value and amenity within Nelson.  The loss of historic heritage is inconsistent with Section 6(f) of the RMA “ <i>the protection of historic heritage from inappropriate subdivision, use, and development</i> ” which is a matter of national importance.  <u>Economic Cost (Landowner)</u> Owners of heritage buildings would not be eligible for financial help for heritage properties.	<u>Economic Costs (Council)</u> There are monetary costs to Council in researching, notifying, hearing submissions and making decisions on the Plan Change.  <u>Economic and Social Costs (Landowner)</u> These are monetary costs and social costs in time to owners of these items who wish to demolish or alter them. These owners would be required to go through the resource consent process to undertake this work. Depending on the nature of the work and whether it had adverse effects on the heritage character of the item or not this work could be granted or refused. Although in this case owners have requested items be listed.	<u>Cultural Cost (Community)</u> There would be no statutory protection or recognition of 7 of the 10 heritage items listed in section 2.0 above and the 3 heritage buildings which are currently category B would remain as such.  Potential risk for items to be demolished or altered without consideration of the heritage values of the items. This could result in a loss of historic heritage value and amenity within Nelson.  The loss of historic heritage is inconsistent with Section 6(f) of the RMA “ <i>the protection of historic heritage from inappropriate subdivision, use, and development</i> ” which is a matter of national importance.  <u>Economic Cost (Council)</u> There would be monetary costs to Council associated with publishing pamphlets, media releases and	<u>Economic Costs (Council)</u> There are monetary costs to Council in researching, notifying, hearing submissions and making decisions on the Plan Change.  These costs would be higher than alternative 2 (proceeding with the Plan Change) as it would require an assessment of the need for altering the existing objectives, policies and rules relating to heritage. There would also be potential for additional costs associated with further consultation, rule drafting and potential appeals (which have a higher likelihood than option 2). <u>Economic and Social Costs (Landowner)</u> These are monetary costs and social costs in time to owners of these items who wish to demolish or alter them. These owners would be required to go through the resource consent process to undertake this work. Depending on the nature of the work and whether it had adverse effects on the heritage character of the item or

	<b>Option 1 - Status Quo (Do Nothing)</b>	<b>Option 2 - Proceed with Plan Change</b>	<b>Option 3 - Use of non statutory measures</b>	<b>Option 4 - Proceed with an alternative Plan Change</b>
	<p><u>Social Cost (Landowners)</u> Disincentive to landowners of these heritage items who have requested that Council lists these heritage items within the Plan.</p>		<p>other education material promoting the protection of historic heritage.</p> <p><u>Economic Cost (Landowner)</u> Owners of heritage buildings would not be eligible for financial help for heritage properties under existing Council policies. The existing policy would require amendment to allow heritage items not listed in the Plan to be eligible for financial assistance.</p>	<p>not this work could be granted or refused.</p> <p>These social costs in time could be more restrictive on the landowner than option 2 because of the wider review of the objectives and policies of the Plan.</p> <p>There would also be a monetary and social cost to the landowner because of the additional time it would take to review the existing heritage provisions of the Plan.</p>
<b>Benefit and Costs Summary</b>	<p>In general the status quo option will have limited social benefits to landowners and economic benefit benefits to Council.</p> <p>In contrast the potential cultural, social and economic costs associated with the risk of heritage items being demolished or altered without consideration of their heritage values outweighs any benefit that may result.</p> <p>On balance therefore the potential costs outweigh any benefits that may result.</p>	<p>In general the Plan Change option has cultural, social and economic benefits associated with the protection of heritage items which currently do not have any heritage protection under the Plan.</p> <p>In contrast there are limited social costs to landowners and economic costs to Council with this option.</p> <p>On balance therefore the potential benefits outweigh any costs that may result.</p>	<p>The cost and benefits associated with this option are similar to option 1 – status quo.</p> <p>On balance therefore, the potential cultural, social and economic costs associated with the risk of heritage items being demolished or altered without consideration of their heritage values outweighs any benefit that may result.</p>	<p>The cost and benefits associated with this option are similar to option 2 – Plan Change, however the extent of work required for this option outweighs the problem to be addressed.</p> <p>The economic cost to Council and the social costs to landowners of reviewing the existing operative heritage provisions of the Plan will be greater than option 2.</p>
<b>Effectiveness and Efficiency</b>	The status quo option is ineffective and inefficient in addressing the	The Plan Change option is effective and efficient in	The non statutory option is ineffective and inefficient in	While this option may provide a high level of statutory protection to these

	<b>Option 1 - Status Quo (Do Nothing)</b>	<b>Option 2 - Proceed with Plan Change</b>	<b>Option 3 - Use of non statutory measures</b>	<b>Option 4 - Proceed with an alternative Plan Change</b>
	heritage issues and achieving the heritage objective as it will provide inadequate protection to these heritage items which is contrary to the requirements of Section 6(f) of the RMA.	addressing the heritage issues and achieving the heritage objective as it will provide protection to these heritage items in a manner which is consistent with the requirements of Section 6(f) of the RMA, and which makes only minor alterations to the existing Plan provisions.	addressing the heritage issues and achieving the heritage objective as it will provide inadequate protection to these heritage items which is contrary to the requirements of Section 6(f) of the RMA. Rather it relies on the landowner to ensure the protection of these heritage items.	heritage items it would entail the alteration of the currently operative objective, policies and rules relating to heritage within the Plan. This is unnecessary to ensure the protection of the heritage items listed in Section 2.0 of this report above and is better left to a later proposed Plan Change.
<b>Risk of Acting or Not Acting</b>	<p>Council has sufficient information on option 1 to make a decision on its effects.</p> <p>The risk of acting on option 1 is that the costs and benefits identified above will eventuate.</p> <p>The risk of not acting is that either no method or another method will be utilised which has greater cultural, social and economic costs on Nelson.</p>	<p>Council has sufficient information on option 2 to make a decision on its effects.</p> <p>The risk of acting on option 2 is that the costs and benefits identified above will eventuate.</p> <p>This risk is limited because there are minimal changes to the Plan and owners of the heritage properties have requested that Council lists these heritage items within the Plan.</p> <p>The risk of not acting is that either no method or another method will be utilised which has greater cultural, social and economic costs on Nelson.</p>	<p>Council has sufficient information on option 3 to make a decision on its effects.</p> <p>The risk of acting on option 3 is that the costs and benefits identified above will eventuate.</p> <p>The risk of not acting is that either no method or another method will be utilised which has greater cultural, social and economic costs on Nelson.</p>	<p>Council has sufficient information on option 4 to make a decision on its effects.</p> <p>The risk of acting on option 4 is that the costs and benefits identified above will eventuate.</p> <p>This risk is greater than option 2 because there would be greater changes to the heritage provisions of the Plan and therefore potential legal challenge to these provisions.</p> <p>The risk of not acting is that either no method or another method will be utilised which has greater cultural, social and economic costs on Nelson.</p>

## 5.0 CONCLUSION

The only alteration to the Plan as a result of the Plan Change will be the inclusion of nine buildings and one grave site as heritage items within Appendix 1 'Heritage Buildings, Places and Objects' of the Plan. Owners of these heritage items have requested that they be listed in the Plan.

As a consequence the Plan Change relies on the existing operative heritage issues, objective, policies and rules within other parts of the Plan. Because of the operative status of the heritage objective the appropriateness of it in achieving the purpose of the RMA is not being considered in this report.

These heritage items have been treated as a priority because the owners of the properties have requested that they be listed as historic items and because of the length of time they have been on Council records as needing assessment for their heritage significance. A heritage assessment has been undertaken on all of these items which have supported their listing within the Plan.

An evaluation of 4 alternative options of status quo (do nothing), proceed with Plan Change, use of non statutory measures and proceed with an alternative Plan Change has been undertaken as part of Table 1. This 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 the Plan Change on balance has potential benefits which outweigh any costs that may result, is the best option in regards to it's efficiency and effectiveness and has minimal risks of acting and potential higher risks of not acting.