Plan Change 05/02

Description of Proposed Changes

NELSON CITY COUNCIL

29 October 2005

Introduction

The plan change sets out to rectify a number of deficiencies in the Nelson Resource Management Plan which have become apparent since it was first released nine years ago. In addition, some amendments have been necessitated through legislative change, or changes to various regulations, others due to requests for listings of additional heritage items, or because events have rendered a provision obsolete.

The majority of the changes proposed are minor and set out to clarify points of common misunderstanding, or rectify existing provisions in order to make them more workable. Several changes have also been proposed to reflect amendments made to the Resource Management Act as there is no provision at present under the Act whereby these amendments can be made without going through a formal plan change.

Description of Proposed Changes

Change No. 1 - Archaeological Sites

a) Amend the DO4.1.5 policy title to read "archaeological sites and overlay". Amend the policy by inserting into the policy text, after the words "tangata whenua", the words "as identified as an individual site and/or falling within the Archaeological Overlay."

b) Add the words "and/or included in the Archaeological Overlay" after the words "…are listed" in explanatory paragraph DO4.1.5.ii.

Explanation: Specific reference to the Archaeological Overlay is appropriate as the overlay identifies areas where there is a high density of sites significant to Maori. Many of these sites are not individually identified by site. Tangata whenua sometimes prefer not to identify particular sites of significance, but rather indicate in a more general way i.e. by overlay, the significance of an area. Where necessary, the issue of specific location, or significance in relation to resource consent applications, will be followed up with the tangata whenua at the appropriate time.

Change No.2 - Reference to Heritage Overlay

a) Amend policy DO4.1.6 by deleting the words "listed building, place or object, heritage precinct, archaeological site or place of significance to tangata whenua" and replacing them with "feature identified by a Heritage Overlay".

b) Add a new sentence at the beginning of DO4.1.6.i to read: "Those items which come within a Heritage Overlay are defined in MW75 in Chapter 2 of the Plan."

Explanation: This policy was amended in 1998 to include reference to all heritage and archaeological items. As a result the policy has become somewhat long-winded. This can be resolved by simply referring to the Heritage Overlays, rather than spelling out each type of heritage or archaeological item.

Change No.3 - Heritage Overlay

a) Amend policy DO4.1.11 by deleting the words "containing listed heritage items, trees, sites within heritage precincts, archaeological sites, or places of significance to tangata whenua", and replacing them with "identified by a Heritage Overlay".

b) Amend paragraph DO4.1.11(c) by replacing the words "listed heritage item, tree, heritage precinct, archaeological site, or site of significance to tangata whenua" with "item identified in the Heritage Overlay".

c) **Add a new sentence at the beginning of the explanatory paragraph DO4.1.11.i to read: "Those items which come within a Heritage Overlay are defined in MW75 in Chapter 2 of this Plan".**

Explanation: This change is very similar to Change 2 above. It simplifies the policy by reference to heritage overlays rather than spelling out each type of heritage or archaeological item.

Change No. 4 – Heritage (General Description)

Add a new paragraph at the beginning of Ap1.1 in Appendix 1 to read: "The Plan acknowledges those heritage and cultural values assigned to buildings, places, and objects (either individually or collectively) which have notable historic, architectural, scientific, archaeological, spiritual, or other special values. Objectives, policies, and rules in the Plan reflect the importance of heritage items (refer to RI13 in Chapter 4 and DO4.1 in Chapter 5). One of the methods of identifying and protecting these items is to list and rank them in terms of their significance and need for protection. This is described in this appendix."

Explanation: Appendix 1 describes and categorises each heritage building, place and object. However, there is neither a general introduction to the appendix, nor any cross-referencing to the body of the Plan and its relationship with it. The proposed change, which is substantially based on a similar clause within Chapter 4 of the Plan, will provide this link.

Change No.5 – Archaeological Values (General Description)

Add a new paragraph at the beginning of Ap3.1 in Appendix 3 to read: "Heritage and cultural values can be assigned to sites and areas (either individually or collectively) which are notable for their archaeological values. The Plan acknowledges this, and its objectives, policies and rules reflect the importance of archaeological items (refer to RI13 in Chapter 4 and DO4.1 in Chapter 5). One of the methods of identifying and protecting these items is to accurately identify their location, as far as possible. This is described in this appendix."

Explanation: A brief explanation at the beginning of Appendix 3 is required to explain why archaeological values are important, and to link the appendix with associated objectives, policies and rules contained elsewhere in the Plan. The explanation is based largely on the relevant clause within Chapter 4.

Change No. 6 – Heritage Buildings in the Wakefield Quay Precinct

a) **Amend REr.84.1 by adding a new paragraph after b) as follows: "For alterations to Group A or B listed heritage buildings, or the addition of new buildings, REr.85 and 86 apply. For demolition or removal of Group C heritage buildings REr.88 applies."**
b) **Amend REr.84.3 by deleting in its entirety clause a) "the building is not a Group A heritage building listed in Appendix 1" from the Restricted Discretionary Activity heading, and delete the words " if the building is not a Group A Heritage Building listed in Appendix 1" from the Discretionary Activity heading.**
c) **Add a new paragraph at the end of REr.84.3: "For alterations to Group A or B listed heritage buildings REr.85 applies, and for demolition or removal of Group A or B buildings REr.87 applies."**
d) **Amend REr.84.4 by deleting assessment criteria c) and d).**
e) **Amend REr.84.5 by adding (in bold) at the end, the following: "Note that for alteration, demolition or removal of listed heritage buildings, rules REr.85 to 88 apply."**

f) Add a new assessment criterion to REr.85 (Alteration to Group A and B items): "the matters in the Design Guide and Rules for Wakefield Quay (Appendix 23) where appropriate."

Explanation: The requirement for significant alterations to a Group A Heritage Building in the Wakefield Quay Precinct to be treated as non-complying activities is at odds with the discretionary or restricted discretionary status accorded to similar activities for Group A Heritage Buildings elsewhere in the Residential zone. The rule is silent on the treatment of Group B or C buildings. For consistency and clarity, it is more appropriate that normal heritage rules (REr.85 to REr.88) apply.

Change No. 7 – Archaeological Sites

Delete the following NZAA site from the planning maps and Appendix 3:

- **026/58 Argillite flakes, Nth Whangamoa Inlet (E555 N113)**

Add the following NZAA sites to the planning maps and Appendix 3:

- **027/26 Argillite Quarry, Maungatapu (E431 N874) [MS59]**
- **027/69 Well/building foundations, Bridge St (E337 N926) [AS7]**
- **027/78 Gun emplacement, The Cliffs (E318 N927) [AS8]**
- **026/60 Chrome mine, Bush Hill (E599 N139) [AS9]**
- **026/62 Terraces, Hori Bay (E539 N114) [MS60]**

Explanation: A number of changes to the NZ Archaeological Association site recording system have been made since the Plan was notified. This necessitates the addition/removal of sites as detailed above.

Change No. 8 – Heritage Trees

Amend Appendix 2 by adding the following trees:

• **31 Enner Glynn Road – Dawn Redwood**	**Heritage**
• **33 Enner Glynn Road – Dawn Redwood**	**Heritage**
• **14 Endeavour Street – Rata**	**Heritage**
• **45 The Ridgeway – Flame Tree**	**Heritage**
• **15 Harper Street – Himalayan Cedar**	**Heritage**
• **15 Harper Street – Titoki**	**Heritage**
• **378 Main Road, Stoke – Pepper Tree**	**Heritage**
• **268 Songer Street – Camperdown Elm**	**Heritage**
• **45 Nile Street – English Oak**	**Heritage**
• **93 Champion Road – English Oak**	**Heritage**
• **14 Endeavour Street – Camphor Tree**	**Heritage**
• **3 Brookside – Holm Oak**	**Heritage**
• **7 Quiet Woman Way (Monaco Village) –Titoki**	**Heritage**
• **7 Quiet Woman Way – English Oak**	**Heritage**
• **2/155 Vanguard Street – Black Beech**	**Heritage**
• **45 The Ridgeway – Kurrajong**	**Heritage**
• **720 Cable Bay Road – Pohutukawa**	**Landscape**
• **754 Main Road Stoke(Road reserve)–Phoenix Palm**	**Landscape**
• **1/39A Russell Street – Northern Rata**	**Landscape**
• **7 Quiet Woman Way (Monaco Village) – Karaka**	**Landscape**
• **199 Bridge Street – Weeping Elm**	**Landscape**
• **Halifax Street (Millers Acre) – Saucer Magnolia**	**Landscape**
• **Songer Street (Honest Lawyer) – Phoenix Palms (5)**	**Landscape**

- **45 The Ridgeway – Australian Bean Tree** **Landscape**
- **93 Champion Road – English Oak** **Landscape**
- **382A Main Road Stoke – Claret Ash** **Landscape**
- **301 Seaview Road – Pendula Elm** **Landscape**
- **13 Mount Pleasant Avenue – Pohutukawa** **Landscape**
- **10 Rosebank Terrace – English Oak** **Landscape**
- **201A Kawai Street – English Oak** **Landscape**
- **48 Shelbourne Street – White Mulberry** **Landscape**
- **75 Point Road – Titoki** **Landscape**
- **45 The Ridgeway – Pohutukawa** **Landscape**
- **77 Champion Road – Kowhai** **Landscape**
- **77 Champion Road – Liquidamber** **Landscape**
- **77 Champion Road – Gingko** **Landscape**

Explanation: The majority of the trees proposed for listing above have been nominated by the owners of the property on which they are located, for inclusion in Appendix 2. In any event all property owners and potentially affected neighbours have been written to. Each tree has been assessed by the Council Horticultural Officer and an independent arborist and awarded a score. These scores relate to the categories of Heritage or Landscape trees. As a consequence of informal submissions to Council, the list has been modified prior to notification.

Change No. 9 – Location of Buildings over or alongside Drains/Pipes

a) Expand Rule REr.34.1 a) iv) by inserting at the beginning of the sentence the words: “which are located within 3 metres, measured horizontally, from the centreline of the pipe or drain …..”
b) Make a similar amendment to the equivalent rules in the Inner City [ICr.39.1a)iv)], Suburban Commercial [SCr.28.1a)iv)], Industrial [INr.32.1a)iv)], and Open Space [OSr.28.1a)iv)] zones.
c) Introduce a new rule for the rural zone to duplicate the REr.34 (Residential) rule.

Explanation: The present rule requires structures built alongside drains/pipes to be a minimum distance away from them. It is unclear how the rule is applied if the ground is sloping. This can be remedied by including reference to the horizontal distance between the pipe and the structure as well as the vertical distance. This principle also applies to a number of other zones.
At present, there is no equivalent rule for the Rural zone. While this is less likely to be an issue in rural areas, it is logical that any structures erected in the Rural zone should have the same regard to existing pipes and drains as is expected in any other zone.
Rule REr.34 was the subject of a Consent Order in January 2003 between the Council and the NZ Institute of Architects (Nelson branch). The consent order did not deal with the situation where the ground is sloping.

Change No. 10 – Building on Low-Lying Sites

a) Add a new clause i) to each of the following rules relating to building on low lying sites: REr.58.1, ICr.54.1, SCr.47.1, INr.53.1, and RUr.29.2 : “iii) the finished ground level is not less than 400mm above the design hydraulic grade level of the storm water system serving the site, and.”

Explanation: The parameters for determining whether or not a site is low-lying are based solely on ground level. No account is taken of the relationship of the site to the hydraulic characteristics of the storm water system servicing it.

Change No. 11 – Defensible Space and Fire Protection (Rural Areas)

a) In Rule RUr.28.1 e) delete the words "a residential unit" and replace with "all buildings larger than 10m^2."

b) Amend the first part of Rule RUr.28.1 f) to read as follows: "in the case of a residential unit or buildings intended for commercial or industrial activities, a water tank with a storage capacity of at least 23,000 litres of water is available to the site for fire fighting purposes."

c) Replace the words "residential unit" in the second part of Rule RUr.28.1 f) with "building".

Explanation: In the Rural zone, commercial and industrial activities under a certain size are permitted as of right, along with any other activity which does not contravene a related rule. However, under the existing rule a defensible space and fire fighting water is only required to be provided to residential units. Some provision needs to be made to provide a defensible space around other buildings, especially given that some industrial activities are potentially flammable. Similarly, such activities also should have ready access to a suitable supply of water for fire fighting purposes. NB commercial & industrial activities are clearly defined in the Plan. It is not intended that the expanded rule should include minor sheds and outbuildings.

Change No. 12 – Residential Decks/Balconies – Setbacks

a) Replace Rule REr.36.1 a) with the following: "a) they are set back at least 2m from any side or rear boundary, measured on the horizontal plane. This is not a requirement where the subject property adjoins a reserve, access, right-of-way, stream or river, and"

b) Add a new paragraph at the end of Rule REr.36.1 as follows:
"This rule does not apply where:
a) the ground is sloping, and
b) the structure is within 2m of the boundary, and
c) the finished floor level of the structure lies below the ground level of the adjacent property (measured at all points of the structure in relation to that boundary)."

Explanation: The Plan rule dealing with the location of decks, verandahs, balconies and similar structures requires amendment to ensure that in a situation on sloping land where one residential building is uphill from another, the minimum 2m setback from the common boundary can be met and other structures do not inadvertently intrude into the setback. This is relevant because two metres measured over sloping ground results in a smaller separation than when measured on the horizontal.

The 2m setback rule is intended to protect the privacy of residents from being overlooked by people standing or sitting on the decks of houses above them. However, when a deck is constructed on the uphill side of the downhill property, it is likely that the deck will still be below the ground level of the neighbouring house at the boundary. This situation is unlikely to give rise to any concerns over privacy, consequently the rule need not apply.

Change No. 13 – Garage Door Height

a) Replace the minimum garage door height of 2.2m in Appendix 10.5 c) with 1.95m.

Explanation: In view of typical garage manufacturing specifications, and typical heights of vehicles with a roof rack attached, it is appropriate that this minimum height be decreased. NB In Feb 2004 the (then) Environment & Planning Committee resolved that all applications for resource consent for minimum internal heights of parking spaces and access thereto between 1.95m and 2.2m would be processed at no cost to the applicant. The Committee decided to implement a Plan Change to resolve the issue once the Plan became operative.

Change No. 14 – Suburban Commercial – Maximum Retail Floor Area

a) Add the following words to the end of Objective SC1: "… with due consideration to the appropriateness of development on any site."
b) Add the following sentence at the end of SC1.i : "However, the development on any site within the commercial centre must be appropriate in terms of its impact on the immediate and wider community."
c) In Policy SC1.1, delete the words "preferably" and "and" in the first sentence, and add the following words at the end of this sentence: "and in recognition of the inappropriateness of commercial development in the Residential and Industrial Zones."
d) Expand the second to last sentence in SC1.1.i by inserting the following words at the end of the sentence: "in terms of their immediate environs and on the wider community."
e) Expand SC1.1.iii by adding after the words "Rules which define a zone…" the words "set floor area maximums,' and insert at the end of the same sentence the following words: "while ensuring compatibility and appropriateness for each site."
f) Change the present Rule heading for SCr.21 to: Floor Space Maximum and External Appearance (large buildings).
g) Delete Rule SCr.21.1 in its entirety and replace with: "No building on any site may exceed a gross floor area of 800m^2, except for the Stoke Centre, west of Main Road Stoke, where a gross floor area of 1600m^2 is permitted."
h) Delete Rule SCr.21.2 and replace the existing wording with "not applicable"
i) In Rule SCr.21.3 delete the words "not applicable", and replace with "Activities that contravene a permitted condition are discretionary."
j) Amend SCr.21.4 by adding on to e) the words "and any effects on traffic generation."
k) Add three further assessment criteria to SCr.21.4 as follows:
"f) the extent or otherwise to which a larger area would make use of public infrastructure.
g) the effects of a larger floor area on the role of the City Centre as the focal point for the city.
h) any adverse effects on a Residential zone."
l) Add a new paragraph at the end of Rule SCr.21.5 to read: "A floor area control is included to ensure the scale of activity is compatible with the mainly residential neighbours. Larger premises may be possible but may require a resource consent so that traffic and other impacts can be assessed on a case by case basis, as well as effects on the City Centre (see Chapter 8)."

Explanation: The Suburban Commercial zone includes the retail areas at Stoke and Tahunanui, but also those at Victory Square, Annesbrook, Nayland Road, The Wood, Washington Road, Robinsons, Atawhai, Bishopdale, Waimea Road, Haven Road and Wakefield Quay. Some concerns have been raised about the possibility of a very large retail outlet seeking to establish within the zone as a permitted activity, or at worst, a controlled activity. When the Plan was originally notified, it set a general maximum of 800m^2, or 1600m^2 in the case of the Stoke centre. Following strong submissions from the Ministry of the Environment, the Council modified the rule to allow the erection or substantial alteration of a building up to 1000m^2 as a permitted activity, and anything in excess of 1000m^2 as a controlled activity. As a consequence, consent is guaranteed to any large building within the zone. There is no discretionary or non-complying status applying to extra-large buildings. While SCr.21.5 states that the footprint has been set at 1,000m^2, gaining consent for a larger building is realistically no more than a formality.

This rule was originally supported by objectives which sought the consolidation of commercial activities within identified Suburban Commercial centres, with development occurring either within these centres or the Inner City zone. The Plan emphasis at the time of notification was on the effect of large commercial developments on the efficient use of public infrastructure, on the City Centre, traffic generation and access, adverse effects on any residential properties, and the size of other buildings in the area. The concerns expressed in the Plan in its operative form relate to the extent to which walls can be softened; the degree of harmony between building appearance/site layout and surrounding (potentially residential) areas; minimising potential effects on neighbours e.g. noise, appearance, glare; efficient site use; safe access to/from the site. The change in emphasis effectively represents a move from determining whether a large commercial building is appropriate on a site, to consideration of how to soften its impacts when it is constructed anywhere within the zone. It may be claimed that the Plan currently entertains (even encourages) large retailing buildings away from the City Centre, despite the stated determination of Council not to do so.

Change No. 15 – Projection of Verandahs

a) In Appendix 18.i b) delete the words "as far as practicable" and replace with "unless other rules in this appendix prevent compliance".

Explanation: The change is sought in order to resolve a potential conflict with the requirements of the more specific provision e) in the appendix. This will make it clear that in the event of a conflict, rule e) will override b).

Change No. 16 – Chimney Height

a) Add a further sentence to Note iii) which follows MW73 b) to read: "For any chimney or other structure discharging an emission to the air, the provisions of the Nelson Air Quality Plan are specific in respect of structure height and determinant over the provisions of this Plan, except in respect of height controls in relation to the airport (as shown in Planning Maps A3.1 and A3.2) where the provisions of this Plan still apply."
b) Add to rules REr.32.1, ICr.24.1, ICr.72.1, SCr.22.1, INr.27.1, OS26.1 and RUr.32.1 the following statement: "(see MW.73 for definition [including chimneys] and MW.74 for measurement)."
c) Renumber MW59 as MW74

Explanation: The Plan prescribes maximum chimney heights which are permitted in each zone. Specific rules under the proposed Air Quality Plan now govern chimney/stack/flue height to ensure adequate dispersal of contaminants from the emission into the air. It is appropriate that the RM Plan recognises and provides for the specific dictates of the Air Plan and that the latter take precedence. The RM Plan will be amended accordingly, with the amendments tying in with Plan Change 18.

Change No. 17 – Height of Structures- Wakatu Industrial Estate

Amend Rule INr.27.1 a) by deleting the existing wording and replacing it with the following: "maximum height is:
i)12 m, or
ii)15 m in the Nayland Road South industrial area, or to the south of Saxton Road West and bounded by Whakatu Drive and Main Road Stoke."

Explanation: The land formerly owned and occupied by Nelson Bays Meat Producers (now Alliance) has a maximum building height of 20 metres. Much of this land has now been sold, and Alliance has constructed a new meat processing plant. With the exception of the Nayland Road South industrial area which has a 15m height limit, all other industrial land in the City has a 12m maximum level. The current 20 metre maximum is no longer considered appropriate given the changes in the use of the land, and concerns about shading of major roads and adjacent properties. A resource consent and a private plan change have already tagged a 15m height limit to the Wakatu Industrial development, otherwise a 12m limit would be considered appropriate.

Change No. 18 – Maximum Height (All Zones)

a) Add the following words at the end of Rule REr.32.1: "(see MW73 'Height' for definition [including chimneys] and MW74 'Height Measurement')
b) Expand the explanation in REr.32.5 by adding the words "or averaging 7.5m on sloping ground" after the words "Therefore, buildings over 7.5m".
c) Introduce the same or similar wording to the maximum height rules in the other zones, i.e. ICr.24.1 and 24.5; ICr.72.1 and 72.5; SCr.22.1 and 22.5; INr.27.1 and 27.5; OSr.26.1 and 26.5; RUr.32.1 and 32.5.

Explanation: The rules in the various chapters relating to maximum building height do not always make it clear that two methods can be used in its calculation, or that the maximum height can be exceeded in some instances. These points need to be clarified. The amended wording ties in with Change 16 above.

Change No. 19 - Daylight (Zones adjoining Residential Zone)

a) Add the following at the end of AP15.2.i: "For those properties which are in other zones which adjoin a Residential zone, the relevant rules still apply. However, where the Daylight Around method is implemented on a site adjoining a Residential Zone, a maximum or average building height of 7.5m applies (See AP15.9). The intent of this rule is that the daylight admission on the common boundary be the same as if the non-residentially zoned neighbour was within a Residential zone.

Explanation: The present provisions are confusing in respect of the maximum permitted height for buildings on sites adjoining the Residential zone. The change will clarify this situation.

Change No. 20 – Recession Plane Application

a) Amend AP15.3.1 b) insert the word "residential" in the first sentence immediately before the word "site", and add the words "to that part of the building that intrudes into the 4m setback" after the words "applies in all instances".
b) Also, add the following sentences to the end of the same paragraph to read: "The daylight over method must be utilised in relation to road boundaries. The daylight around method does not apply. This rule ensures the public amenity of the street environment is protected."

Explanation: This rule emanated from the need to provide adequate daylight to the road and footpath i.e. to prevent icing and serve a public amenity role. At present the 45^0 recession plane applies to the entire building, i.e. if any part of the building is within 4m of the road boundary, a blanket recession plane is applied along the entire boundary, and applies to a building located anywhere within the site. The original intention of the rule was that it would only apply to those parts of a building located within 4 metres of the road boundary. Further, it should be clarified that the Daylight Around method does not apply from road boundaries, and that the recession plane applies into residential properties (and not to structures such as bridges, built on the road reserve).

Change No. 21 – Reference Points for Daylight Calculation

a) Amend AP15.3.1 c) to read: "Where a property has a common boundary with a private access or right-of-way which serves more than one, but no more than four, actual or potential residential units, and whether or not that property has rights over the access or right-of-way, the measurement may be taken from the centre line of that formation. If the measurement is taken from the centre line the daylight-over method must be used."
b) In MW16 "Boundary" replace the words "more than four" with "five or more".

Explanation: Where an access or right-of-way serves five or more properties, the front yard rule and the 45 ^{0} recession plane rule in Appendix 15 apply from the boundary line between the property and the right-of-way. However, with small shared access ways and rights-of-way, owners of properties with rights of access are able to take their daylight angles from the far side of the right-of-way. This is considered overly generous and likely to result in a "canyon effect" with large buildings close to the ROW. It is suggested that liberalising the rule to allow properties with a common boundary to the ROW, although not necessarily with rights of access over it, would be appropriate. However, it is also considered that the rule should be tightened to the extent that the measurement should be taken from the centre of the ROW rather than the far side.

Change No. 22 – Definition of Ground Level

a) In diagrams a) & b) in MW74 (Height Measurement) after the words "(cut and fill for building has no effect" delete "i.e. original ground level used)" and add "Note, where original ground level is used see MW64 (Ground Level) in Chapter 2 for application of original or finished ground level."
b) Amend AP15.4 c) by deleting it in its entirety and replacing it with: "Accurate original ground levels at the boundary and at the building, and finished floor levels at the points being tested (Ref MW64 Ground Level)."
c) Delete MW64 (Ground Level) and replace it with: "means the original ground level, or finished ground level for earthworks, where a) 'original ground level' means the level of the ground that existed before any excavation for new buildings or structures on the land is undertaken, and b) 'finished ground level' accords with the ground level dictated by i), ii), or iii) below, where infilling must be undertaken to the level required to deal with the hazard, but before any excavation or infilling for new buildings or structures on the land is undertaken:
i) a rule in a plan relating to low-lying sites, or
ii) a resource consent granted in relation to flooding or inundation, or
iii) a resource consent granted for a subdivision."
d) Add a new paragraph at the end of MW64 to read: "Where there is a retaining wall or other engineering structure at the boundary of the site required to achieve b) above, the finished ground level (for the purposes of defining daylight angles) will be the level of the site immediately behind the structure intended to ensure the stability of the site at the finished level."
e) Add the following sentence to AP15.8.ii: "The ground level is as defined in Figure 3."
f) In AP15.9.i after the words "may be up to", insert the words "or average". and add after "7.5 m high" add "(see MW74 for height measurement)."
f) A new clause AP15.9.ii is added to read: "Ground level is determined by the definition in Chapter 2 (MW64) and height is determined by MW73 and MW74."
g) Add a new assessment criterion to rules REr.82.4, REr.83.4, and REr.107.4 to read: "potential shading of neighbouring properties from development of the site, including fences."

Explanation: There has been ongoing uncertainty over what constitutes "original ground level" in the calculation of building height. This needs to be clearly defined in order that daylight controls may be accurately established. "Finished ground level" also requires more careful definition. Where land is required to be filled, the rules should not discriminate against property owners. Some additional protection is also warranted for neighbours of infilled sections against potential shading of their properties.

Change No. 23 – Alterations/Additions

a) Add to the beginning of AP15.6.iv the words "Except where AP15.6.v applies".
b) Add a new paragraph AP15.6.v to read: "For existing buildings, any alterations or additions must be considered in terms of the daylight-over or daylight-around method which was applied to the relevant boundary when the building was constructed. To this end, an alteration or addition may not proceed where it complies with one method but contravenes the other method, with the result that the amount of daylight received by neighbours is decreased (see App 15.5.b)."
c) Ap15.5 a) and the heading for AP15.5 are both amended by adding the words "and alterations" immediately after the word "additions".
d) Amend AP15.5 b) by adding after the words "any additions" the words "and alterations must demonstrate that the effect of the works will not worsen the daylight situation for neighbouring properties. In the event that neighbouring properties are likely to be deprived of daylight to a greater extent than before, a resource consent will be required."

Explanation: The Plan does not permit an addition or alteration to a building to increase the degree of non-compliance with the daylight angles. Any existing building should comply with either the daylight-around or the daylight-over method. It was never the intention of the Plan that people should be able to switch at will from one method of daylight control to the other. This could result in a building being erected utilising one method, with a subsequent alteration or addition using the other, to the detriment of the adjoining property. Any additions/alterations should be assessed under the same method to ensure a consistent approach to evaluating minimum daylight admission requirements. Similarly, where a building was constructed before daylight compliance was a requirement, any addition or alteration must now be in compliance with one of the daylight methods. If there is any intrusion beyond the existing envelope, resource consent will be required.

Change No. 24 – Exemptions to Daylight-Over Rule

a) AP15.8.iii a) will be expanded by adding at the end of the sentence: "or a maximum length of 2.5 m, whichever is the lesser", and amending the drawing accordingly.
b) Delete AP15.8.iii b) in its entirety, and replace with: "Gable and gable-like roof ends where the roof ridge is generally at right angles to the site boundary. The end of the ridge may be up to 1.5m above the indicator height, and the end area when viewed in elevation is allowed to be up to 2.5m^2. These exceptions are limited to roofs with a slope of 15^0 or greater. The maximum height intrusion, width, and area must remain as defined above, i.e. 1.5m high, 2.5m wide, and 2.5m^2. Up to one intrusion may be permitted per boundary. (See Chapter 2 (Meaning of Words) for definition of 'gable')."
The drawings which accompany the paragraph shall be amended to include the maximum width.

Explanation: The existing daylight-over provisions allow exemptions for dormer windows if no more than 1.5m high and less than 25% of the length of the building, and gable ends if no more than 1.5m high and less than 2.5m^2 in area. The intent of these provisions is to allow minimal intrusion only, and is not intended to allow such things as extension of side walls. The proposed changes will reinforce the intention to restrict exemptions to minor intrusions, and the minimum slope provision will restrict the erection of flat roof structures which have the effect of increasing the height of side walls.

Change No. 25 – Daylight-Around Method

a) Amend the note which follows AP15.9.ii by deleting the words "including the 'daylight-over' controls".
b) In AP15.9.iii b) delete the words in parentheses, and add a new sentence to read: "The line 2.0 metres above the P point need not be horizontal but is allowed to follow the ground level on the boundary. The recession plane into the site of 14 degrees remains the same."

Explanation: Any structure outside the control arms for the daylight-around method must, at present, also comply with the daylight-over method. This joint application will be removed, and the 2.0m line above the P point will be amended to follow the ground level instead of the horizontal. This results in a more realistic situation, with the control being tighter on the downhill side of a building, but allowing greater flexibility on the uphill side.

Change No. 26 – Chimney Dimensions

a) Amend Definition MW17 (Building) by removing the words "or the base support" from sub clause d), and inserting the words "less than 1m wide and" after the word "chimney".

Explanation: Chimneys are permitted in the Plan up to 3m high above the point of attachment or the base support. These two reference points may vary widely, and this can cause confusion. The latter may also not provide for the adequate dispersal of discharge. Reference to the base support will be deleted. The Plan will be amended to make it clear that chimneys above the point of attachment will be limited to 1m in width to qualify for exception status from the definition of building since wider chimneys have, in some cases, had impacts on daylight admission to neighbouring sites.

Change No. 27 – Home Occupations-Exclusion of Heavy Machinery

a) Change clause d) in Table 1 in REr.21.5 to read: "panel beating, vehicle wrecking, sheet metal work, automotive engineering such as engine reboring or crankshaft grinding, spray painting, boat, caravan or motor vehicle building, engineering involving equipment fabrication, or activities involving the use of composites based on synthetic resins."
b) Add the following to REr.21.5 after the first sentence: "Table 1 provides a list of activities which are considered inherently unsuitable as home occupations because of their close association with the generation of adverse effects such as noise, dust and discharges, which are likely to cause a nuisance to neighbours and, for this reason should be avoided."

Explanation: Rule REr.21.5 currently includes a list of activities which are not permitted to establish as a home occupation. The examples of heavy engineering which are not permitted are very limited. The Plan would be better served by reference to a broader class of activities and is amended accordingly.

Change No. 28 – Industrial Zone Policy IN1.1

a) In Policy IN1.1 change the wording at the end of the policy from "IN1.2 and IN1.3" to "IN1.2 to IN1.4".

Explanation: Policy IN1.1 describes the types of activities appropriate in industrial areas and refers to other associated policies. However, reference to Policy IN1.4 was deleted by an earlier decision on submissions. The numbering has been re-ordered and the references in Policy IN1.1 need to be changed to match.

Change No. 29 – Office Facilities in the Industrial Zone

a) **Amend Rule INr.22.1 a) to read: "they are essential and ancillary to the industrial use of the site."**
b) **Reword Rule INr.22.5 to read: "These rules permit essential ancillary office facilities. The intention is to limit as far as possible the intrusion of non-industrial activities into land set aside for industrial activity, to protect the scarce industrial land resource, and to achieve its full utilisation for industrial purposes."**

Explanation: This change seeks to achieve some consistency between the policies and rules. In this case the amendments will bring the rule into line with the intent in Policy IN1.1.

Change No. 30 – Non-Industrial Activities in the Port Area

a) **Amend explanatory paragraph IN1.3.i by deleting the second sentence and expanding it to read: "These include activities which service the Port, such as customs offices, those which directly service the marina or users of the marina and are essential ancillary services, or activities which have a direct relationship with the coast i.e. sea scouts, and are essential ancillary activities e.g. training rooms. Other activities may also be appropriate, provided they do not contravene other outcomes sought by the Plan in terms of the appropriate location of non-industrial activities."**
b) **Reword Rule INr.23.1 a) to read: "such activities either relate directly to, or serve activities in, the port area, and are essential ancillary activities."**
c) **Replace the first sentence in Rule INr.23.5 with: "Rule provides exception for activities which rely on the special coastal characteristics of the area and zone which may not otherwise be permitted in the area, but represent only essential services which are ancillary to permitted activities."**
d) **Add a new sentence at the end of paragraph INr.23.5 to read: "The intention of this rule is to limit the intrusion of non-industrial activities into the port industrial area, protect scarce industrial and reclaimed land, minimise the need to reclaim more, and maximise the use of land for industrial purposes."**

Explanation: This change (like No 29 above) seeks to resolve differences between the Industrial policies and the rules in order to gain some consistency as to intent. In terms of this particular change it will bring the rules into line with Policy IN1.3.

Change No. 31 – Saxton Industrial Area

a) **The descriptive paragraph INd.8 is to be stopped after the words "…..occupied by a freezing works" and the following words added:**
"A significant part of the land is now no longer owned or utilised by the freezing works industry. Allied or similar industries occupy some parts of the ex-freezing works facilities, or new purpose-built structures have been constructed in their place. It is anticipated that this area will be utilised, in part, by heavy engineering-type industries. Lighter industrial activities are establishing towards the northern end of the ex-freezing works property and a new internal road system has been developed."

Explanation: It is considered appropriate that the changes in the industrial use of the former freezing works land since its relinquishment in part by Alliance Meats (formerly Nelson Bays Meat Producers) should be acknowledged in the Plan.

Change No. 32 – Map Amendment (Map 29) – Former 'Mr Beans' Site

a) **Rezone the former 'Mr Beans' site (Standish Place, Stoke) from 'Suburban Commercial' to 'Residential'.**

Reason: This site is currently zoned 'Suburban Commercial'. However, the land has been fully developed for residential purposes. Consultation has been carried out with the developer of the land who favoured this approach. It is understood that each title carries a restrictive covenant preventing the property from being used for any purpose other than residential. As a consequence there is no practical reason for retaining the present zoning.

Change No. 33– Definition of Contaminant

a) **Amend definition MW28 Contaminant by inserting after the word "gases" the words "odorous compounds".**

Reason: The definition of "contaminant" in the RMA has been amended by the RM Amendment Act 2003. The definition in the Plan therefore requires amendment.

Change No. 34– Historic Heritage

a) **Include a new definition in the Plan as MW76A to read: "Historic heritage**
a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:
i) archaeological ii) architectural iii) cultural iv) historic v) scientific vi) technological; and
b) includes –
historic sites, structures, places, and areas; and
archaeological sites; and
sites of significance to Maori, including wahi tapu; and
surroundings associated with the natural and physical resources."

b) **Expand RI13.1 in Section 4 by including a new paragraph RI 13.1.iii to read: "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."**

c) **A new provision will be added as RI 8.1.xiii to read: "Particular importance placed on controls over activities on the foreshore and seabed by the RMA."**

d) **Add a second paragraph (ii) to DO 4.1 (Chapter 5) to read: "The Resource Management Act 1991 deems the protection of historic heritage from inappropriate subdivision, use and development to be a matter of national importance."**

e) **Add at the end of CM4.1.i "The RMA now requires that with any rule relating to the CMA in the Plan, where there is potential to adversely impact on the foreshore and seabed, a matter of assessment criteria should now include potential impact on historic heritage (see MW 76A)."**

f) **Add "the effect on historic heritage" as an additional assessment criterion for each of the following rules relating to the foreshore and seabed:**
CMr.20.4 (g); CMr.21.4 (a); CMr.22.4 (h); CMr.23.4 (e); CMr.24.4 (f); CMr.25.4 (g); CMr.26.4 (g); CMr.27.4 (d); CMr.28.4 (f); CMr.29.4 (g); CMr.30.4 (g); CMr.31.4 (f); CMr.32.4 (g); CMr.33.4 (j); CMr.34.4 (h); CMr.35.4 (h); CMr.36.4 (g); CMr.37.4 (i); CMr.38.4 (f); CMr.52.4 (f); CMr.53.4 (j); CMr.57.4 (b); CMr.58.4 (g).

Explanation: Prior to the 2003 amendment to the Resource Management Act 1991,when Councils exercised their powers under the Act they were required to give regard to such matters as "the recognition and protection of the heritage values of sites, buildings, places or areas" pursuant to Section 7 of the Act. The 2003 Amendment Act has reallocated heritage status from Section 7 to Section 6 which lists those matters deemed to be of national importance. This action conveys a higher level of status for heritage matters than previously accorded by the Act. Accordingly, it is considered appropriate that this elevation in status is reflected in the provisions of the Plan.

Change No. 35 – Reference Documents

a) Amend AD10.3.ii by replacing "1996" with "March 1997"

b) A new clause AD10.3.iii will be added to read: "National Environmental Standards – The Minister for the Environment can recommend to the Governor-General that a regulation be issued known as a National Environmental Standard. A standard can deal with a range of factors, e.g. qualitative or quantitative standards, for example for noise or contaminants, or can determine methods for implementing standards, or classifying a resource. They can also prohibit an activity. Where a regulation prohibits an activity, this prevails over the provisions of a Plan."

c) Insert a new clause AD10.3.iv to read: "Regulations – the Governor General may issue regulations at any time concerning a range of issues, e.g. the manner or content of applications, who is required to be served notice of an application, and so on. Regulations can apply to specific parts of the region, be applied generally or from time to time. Where appropriate, these regulations must be taken into account."

d) The existing clauses AD10.3.iii to AD10.3.viii will be renumbered as AD10.3.v to AD10.3.x.

e) The heading and first sentence in the renumbered AD10.3.vii (Iwi Management Plans) will be deleted and replaced as follows: "Documents recognised by Iwi – Council will take into account any relevant planning document which is recognised by an Iwi authority, and which has been lodged with Council, to the extent that its content has a bearing on the resource management issues of the region."

Explanation: The Plan is incorrect where it states that the Regional Policy Statement became operative in 1996. The correct date is March 1997.
The 2003 RMA Amendment Act expands the section in the RMA dealing with national environmental standards, and requires councils to take iwi documents into account rather than merely having regard to them, as was previously the case. Similarly, councils are now required to take into account regulations as referred to in the RMA. The scope of these regulations has now been extended

Change No. 36 – Resource Consent Processing

a) Add to the final sentence in AD8.1.i the words: "and a clear structure for undertaking each step. For example, the consideration of whether to publicly notify any application for resource consent, or give limited notification is expressly controlled."

b) Insert two new sentences after the first sentence in AD8.2.i to read as follows: "Applications must be made in the prescribed form and manner and include an assessment of effects as prescribed by the Fourth Schedule of the Resource Management Act. Further information may be requested where the assessment of environmental effects is considered by Council to be inadequate, or the required information is not provided."

c) Delete the current second sentence in AD8.2.i and add a new sentence at the very end of AD8.2.i to read: "Any application which replaces one already rejected by Council as being inadequate will be treated as a new application."

d) Delete AD8.3 a) and renumber the remaining clauses accordingly.

e) Amend the second sentence in AD8.5.i by inserting the word "publicly" after the words "not be", delete sub clauses a) to e) and replace them with the following: "a) activities for a controlled activity, or b) where Council is satisfied that the adverse effects of the activity on the environment will be minor."

f) Delete AD8.5.ii and replace it with " For those activities qualifying under clause 8.5.i above, Sec 94(1) of the Act still requires Council to serve limited notification of the application on all persons who may be adversely affected by the activity, even if some of these persons may have already given their written approval. However, this limited notification is not required if all persons who may be adversely affected have given their written approval."

g) Add a new clause AD8.5.iii to read: "Notwithstanding clauses 8.5.i and 8.5.ii above, Council a) will notify a controlled activity where the Plan expressly provides it must be notified; b) is not required to notify a restricted discretionary activity if a rule in the Plan expressly provides it does not need to be notified; and c) does not need to serve notice for a controlled or restricted discretionary activity if a rule expressly provides that notice is not required."

h) Add a further new clause AD8.5.iv as follows: "Where Council considers that a proposal (which is not a controlled activity) may have more than a minor adverse effect on the environment, the application is required to be publicly notified,"

i) Renumber the existing clause AD8.5.iii as AD8.5.v, delete the second sentence, replacing it with "Notice will be served on every person required by the regulations to the Act."

j) Add a new clause AD8.5.vi to read: "Council is required to publicly notify an application in accordance with the Act if requested to by an applicant. Council may also notify an application if it considers special circumstances exist."

Explanation: The Act has been clarified and simplified with respect to the information to be supplied with any application for resource consent, including subdivision proposals. It is appropriate that the information set out in the Plan be amended accordingly.

Change No. 37 – Resource Consent Decisions and Appeals

a) In AD8.7 (Chapter 3) delete from the third sentence the words "any relevant regulations" and "designations or heritage orders", and insert at the end of the same sentence the following words: "such as regulations and designations or heritage orders." Immediately follow on with the above sentence with "Council may disregard an adverse effect on the environment if the Plan permits an activity with that effect."

b) Add a new sentence at the end of AD8.7 to read: "Section 105 includes additional matters which require consideration with respect to certain applications."

c) Add a new sentence to the end of AD8.9 to read: "A limited time period is available for those who are not a party to appeal proceedings to become a party with proper notice to the Environment Court."

d) In AD6.3.ii delete the last sentence and replace with: "Under sec 106 of the Act, Council can decline consent in circumstances, e.g. where subdivision involves hazard-prone land."

Explanation: The above change reflects further amendments to the Resource Management Act. As a consequence, some amendments to the descriptive passages relating to the administration of the Plan are necessary.

Change No. 38 – Designations

a) **Add the following words at the end of the first sentence in Appendix 24.1.ii to read: "..and sec 9(1) of the Act."**
b) **Insert a new paragraph at the end of AP24.1.ii to be numbered as AP24.1.iii: "Requiring authorities, like everyone else, are bound by the Act to avoid, remedy, or mitigate adverse effects on the environment in relation to their activities."**
c) **Renumber the following paragraphs accordingly.**

Explanation: The 2003 amendment to the Act clarifies the effect of a designation per s176 of the Act. It is appropriate that the relevant reference in the Plan is updated to provide the relevant information to the public.

Change No. 39 - Continuity of Facades and Access

a) **In Rule ICr.32.1 a) delete the words "if access is obtainable or available from any other road, or from any proposed or existing service lane."**

Explanation: Rule IC32.1 currently permits vehicle access across the frontage of scheduled streets/squares if an alternative access to a site is not available. This has the potential to interrupt the commercial frontage façade along these roads and pedestrian movements. This is undesirable. The intent of the rule is that access points are not permitted as of right. The proposed change more readily reflects this intention.

Change No. 40 – Exemptions from Intersection Distance Standards

a) **Delete AP11.1.ii d) from the notes on page A11-2 (with subsequent renumbering) and relocate it as a new paragraph immediately following AP11.1.i and before Table 11.1.1. This paragraph will be headed with the title "Exemption".**

Explanation: There is some ambiguity in the clauses within AP11.1. Paragraph AP11.1.ii d) is the only instance in the appendix which constitutes an exemption from the requirements of any of the tables. It needs to be removed from the "notes" section and clearly identified as an exemption which allows non-complying access points to be constructed in certain circumstances.

Change No. 41 – Road Stopping (Esplanade Reserves)

a) **In Appendix 6, AP6.2.i is amended by modifying the second sentence to read: "Esplanade reserves will be set aside, or esplanade strips created, in these areas upon subdivision and road stopping."**

Explanation: An issue has arisen in respect of the application of section 77(3) of the RMA to the setting aside of esplanade reserves when roads next to streams are stopped. Unless there is a rule in the Plan to say otherwise, a 20m reserve is automatically required as part of a road stopping procedure. This may not be appropriate in every instance. However, unless there is a provision in the Plan for the 20m reserve requirement to be over-ridden, the 20m reserve must be taken. The proposed change gives Council the authority to override the provision and forego the opportunity to take the reserve where this is considered appropriate.
Table 6.2 already indicates where Council considers esplanade reserves/strips are appropriate in relation to land with riparian and coastal values. The same values hold true if the land is being subdivided or land titles rearranged for another reason, e.g. road stoppage. It is appropriate that the requirements of Table 6.2 apply equally in each instance. There is no reason to take 20m when it is neither required nor desired.

Change No. 42 – Comprehensive Housing Developments (Site Area & Coverage)

a) In Rule REr.23.3 a) add the words "where at least 80% applies" immediately following the words "Comprehensive Housing Developments (Rule REr.22)".
b) In Rule REr.24.3 delete the words "(other than for Comprehensive Housing Developments (Rule REr.22))" and insert a new paragraph at the end of the rule which states: "Comprehensive Housing Developments (Rule REr.22) that contravene a permitted condition are discretionary if they are within the High Density area, or if the building coverage of the net area of any site does not exceed i) Lower Density Area: 36%, or ii) South Street Heritage Precinct: 72%, or iii) Remainder of Zone : 48%."
c) Insert after the second sentence in both REr.23.5 and REr.24.5 the following paragraph: "Rules REr.23 and REr.24 therefore provide minimum amenity- based standards. Non-compliance with them serves as an important trigger to consider where there is a potential for developments to have a significant adverse effect on the environment. The non-complying resource consent process will ensure appropriate consideration is given to any significant departure from them, particularly with respect to Comprehensive Housing Developments which seek especially intensive forms of development. This will allow the degree to which any development departs from these rules, and also the intent and scope of Appendix 22 (for Comprehensive Housing Developments) to be fully considered in relation to the objectives and policies of the Plan. A greater degree of variance from the permitted conditions in REr.23 and REr.24 is allowed for Comprehensive Housing Development than for normal housing because, by definition, it seeks to provide a more intensive form of development than is the norm."
d) In REr.22.3 after the words "Port Effects Control Overlay" add the following: "or where it exceeds non-compliance with REr.23 (site area) or Rule REr.24 (site coverage) by more than 20%."
e) In Rule REr.22.5 delete the third paragraph which reads; "The limits on discretion for departing from the site area minimum (Rule REr.23), and allowable site coverage (Rule REr.24), do not apply to Comprehensive Housing Developments."
f) In Rule REr.22.4 following assessment criterion c), add a new paragraph which reads: "In addition to these guidelines, the Comprehensive Housing Development will be assessed against the assessment criteria for Rule REr.23.4 and Rule REr.24.4."
g) Insert in REr.23.3 and REr.24.3 a new end clause to read: "Comprehensive Housing Developments that contravene the conditions for discretionary activities are non-complying."

Explanation: The Plan currently conveys discretionary activity status to comprehensive housing developments which vary in any way from the permitted standards, excluding application of the rules on site area and site coverage. Comprehensive housing developments are not tied to specific standards, but are assessed by Council on a case by case basis, with the expectation that there will be some concessions made to the developer provided that a high standard of amenity is achieved for both occupants of the site and off-site for the wider neighbourhood. Where there is a significant departure from the provisions of Appendix 22, significant adverse impacts, or minimal beneficial effects, it is appropriate that such applications be subject to greater scrutiny as non-complying activities. However, it is proposed that non-complying status only apply when site area or site coverage are exceeded by 20% (Compare with other developments in Residential Zone at 10%) except for the High Density area which remains discretionary.

Change No. 43– Comprehensive Housing Developments (On & Off-Site Amenity)

a) Amend AP22.5.i to read: "The development should be designed to minimise any adverse effects on neighbouring sites, the streetscape, and the character of the area, having regard to, but not being limited to, the following:"

b) Amend AP22.5.i c)ii) to read: "keeping reasonable continuity of height which is compatible with the surrounding neighbourhood."
c) Add two further clauses to AP22.5.i c) as follows: " vi) density, which should not depart significantly from the existing density of the neighbourhood within the low and standard density residential zones, vii) privacy and shading of neighbours which should not be compromised."
d) Reword AP22.6.i to read: "Development should create a high standard of amenity and privacy for residents while promoting sustainability through the use of techniques such as:"
e) Add three further criteria to the end of AP22.6.i as follows: " h) energy and thermal-efficient design which incorporates active and passive energy-efficient features and appliances, in particular solar water heating i) the use of water conservation design features and fittings, j) design, features, location, and siting which promote alternative transport modes for private vehicles."

Explanation: Appendix 22 deals with the protection of off-site amenity as a result of comprehensive housing developments. These developments should be designed to minimise any adverse impacts on neighbouring sites, the streetscape, and the character of the area, having regard to a variety of matters. Similarly, AP22.6 deals with issues of relevance to the consideration of on-site amenity. It is considered that these matters will benefit from amendments which slightly increase the scope of the clause and, for the sake of consistency, bring in matters already raised elsewhere. These amendments also relate to the type of assessment criteria described in REr.23 (site area) and REr.24 (site coverage) which, along with Appendix 12, must be addressed by any comprehensive housing development which exceeds the permitted standards.

Change No. 44 – Comprehensive Housing Developments (General Residential Policies)

a) Amend policy RE1.2 to read "Some flexibility in design, building form, and site development below that specified in the rules will be considered, provided that the development:"
b) Add a further criterion to RE1.2 as follows: "g) does not diminish streetscape or adjacent roads."
c) Add the following clause at the end of the explanatory paragraph RE1.1.i : "In addition, the policy provides for some design flexibility, but significant departure from the permitted baseline established by the relevant zone rules is not anticipated."
d) Amend policy RE2.5 by adding the word "existing" before the word "character".

Explanation: The above amendments to the general residential policies have been proposed in order to ensure consistency with the previous changes.

Change No. 45 - Scheduled Site (Nelson Polytechnic)

a) Amend Planning Map 15 to include 13 Alton Street within Schedule 'F' Polytechnic (ref Map 2).

Explanation: The Nelson Polytechnic was granted resource consent in December 1999 to use the site at 13 Alton Street as part of the Nelson Polytechnic School of Visual Arts for a range of permitted activities listed in Schedule 'F' of the then proposed Nelson Resource Management Plan. At that time the Council indicated that it was prepared to include the site with the scheduled area, but that this process would need to be done by way of a variation. It is appropriate that this action be taken now and, as the Plan is now operative, the appropriate process is a Plan Change.

Change No. 46– Heritage Building

a) **Identify the house at 46 Shelbourne Street as a Group A Heritage building in Appendix 1.**

Explanation: The inclusion of this property in the list of heritage buildings has been requested by the current owners of the property. The building was constructed in approximately 1855 and, while it has been modified, it is considered to be a good example of its period and one of the earliest remaining properties in New Zealand. The property has been formally assessed and categorised as meriting a Group A listing. The owner is very supportive of the proposed listing.

Change No. 47 – Appendix 14 – Road Formation Requirements (Table 14.5.1)

a) **Delete Table 14.5.1 in its entirety and replace it with the revised version appended (to this document) as Attachment 1.**
b) **Replace the notes (AP14.n) which follow the above table and replace them with the amended version appended (to this document) as Attachment 2.**

Explanation: The changes proposed involve increasing the carriageway widths and reserve widths for Types I, II, and III roads in order to accommodate increased cycle lane widths. A new category of 'local industrial' road (Type IIIa) has been created to cater for situations where the road is serving areas from 10,000m^2 to 20,000m^2 and less than 1,000 vehicles per day. A new category of 'rural collector' road (Type IV) has been created to cater for situations where the road is serving areas with more than 300 vehicles per day. Both Types IV and V have introduced qualifying household unit numbers. Type VII and VIII roads show an amended footpath location, and Type VIII roads now have an increased reserve width. The increased reserve widths are in line with the requirements of NZS4404. The changes are proposed to bring the Plan provisions in line with the NCC Engineering Standards which have already been amended in accordance with these proposed amendments to the Plan.

Change No. 48 – Commercial Use of Public Roads and Parking Spaces

a) **Substitute the following provision for AP10.9.ii : "Any activity involving the sale, hire, servicing, or repair of vehicles shall be carried out entirely within the site to which the activity relates. No road, or part of a road, shall be used for carrying out any activity associated with the business, including the storage, repair, grooming or washing of vehicles, or parking of vehicles other than for the purposes of delivery, relocation, drop-off, or pick-up."**
b) **Renumber the existing paragraph AP10.9.ii as AP10.9.iii.**

Explanation: This change is intended to control the situation whereby activities associated with the sale, hire, servicing and repair of vehicles sometimes expand their activities beyond the confines of their site and utilize public parking space to the detriment of the general public.

Change No. 49 – Earthworks

a) **Amend REr.61.1, ICr.55.1, SCr.48.1, INr.54.1, OSr.49.1 and RUr.27.1 to read as follows: "Earthworks are a permitted activity if:**
   a) the maximum height or depth of excavation or filling does not exceed 1.2m, or"
   b) the earthworks are for the purpose of installation and maintenance of utility service lines, including the excavation of holes for supporting structures, back-filled trenches, mole ploughing or thrusting, provided the earthworks are no more than required to permit the activity, or

c) the excavation or fill is to be retained immediately by a building (other than a stand-alone retaining structure) authorised by a building consent, and the maximum height or depth of the fill or excavation does not exceed 3m, and

d) the depth of any excavation adjacent to a property boundary is no greater than the distance from that boundary, measured on a horizontal plane, and."

b) In REr.61.1, ICr.55.1, SCr.48.1, INr.54.1, OSr.49.1 and RUr.27.1 renumber existing clauses c) to i) as clauses e) to k).

b) In Rules REr.61.1, ICr.55.1, SCr.48.1, INr.54.1, OSr.49.1, and RUr.27.1 amend clause j) to read: "material used as fill is cleanfill material, and", and renumber as l). Also renumber existing clause k) as m).

c) In Rules REr.61.2, ICr.55.2, SCr.48.2, INr.54.2, OSr.49.2, and RUr.27.2, replace the full stop at the end of f) with a comma, add the word "and" after the comma, and add "g) material used for fill is cleanfill material." After item xv) add "xvi) control of noise, and xvii) control of dust, and xviii) traffic and access issues."

d) Amend the introductory paragraph in Rules REr.61.3, ICr.55.3, SCr.48.3, INr.54.3, OSr.49.3 and RUr.27.3 to read: "Earthworks that contravene a controlled standard other than g) are restricted discretionary activities. Where g) is contravened the activity is a discretionary activity." After xx) add the following criteria: "xxi) control of noise, xxii) control of dust, and xxiii) traffic and access issues."

e) In Rules REr.61.5, ICr.55.5, SCr.48.5, INr.54.5, OSr.49.5, and RUr.27.5 add to the sentence reading "Clean fill is required because fill that contains contaminants can have adverse effects on the environment" the words "while excessive amounts of vegetation can cause settling when it decomposes."

f) In Rules REr.61.5, ICr.55.5, SCr.48.5, INr54.5, OSr.49.5, and RUr.27.5 add a further paragraph immediately before the first "Note" to read: "Some confusion may arise as to whether an activity constitutes earthworks, landfill, or a combination of the two. The essential distinction is that while earthworks may involve some degree of landfill, it is not the primary purpose of the activity, whereas with landfill activities the primary purpose is the disposal of solid waste."

g) Add at the end of definition MW40 Earthworks a reference: "(Ref MW89A Landfill)."

Explanation: The permitted activity column has been restructured to make the rule easier to follow. The maximum permitted excavation depth to be retained by a building has been reduced from 4m to 3m. A new rule has been added to require that the depth of excavations adjacent to a property boundary must not exceed the horizontal separation from that boundary in order to achieve permitted activity status. The existing rules contained no mechanism for controlling noise, dust, or vehicle movements – this has also been addressed in this change.
The term "cleanfill" has been introduced to the Plan in both the earthworks and landfill rules (refer landfill change No 51 which follows).
The current earthworks rule, when it was drafted, was also intended to cover landfill situations. The rule proved inadequate in this regard and a new rule has been proposed specifically to cover landfills.

Change No. 50 – Landfills

a) Insert a new rule to follow the earthwork rules in each zone. Each rule will be labelled with the same number as the earthworks rule, but with the addition of the suffix A, i.e. REr.61A, ICr.55A, SCr.48A, INr.54A, OSr.49A and RUr.27A. The subject of the rule is "Landfill." A note is to be added to the effect that "this rule is a regional and a district rule."

b) In the permitted activity column e.g. REr.61A.1 (and for each of the other zones described above) insert the words "Landfills are not a permitted activity."

c) In the controlled activity column e.g. REr.61A.2 (and for each of the other zones described above) insert the words "Not Applicable".

d) In the discretionary/non-complying column e.g. REr.61A.3 (and for each of the other zones described above) add the following:

"Landfill activities are restricted discretionary activities if:

a) the maximum height of the landfill does not exceed 2 metres, and its total volume is less than 2,000m ^{3} , and

b) the landfill accepts only cleanfill material.

Discretion is restricted to those matters listed in REr.61.3 (earthworks) [& earthwork rules in other zones] plus: i) visual and landscaping effects, and ii) leachate & runoff, and iii) fill brought on site, and iv) depth, height, volume of fill, and finished ground level, and v) fill quality/compaction methods, and vi) effect on soil fertility/versatility, and vii) consequential stormwater characteristics such as ponding, and viii) cumulative effects of landfill activities.

Activities that contravene a restricted discretionary condition are discretionary activities."

e) In the Assessment Criteria column e.g. REr.61A.4 (and for each of the other zones described above) include the following text: "In considering applications for landfills, Council will restrict its discretion to the matters identified in (for example) REr61A.3 provided that the application does not contravene a restricted discretionary condition."

f) In the Explanation column e.g. REr.61A.5 (and for each of the other zones described above) include the following explanatory comments: "Landfill development and operation are restricted discretionary activities. While landfills generally involve earthworks and modify the shape of the land, their primary purpose is the disposal of solid waste. The concentration of solid waste, often containing contaminants, within landfill sites, increases the potential for adverse effects on the environment beyond that associated with normal earthworks. Additional adverse effects may include generation of leachate, discharge of gas, geotechnical issues such as poor bearing strength and settlement, and contamination of the land itself, making it unsuitable for other uses.

Some landfills operate as cleanfill sites, accepting only material that does not undergo any physical, chemical, or biological transformations likely to cause adverse environmental effects, or health effects, once it is placed in the ground, Cleanfill operations are clearly preferable to activities involving hazardous or potentially hazardous materials, and are more likely to be granted resource consent.

Discharges to water and air from material within landfill sites also require separate regional resource consents."

g) Include the following definition of "Landfill" as MW89A: "Landfill: A waste disposal site used for the controlled deposit of solid waste into or on to land."

h) Include the following definition of "Cleanfill Material" as MW19A: "Cleanfill Material: Solid material such as rock, clay, or soil, or inert building materials such as concrete or brick, but excluding any material which may be combustible, putrescible, degradable, leachable, or hazardous."

Explanation: The purpose of this change is to clearly distinguish between earthworks and landfill operations. The amendments to the earthworks rule (see previous change) make it clear that only clean fill is acceptable as a permitted activity for an earthwork. Anything else will require consent for a landfill, with consideration of the appropriate criteria. In addition to the criteria listed under the discretionary activity column for earthworks (e.g. REr.61.3), several additional criteria, such as landscaping, traffic issues, and effects on soil fertility/versatility, have been introduced to provide a greater level of control over matters which have caused concern in some recent landfill activities.