NELSON CITY COUNCIL

Nelson Air Quality Plan

Plan Change A2
Alignment with NES for Air Quality

Report and Decisions on Submissions

Hearings Commissioner
Sylvia Allan

Nelson City Council
te kaunihera ō whakatū

1264821

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Alignment with NES for Air Quality

1. INTRODUCTION

1.1 I, Sylvia Allan, was appointed by Nelson City Council on 7th February 2012 as a Hearings Commissioner, to hear, consider and decide the submissions and further submissions on proposed Plan Change A2 to the Nelson Air Quality Plan.

1.2 This report provides the record of the decisions in terms of Clause 10 of the First Schedule.

1.3 Proposed Plan Change A2 relates to a single policy, and a rule and explanation. It modifies the Air Quality Plan, operative 2008, in line with changes as a result of a 2011 modification to the National Environmental Standards for Air Quality (NES).

1.4 The Proposed Plan Change was publicly notified on 24th September 2011. Thirteen submissions were received, most relating to both parts of the Proposed Plan Change. The decisions requested were summarised and notified for further submissions on 12th November 2011. Three parties made further submissions.

2. OFFICER'S REPORT

2.1 A comprehensive Planning Officer's Report (Section 42A Report) was prepared. This included a description of the background to the Proposed Plan Change, an outline of the consultation and investigations undertaken in progressing the Plan Change prior to its public notification, a discussion and assessment of the relevant statutory context including the Resource Management Act (the RMA), National Environmental Standards (and their amendments), and relevant objectives and policies in the Nelson Regional Policy Statement, the Nelson Regional Air Quality Plan and the one iwi management plan applying within the Nelson region. It included an additional report as an Appendix, commissioned as a result of a submission received.

2.2 The Officer's Report provided background, discussion and recommendations in relation to the submissions and further submissions on the Proposed Plan Change.

2.3 As well as the Planning Officer's Report, a Section 32 Report – an evaluation of alternatives, benefits and costs in relation to the Proposed Plan Change – was available.

2.4 Notice of the availability of the Planning Officer's Report was not provided to submitters or further submitters. For the record, in accordance with section 42A(3) of the RMA, the Officer's Report need not be provided to submitters and further submitters who do not wish to be heard. Section 42A(4) however provides that any such written report should be made available at the local authority's office, and that submitters who did not wish to be heard should be advised of its availability. This notice may be waived if there is considered to be no material prejudice to any person who did not seek to be heard. I am satisfied that no person who made a submission or further submission was materially prejudiced by the lack of notice of the availability of the Officer's Report. In this case, there was a degree of urgency to proceed to decisions. Further rights to lodge appeals remain available to those who

indicated they do not wish to be heard at the Council hearing. Hence, under section 42A.5(b) and under item 3 of the letter of my appointment as Commissioner on proposed Plan Change A2 (which gives me responsibility to "implement all procedural and administrative steps" to undertake hearings and make decisions on the Plan Change), I have waived the requirement to advise submitters of the availability of the Officer's Report.

3. HEARING

3.1 All of the submitters indicated that they did not wish to be heard. However, one of the further submitters, who made further submission on each of the original submissions, did wish to be heard, but subsequently advised the Council they no longer wished to be heard.

3.2 As a consequence, no hearing was required and the decisions which follow have been made on the basis of the written material available to me, including full copies of the submissions and further submissions, the original Proposed Plan Change A2 as notified, the Section 32 report and the Officer's Report and Appendices.

4. DECISIONS SUMMARY

As the person with delegated authority to hear and determine submissions on Proposed Plan Change A2 to the Nelson Air Quality Plan, I have given careful consideration to the generalities and details of the Proposed Plan Change, the written material provided by Council officers, and the nature and content of the written submissions and further submissions, and have determined pursuant to clauses 10(1) and (2) and Clause 16(2) of the First Schedule of the RMA:

1. that Proposed Plan Change A2 should be approved subject to the amendments set out in this Report and compiled in Appendix 1 of this Report;
2. to adopt the Section 32 Report included in the Planning Officers Report, subject to any modifications set out in section 6 of this Report;
3. to accept in whole or in part, or to reject the submissions as set out in the Decisions Summary Table below; and
4. that these decisions be publicly notified and advice served on submitters pursuant to clauses 10(4)(b) and 11(1) and (3) of the First Schedule to the RMA.

Decisions Summary Table – Proposed Plan Change A2

The table that follows summarises the matters that were raised in submissions and the decisions sought, and the further submissions. It states the decision made in respect of each submission. Further discussion and reasons are set out in the next section of this report.

Topic	Submitter Name	Submitter Number	Statement Number	Decision Sought	Decision
Part a) Policy A5-1.4 a)	Nelson Marlborough District Health Board -Public Health	5	1	Amend to clarify different target dates for Airsheds A & B. Target dates to be based on 'meaningful data'	Accept
	Gibbons Holdings Ltd	*Further submission X1*	*7*	*Oppose. No 'ambiguity'. NES is dominant. No need for change.*	Reject
	Helen King	3	1	Retain plan change	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*11*	*Support. Plan and NES should be in accordance.*	Accept in part
	Ron Orme	6	1	Retain plan change	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*12*	*Support. Plan and NES should be in accordance.*	Accept in part
	Duncan Atkinson	7	1	Retain plan change	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*13*	*Support. Plan and NES should be in accordance.*	Accept in part
	Frances Way	8	1	Retain plan change	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*6*	*Support. Plan and NES should be in accordance.*	Accept in part
	Lorraine Rennie	10	1	Retain plan change	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*5*	*Support. Plan and NES should be in accordance.*	Accept in part
	Jillian Orme	11	1	Retain plan change	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*14*	*Support. Plan and NES should be in accordance.*	Accept in part
	Miles Hursthouse	12	1	Retain plan change	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*2*	*Support. Plan and NES should be in accordance.*	Accept in part

Topic	Submitter Name	Submitter Number	Statement Number	Decision Sought	Decision
	Peter Clark	4	1	Delete plan change	Reject
	Gibbons Holdings Ltd	*Further submission X1*	*10*	*Oppose. Plan and NES should be in accordance.*	Accept
	William Leonard	13	1	Delete plan change	Reject
	Gibbons Holdings Ltd	*Further submission X1*	*8*	*Oppose. Plan and NES should be in accordance.*	Accept
	Charmian Koed	9	1	Retain 2013 date of compliance, OR Strictly enforce 2016 date	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*15*	*Oppose. Plan and NES should be in accordance.*	Accept in part
Part b) Rule AQr.24.1	Joanna Cranness	1	1	Retain plan change	Accept
	Gibbons Holdings Ltd	*Further submission X1*	*4*	*Support. Plan and NES should be in accordance.*	Accept
	Patricia Grant	2	1	Retain plan change	Accept
	Gibbons Holdings Ltd	*Further submission X1*	*1*	*Support. Plan and NES should be in accordance.*	Accept in part
	Helen King	3	2	Retain plan change	Accept
	Ron Orme	6	2	Retain plan change	Accept
	Sonja Schouwink	*Further submission X2*	*1*	*Support. Don't phase out any more woodburners.*	Accept
	Andrew Ericson	*Further submission X3*	*1*	*Support. Don't phase out any more woodburners.*	Accept
	Duncan Atkinson	7	2	Retain plan change	Accept
	Frances Way	8	2	Retain plan change	Accept
	Lorraine Rennie	10	2	Retain plan change	Accept
	Jillian Orme	11	2	Retain plan change	Accept
	Miles Hursthouse	12	2	Retain plan change	Accept
	Gibbons Holdings Ltd	*Further submission X1*	*3*	*Support. Plan and NES should be in accordance.*	Accept

Topic	Submitter Name	Submitter Number	Statement Number	Decision Sought	Decision
	Peter Clark	4	2	Delete plan change	Reject
	William Leonard	13	2	Delete plan change	Reject
	Gibbons Holdings Ltd	*Further submission X1*	*9*	*Oppose. Plan and NES should be in accordance.*	Accept

Consolidated Amendments to Plan Change A1

Appendix 1 shows the text of Plan Change A1 as notified (including tracked changes), with further changes as a result of the decisions set out in this report shown as double strike-out or double underline.

5. DECISIONS AND REASONS FOR DECISION

The decisions in this section are grouped and follow the order and numbering set out in the Officer's Report, and in the Decisions Summary Table set out above. A brief discussion and reason is provided in relation to each.

5.1 Decisions on Plan Change A2 - Part a) – Change to Policy A5 – 1.4 a)

Topic	Submitter Name	Submitter Number	Statement Number	Decision Sought	Decision
Part a) Policy A5-1.4 a)	Nelson Marlborough District Health Board -Public Health	5	1	Amend to clarify different target dates for Airsheds A & B. Target dates to be based on 'meaningful data'.	Accept
	Gibbons Holdings Ltd	*Further submission X1*	*7*	*Oppose. No 'ambiguity'. NES is dominant. No need for change.*	Reject
	Helen King	3	1	Retain plan change.	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*11*	*Support. Plan and NES should be in accordance.*	Accept in part
	Ron Orme	6	1	Retain plan change.	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*12*	*Support. Plan and NES should be in accordance.*	Accept in part
	Duncan Atkinson	7	1	Retain plan change.	Accept in part

Topic	Submitter Name	Submitter Number	Statement Number	Decision Sought	Decision
	Gibbons Holdings Ltd	*Further submission X1*	*13*	*Support. Plan and NES should be in accordance.*	Accept in part
	Frances Way	8	1	Retain plan change.	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*6*	*Support. Plan and NES should be in accordance.*	Accept in part
	Lorraine Rennie	10	1	Retain plan change.	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*5*	*Support. Plan and NES should be in accordance.*	Accept in part
	Jillian Orme	11	1	Retain plan change.	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*14*	*Support. Plan and NES should be in accordance.*	Accept in part
	Miles Hursthouse	12	1	Retain plan change.	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*2*	*Support. Plan and NES should be in accordance.*	Accept in part
	Peter Clark	4	1	Delete plan change.	Reject
	Gibbons Holdings Ltd	*Further submission X1*	*10*	*Oppose. Plan and NES should be in accordance.*	Accept
	William Leonard	13	1	Delete plan change.	Reject
	Gibbons Holdings Ltd	*Further submission X1*	*8*	*Oppose. Plan and NES should be in accordance.*	Accept
	Charmian Koed	9	1	Retain 2013 date of compliance, OR Strictly enforce 2016 date.	Accept in part
	Gibbons Holdings Ltd	*Further submission X1*	*15*	*Oppose. Plan and NES should be in accordance.*	Accept in part

Discussion

The Plan Change is divided into parts a) and b) – part a) being a change to Policy A5 - 1.4 under the heading "Fine particulate pollution". This policy refers back to policy A5 - 1.3, which effectively

acknowledges and adopts the Ministry for the Environment's Ambient Air Quality Guidelines 2002 and the NES that applied at the time that the Air Quality Plan was prepared and made operative. Policy A5 - 1.3 b) also states that *"where ambient quality is worse than the NES 'Alert' level it will be a priority to enhance that air quality to an alert level or better within any timeframe specified by the NES, or where no timeframe is specified, as soon as practicable and no later than 8 years after the exceedance is first reported"*. Policy A5 - 1.3 c) is a parallel requirement relating to progressive enhancement of air quality to "Acceptable", where existing air quality does not achieve the "Acceptable" category requirements.

Policy A5 - 1.4 sets specific target dates for PM_{10} levels in line with the NES requirements. Under this policy, the Council and community have been working diligently towards achieving the targets, as demonstrated in information in the Plan Change documentation and the Officer's Report.

In the meantime, the MfE has modified the target dates for achievement of the NES relating to PM_{10}, by setting later dates for achievement of compliance with the PM_{10} levels. The achievement dates depended on historical PM_{10} levels. Airsheds averaging, over the previous 5 years, 10 or more exceedances per year of the PM_{10} standard are allowed up to 3 exceedances of the "Acceptable" standard between 1st September 2016 and 31st August 2020, and from 1st September 2020, not more than one exceedance per year. Airshed averaging fewer than 10 exceedances must achieve 1 or fewer exceedances from 1st September 2016 onwards.

Nelson's Air Quality Plan policy currently sets more restrictive requirements than the NES now requires. Plan Change A2 is the outcome of a review of the current circumstances of the two most vulnerable or less compliant airsheds in Nelson (Airsheds A and B), and is intended to have the effect of aligning the policy with the NES[1]. The decision to proceed with Plan Change A2 follows on from investigation of the current ambient air quality and a review of existing data which shows substantial improvements in Airshed A, and apparently somewhat more erratic improvements (possibly partly due to monitoring location changes and problems in recording) in Airshed B. Also taken into account in promoting the plan change were the costs (in this case in terms of the plan rules requiring the cessation of use or replacement of fuel burners installed after 1st January 2000, and before the introduction of the Air Quality Plan – a period of three years and 8 months), and the health benefits of achieving the target at the earlier date currently in the Air Quality Plan policy.

The proposed change to the Policy was a "global" change, applying in all airsheds, and was based on information available from the MfE at the time of notification. In the interim, further detail has become available, and the Council has itself investigated its own information in more detail.

The proposed change to the policy attracted 11 submissions. Seven were in full support, two were in opposition and two were partial support but raised matters of detail. Eleven further submissions, all from the same party, were received.

The seven submitters in full support cited the benefits of the policy change which would allow people to retain and continue to use heating systems installed between 2000 and 2003, which are still relatively "new", the removal of which they say would have only a marginal benefit in terms of air quality. The Officer's Report has addressed the advantages and disadvantage of the policy change in detail and has effectively come to the same conclusion, as have I. These submissions are accepted in principle, but as a change is to be made to the wording of the policy (discussed below) they can only be recorded as being accepted in part. This also applies to the further submissions which were in support of the supportive submissions. The effect of the decision will effectively achieve the outcome the submitters seek.

[1] A Plan can however contain provisions that are more restrictive than an NES requirement.

The two submitters in opposition (submitters 4 and 13), and submitter 9 seek that the Plan should retain the current target dates for achieving the specified standards.

These submitters consider that good air quality is very important in terms of environmental quality and human and animal health and that the 2013 date of compliance is appropriate for Nelson's environment.

Submitter 9 focuses on Airshed B, and seeks to retain the compliance date of 2013 or to see strict compliance with the 2016 date. The submitter has examined the graphs and notes that the gains of the past few years may have been recently reversed.

The Officer's Report points out that the change is one of timing, not outcome and that to achieve the 2013 target has a significant economic cost. It would appear that this cost lies partly with a small number of people who will have to replace their current installations earlier, and partly with the Council, which provides some subsidy. In practice, the main health and environmental gains from the policy have already been achieved. Allowing a slightly larger "tail" in terms of time for compliance would achieve acceptable and appropriate balance – particularly in the light of the finding, discussed below, relating to Airshed B.

On examining the rules that accompany the policy, it is found that the current requirement to phase out installations from 2000 and 2003 applies only to the Tahunanui part of Airshed B, and not to Stoke, Wakatu or Enner Glynn. This is relevant to submission 9, and indicates that the change in dates will have proportionately less effect in this area. I note that numerous other rules in the Plan must also contribute to improving air quality in Nelson, and these remain unchanged.

The two submissions in complete opposition are therefore rejected, and the further submissions in opposition to them are accepted. Submission 9 is accepted in part, as a new compliance date of 2016, which would achieve the submitter's second outcome, has been decided in relation to Airshed B as a result of another submission, discussed below. Similarly, the further submission in opposition to this submission is accepted in part.

Submitter 5 requested an amendment to the policy change which would establish different target dates for Airsheds A and B. The submitter points out that "meaningful data" must be the basis for determining target dates for achievement of the PM_{10} standards. The submitter sought the application of the most up-to-date information. On that basis, the submitter advised, Airshed A would have to meet the standard and date incorporated in the Plan Change as notified, but Airshed B, already with fewer exceedances, would have to meet the standard of only one exceedance from the earlier date of 2016. The submission attracted a further submission, which stated that, as the NES was the dominant requirement, there was no need to change.

In regard to the further submission, the Officer's Report accepts the point that the NES is the dominant document, regardless of the Plan's policy contents. However, the report makes the point that clarity is important, the NES is difficult for people to interpret and calculate, and it is not helpful to retain the current wording if it is found that Airsheds A and B have different target dates.

The Council commissioned a further comprehensive report (attached as Appendix 2 to the Officer's Report) – "Determining PM_{10} compliance timeframes for Nelson's A and B airsheds", NIWA, February 2012. This reviews the recent available monitoring information for the five years prior to 1st September 2011 for each airshed, determines whether or not this information is "meaningful", applies the information to the required NES methodology for calculating the number of exceedances, and determines which targets the airshed must meet. The report's findings support the submitter and have been adopted by the Reporting Officer. The finding is that Airshed A had an average of 21.4

exceedances per year (over the five 12-month periods of meaningful data available) and therefore falls into the group where "stepped" compliance applies, meeting targets in 2016 (no more than 3 exceedances) and 2020 (no more than one exceedance). In contrast, Airshed B had only 7.5 exceedances per year (over the four 12-month periods of meaningful date available). It must meet the target of one exceedance only by 2016.

As a result, the Officer's Report has recommended an amendment to the change to Policy A5-1.3 b) to clearly set these targets out.

I agree with the Officer that Plan policy should be as clear and correct as possible, and for that reason accept the submission and requests for the use of meaningful data and clarification in submission 5.
I reject the further submission that seeks to retain the policy version as notified.

In modifying the wording to clarify the target dates relating to Airsheds A and B, a slight policy "gap" emerges in terms of fine particle pollution management in relation to Airshed C. This is covered in general terms under policy A5 - 1.3. In the interests of clarity, a further sentence should be added to Policy A5 - 1.4 a) to specifically refer to Airshed C which states *"Airshed C is expected to maintain its current compliance, subject to Policy A5 - 1.3 d)"*. While no submitter specifically sought this wording, I consider that this is within the ambit of submission 5, and is clearly within the scope of clause 16(2) of the First Schedule to the RMA which allows minor alterations and correction of minor errors.

The version of Policy A5-1.4 a) adopted as a result of decisions on submissions is given in Appendix 1.

Reasons for Decisions

The reasons for accepting, accepting in part, or rejecting the submissions and further submissions set out in the Table above are as follows:

- The change aligns policy in the Nelson Air Quality Management Plan relating to PM_{10} in ambient air with the NES as it was amended in 2011.
- The change, along with the further amendment to the policy as a result of the decision, clarifies the number of exceedances allowable and the compliance dates for the two key Airsheds – Airshed A and Airshed B.
- The change has been promoted after careful evaluation of information on current air quality, and likely costs and benefits of a range of possible responses to the NES change, as set out in the Section 32 analysis.
- The provisions are in line with the NES, and are in general accordance with the objective and other policies in the Nelson Air Quality Management Plan.
- In terms of section 5, an appropriate balance will be achieved between community social and economic wellbeing, and health and safety by adopting the provisions of the NES on Air Quality.

Modification to Proposed Plan Change A2

Modifications to Policy A5-1.4 a) are set out in Appendix 1 to this report to accurately reflect the requirements of the NES.

5.2 Decisions on Plan Change A2 - Part b) – Rule AQr.24.1

Topic	Submitter Name	Submitter Number	Statement Number	Decision Sought	Decision
Part b) Rule AQr.24.1	Joanna Cranness	1	1	Retain plan change	Accept
	Gibbons Holdings Ltd	*Further submission X1*	*4*	*Support. Plan and NES should be in accordance.*	Accept
	Patricia Grant	2	1	Retain plan change	Accept
	Gibbons Holdings Ltd	*Further submission X1*	*1*	*Support. Plan and NES should be in accordance.*	Accept
	Helen King	3	2	Retain plan change	Accept
	Ron Orme	6	2	Retain plan change	Accept
	Sonja Schouwink	*Further submission X2*	*1*	*Support. Don't phase out any more woodburners.*	Accept
	Andrew Ericson	*Further submission X3*	*1*	*Support. Don't phase out any more woodburners.*	Accept
	Duncan Atkinson	7	2	Retain plan change	Accept
	Frances Way	8	2	Retain plan change	Accept
	Lorraine Rennie	10	2	Retain plan change	Accept
	Jillian Orme	11	2	Retain plan change	Accept
	Miles Hursthouse	12	2	Retain plan change	Accept
	Gibbons Holdings Ltd	*Further submission X1*	*3*	*Support. Plan and NES should be in accordance.*	Accept
	Peter Clark	4	2	Delete plan change	Reject
	William Leonard	13	2	Delete plan change	Reject
	Gibbons Holdings Ltd	*Further submission X1*	*9*	*Oppose. Plan and NES should be in accordance.*	Accept

Discussion

Part b) of proposed Plan Change A2 follows logically from part a). It amends the suite of rules that relate to small-scale solid fuel burning appliances and open fires in the Urban Area – that is, the three defined Airsheds within Nelson's region. At present the provisions of Rule AQr.24.1 cc) limit discharges as a permitted activity from small-scale solid fuel burning appliances on a progressive basis, with the first two dates of 1st January 2010 and 2012 relating to discharges from installations prior to December 1995 and 1999 respectively in Airshed A and part of Airshed B, and prior to December 1990 and 1995 in the remainder of B. The requirements of these rules have already been achieved by the passage of time.

The remaining part of Rule AQr.24.1 provides that discharges from solid fuel burners installed after 1st January 2000 and before the Plan notification date of August 2003 which do not meet specific Plan standards will no longer be permitted throughout Airshed A and in area B1 of Airshed B (Tahunanui). The effect of the rule is that people who have such installation, usually in dwellings, will no longer be able to legally use them and must use replacement heating systems.

Monitoring and analysis of air quality undertaken by the Council and reviewed by NIWA, and subsequent Council investigations, demonstrate that the implication of the change to Policy A5-1.4 a) is that the part of Rule AQr24.1 cc) which has still to take effect is no longer necessary.

The extension of time provided in the 2011 amendment to the NES will enable the standards to be achieved in the areas affected by the rule through "natural attrition", i.e. through voluntary replacement of heating systems by the 2016 and 2020 dates which apply.

Part b) of the notified Plan Change A2 thus simply deletes the remaining part of the rule and makes slight differences to the second paragraph of the explanation for the rules in AQr.24.5 to, align the Explanation with the deleted rule.

This part of the plan change attracted 11 submissions and 6 further submissions. The further submissions were from three parties.

Nine of the submissions were in full support of the proposed change to Rule AQr.24.1 cc). Most of these submissions make points that the solid fuel burners covered by the same rule are still relatively new and efficient and there would be economic hardship in having to replace them. Some raise the point that their fuel burners met the most stringent conditions at the time. These submissions by implication raise the issue that the rule is quite complex, in that some of the installations may actually meet the Appendix AQ2 discharge limitations – the difficulty is in proving it. In this, the rule is more uncertain in application than the rules which applied to older installations where discharge quality standards did not apply. The Officer's Report acknowledges that the devices installed over the period at issue are relatively efficient, and their removal will be less effective in achieving air quality gains that those covered by the rules relating to older installations and cessation of open fires.

The submissions and further submissions in support of the part b) Plan Change are accepted on the basis that there is no effects-based reason to retain the rule in the Plan when efficiency, effectiveness and RMA section 5 well-being considerations are taken into account. I include submission X1/1 in this group, even though it is qualified, as I understand submission 2/1 (to which the further submission relates) to be fully in support of the Plan Change.

Two submissions oppose part b) of the Plan Change and request that it is deleted. One refers to the need to phase out "dirty log burners" and the other refers to "anti-environmental back-peddling" as a matter of principle. Both refer to the need for general air quality improvement and adverse health effects from discharges. One acknowledges that there are natural factors (such as pollen) which adversely affect air quality, and requests that where human activity is the source, more stringent provisions than now proposed should apply by retaining the rule in its present form.

I have carefully considered the information provided in Plan Change A2 as notified, and the additional information in the Officer's Report, including the recommended modification to the policy change, which I have adopted and which reduces the time in which the standard for full compliance is to be achieved in Airshed B. I consider that the gains which could be achieved from retaining the rule are likely to be minor, and are unlikely to outweigh the social and economic costs of retaining the rule, given that they relate to the matter of timing, and not overall outcome.

It is important that the monitoring is continued, as is required by the NES and the plan. Should it appear that the new target dates will not be achieved, the Council has a range of methods available to respond.

The submissions in opposition are therefore rejected, and the further submission in opposition to one of them is accepted.

The wording of part b) of proposed Plan Change A2 is therefore adopted as notified.

Reasons for Decisions

The reasons for accepting or rejecting the submissions and further submissions set out in the Table above are as follows:

- The change brings the rules relating to small-scale solid fuel burners and associated explanation, into alignment with the NES requirements as amended in 2011.
- The change will enable ongoing use of some solid fuel burners which are relatively efficient for approximately a further four or eight years, depending on where they are located. Overall, this may be an efficient use of resources.
- Removing the rule also removes a level of uncertainty in interpretation as to the performance of the fuel burners affected, leading to some slight efficacy in application of the Plan.
- The current rule is considered to be less effective than those that preceded it (AQr.24.1 clause (c) parts i) and ii) in achieving air quality gains.
- The change has been promoted after careful evaluation of information on current air quality, and likely costs and benefits of a range of possible responses to the NES change, as set out in the Section 32 analysis.
- The provisions are in line with the NES, and are in general accordance with the objective and other policies in the Nelson Air Quality Management Plan.
- In terms of section 5, an appropriate balance will be achieved between community social and economic wellbeing, and health and safety by adopting the provisions of the NES on Air Quality.

Modifications to Proposed Plan Change A2

Nil

6. SECTION 32 FURTHER EVALUATION

I have reviewed the section 32 evaluation carried out by the Council, dated September 2011. I confirm that I agree with the analysis as undertaken. The additional changes to the wording in Policy A5 – 1.4 a), resulting from a submission, provides for closer and correct alignment between the NES and the Plan. This change thus enhances the environmental outcome by clarifying compliance dates and exceedance numbers.

Signed:

Hearings Commissioner

Date: 20th March 2012

APPENDIX 1 – CONSOLIDATED AMENDMENTS TO PLAN CHANGE A2

PLAN CHANGE A2

Amendments to the Nelson Air Quality Plan – Alignment with NES for Air Quality

Part a) Policy A5 – 1.4 a)

"A mid-term target for ambient PM_{10} levels will be, at a minimum, compliance …by:

For Airshed A:

i) 1 September ~~2013~~ 2016, ~~of~~ with not more than 3 exceedances in a 12 month period of the ~~when measured as a~~ 24-hour mean NES ~~National Environment Standard for air quality~~ up to and including 31 August 2020, ~~with air quality improving on a 'straight line path' as defined in the National Environmental Standard for air quality~~, and

ii) ~~from~~ 1 ~~January~~ September ~~2016~~ 2020 onwards, not more than 1 exceedance in a 12 month period ~~when measured as a daily annual average~~,

For Airshed B:

1 September 2016 onwards, with not more than 1 exceedance in a 12 month period.

towards ultimate compliance or better with the 'Acceptable' air quality category as in Policy A5-1.3 by 2025~~"~~.

Airshed C is expected to maintain its current compliance, subject to Policy A5 - 1.3 d).

Part b) Rule AQr.24.1 cc) and Explanation AQr.24.5

Confirm part b) of Plan Change A2 as notified, that is:

From AQr.24.1 cc), delete subclause iii in its entirety), as follows

:""~~after 1 January 2000 and where the burner does not comply with the emission requirements in Appendix AQ2 (except by resource consent) ……. **1 January 2013.**~~

and, in AQr.24.5 (Explanation), amend the second paragraph as follows:

"The use of existing enclosed burners ...is also being phased out in certain areas. In Airshed A (Nelson South) and the Tahunanui and Tahunanui Hills part of Airshed B (as shown in Figures A2-2B, at the end of Chapter 2), the use of ~~all~~enclosed burners installed prior to 2000 ~~that do not comply with the emissions standards in this Plan~~ must progressively have ceased between 2010 and~~2013~~2012, starting with the oldest burners. This is necessary to meet the targets imposed by the National Environmental Standards for air quality."