

MEMO TO: Natasha Wilson, Principal Planner
TOPIC: North Nelson Plan Change (PC05/01)
FROM: Mike Scott, Senior Planning Adviser
DATE: 1 March 2021

1. Introduction

- 1.1 In our catchup on 24th February, you asked me to look into the content of the Nelson North plan change to the NRMP (PC05/01).
- 1.2 You also asked me to look at the content and provisions of the plan change, the submitters to it and the subject of their submissions.
- 1.3 Finally, I was to compare those with the content of the public draft of the Rural section of the Nelson Plan that we put out for public engagement last year.

2. Status of Plan Change 05/01

- 2.1 PC05/01 was notified on 5th March 2005 with immediate legal effect (see to the Council webpage: <http://www.nelson.govt.nz/environment/nelson-resource-management-plan/nelson-resource-management-plan-2/nrmp-plan-changes/nelson-north-home/>)
- 2.2 The plan change progressed to the summary of submission (including further submissions) and is still showing on the Council website as being “on hold”.
- 2.3 The last sign of activity to advance the plan change was the summary of submissions document (still unfinished), with a date on it of 7th November 2006 (<http://tardis/A266928>).
- 2.4 In an email to Simon Banks from 2008 (<http://tardis/A646855>), Paul Harrington explained that the “decision on whether or not to proceed with the plan change” was on hold, while the council reviewed how to provide for development. He indicated that NUGS was the vehicle for making those decisions.
- 2.5 That indication is in line with council’s own submissions on the plan change. Council submitted on every amendment with the same phrase: “Modify, confirm or withdraw the plan change to align with the Nelson Urban Growth Strategy” (submitter #53, statements 1-6).

3. Content of the plan change

- 3.1 The plan change was proposed to deal with land fragmentation in Nelson North. The section 32 report (<http://tardis/A78682>) indicates that subdivision and re-subdivision in Nelson North was resulting in considerable land fragmentation, with adverse effects on rural character, water abstraction and uncoordinated land-use planning.

- 3.2 The plan change proposed a number of changes to the provisions relating to rural subdivision. These were:
- a. an increase in the minimum lot size in the Lower Density Small Holdings Area from 2 ha to 3ha and remove the reference to an average lot size;
 - b. a change in the activity status for proposals not meeting the controlled activity standard to non-complying (from discretionary), applying to both the Rural zone and the Lower Density Small Holdings Area between the Glen Road and the Whangamoia Saddle; and
 - c. supporting changes in policy direction.
- 3.3 For a complete list of the proposed changes, see Attachment 1, below.
- 3.4 As mentioned in 2.1, above, these changes are all contained in the operative plan, as they were notified with immediate legal effect. Provisions can be found in marked-up text in the relevant sections of the Nelson Resource Management Plan.

4. Submitters & submissions

- 4.1 There were a total of 44 submitters to the Nelson North plan change, with a total of 120 submission points (see <http://tardis/A251652>).
- 4.2 Submitters were mostly residents of Nelson, with many obviously living in the Nelson North area.
- 4.3 Other submitters included Friends of North East Nelson, Nelson Boulder Bank Action Group, Aubrey Survey and Land Development Agency, Nelson City Council, Proprietors of the Wakapuaka 1B Block and Transit (now Waka Kotahi).
- 4.4 With the exception of Transit, none of the submitters on the plan change made submissions to the rural chapter of the recent Nelson Plan public draft.
- 4.5 Transit's submission in 2005 (p28 of the document referenced in 4.1) was in support of the proposed plan change and in support of "clear, well-defined policies to guide growth for a sustainable future". The main reason for the support was the potential for uncoordinated growth in the rural area having adverse effects on the state highway network.
- 4.6 The feedback from Waka Kotahi on the draft Nelson Plan included the submission that consideration of traffic generation from minor residential units was needed.
- 4.7 The main points of the remaining submissions on the plan change can be summarised as follows:
- a. requests to change the zoning of specific property/-ies (usually to make subdivision into smaller lots possible);
 - b. opposition to reduction in minimum lot size;
 - c. support for the plan change;
 - d. one submission to change the proposed provisions to prevent subdivisions below 15ha.

4.8 There seems to have been only one submitter to further submissions (Landmake Lile Ltd), though they don't seem to have made an original submission to the plan change. The Landmark Lile further submissions all support the submitters opposing the changes and call for the proposed amendments to be rejected, or the plan change itself to be withdrawn, due to "insufficient justification".

5. Comparison of zone provisions in the draft Nelson Plan

5.1 Policy direction in the proposed plan change make it clear that the provisions are an interim measure to prevent uncoordinated fragmentation of rural land (including small holdings areas) between Glen Road and the Whangamoia Saddle, until such time as a more structured approach could be taken. It mentions the Nelson Urban Growth Strategy (NUGS) as the vehicle to provide that structure.

5.2 As mentioned above, the provisions are already in force in the Nelson Resource Management Plan, though marked up, so consents planners need to give the provisions some weight, but not as much as if they were fully operative.

5.2 In relation to the General rural zone provisions in the current version of the draft Nelson Plan, policy direction makes it clear that the zone is predominantly for rural production activities, but does allow for a minor residential unit, to support the social and economic wellbeing of rural residents. Rules in this chapter support one residential unit and one minor residential unit per site, defaulting to non-complying if either is exceeded.

5.3 In relation to the Rural lifestyle zone in the current draft Nelson Plan, the only relevant provisions relate to PREC5 - Lower density precinct (there is no Higher density precinct in the area between Glen Road and the Whangamoia Saddle). Policy direction relating to PREC5 provides for small-scale rural production activities ancillary to rural residential living, and a character of general openness, natural features and relatively low density built environment. As with the General rural zone, rules provide for one residential unit and one minor residential unit per site, defaulting to non-complying after that.

5.4 In relation to the subdivision section of the draft Nelson Plan, policy direction aims to ensure that any subdivision provides for allotments that are consistent with the role, character and amenity values of the zone and are sufficient to accommodate the intended use. This policy also directs that any increase in density not significantly undermine the predominance of open space or increase the potential for reverse sensitivity.

5.5 Other policies in the Rural lifestyle chapter direct that buildings not be visually dominant and that subdivision provides for infrastructure requirements.

5.6 Under the relevant subdivision rule (SUB-R7) and standards (SUB-S3 and -S5) in the draft Nelson Plan, minimum lot sizes for a controlled activity in the General rural zone are 15ha, or for sites of 200ha or more, 5000 – 20,000m² per allotment for up to eight allotments (if they are clustered). In relation to PREC5 between Glen Road and the Whangamoia Saddle, the minimum net area is 3ha. SUB-R7 does not seem to have an activity status for proposals that do not comply with the standards, and there is not a default rule for "Any activity not listed in SUB-R4 to SUB-R26". This may be an omission that needs to be corrected in the next change phase.

5.7 In summary, the draft Nelson Plan is broadly aligned with the changes proposed in Plan Change PC05/01. The subdivision minimums in PREC5 match the proposed 3ha in the

proposed plan change, and there is much more policy direction regarding the anticipated role, character and amenity of the zone. The projected structure plan approach of the earlier plan change seems to have been surpassed by a decision to limit fragmentation in the Rural lifestyle zone beyond what is provided for as a controlled activity. The one exception to the proposed approach is the allowance for clustering of small new allotments on sites over 200ha in the General rural zone.

- 5.8 However, to ensure that the policy direction flows into the rules and standards, the draft plan needs to be clear about the setting for activity status for standards not met (at least with regards to standards SUB-S3 and -S5).
- 5.9 It should also be noted that the draft Nelson Plan provides for some increase in intensity in the rural zones by providing for a minor residential unit as a permitted activity, something not anticipated in the NRMP.
- 5.10 See also the comparison table below (Table 1) comparing the provisions of the partially operative changes to the NRMP with the relevant parts of the draft Nelson Plan.

Table 1. Comparison table, PC05/01 in the NRMP vs draft Nelson Plan

Plan & zone	NRMP – Rural zone	Draft NP – GRUZ + SUB	NRMP – Lower Density Small Holdings	Draft NP – RLZ (PREC5) + SUB
Policy direction	Awaiting outcome of NUGS to provide a structure plan for Nelson North rural land-use.	Expectation of rural production and open space with few buildings.	Awaiting outcome of NUGS to provide a structure plan for Nelson North rural land-use.	Expectation of predominance of open space, few buildings incorporated into surrounding topography and vegetation.
Minimum lot size	15ha	15ha, unless clustered development on lots > 200ha	3ha/2ha (depending on weighting of changes)	3ha
Activity status for < min	Non-complying/ Discretionary (depending on weighting of proposed changes).	Not currently given.	Non-complying/ Discretionary (depending on weighting of proposed changes).	Not currently given.
Permitted no. of dwellings/ site	One residential unit	One residential unit + one minor residential unit	One residential unit	One residential unit + one minor residential unit

Attachment 1: Proposed Plan Change and Amendments

Proposal

To restrict further subdivision and land fragmentation in Rural Zones and Low Density Small Holdings areas until a clearer strategic planning direction is indicated through NUGS 04.

Purpose

To:

- Avoid irreversible land fragmentation.
- Avoid reduction of opportunities for future land use.
- Avoid significant adverse cumulative effects arising from continued land fragmentation below the minimum subdivision standards set out in the Nelson Resource Management Plan.
- Better enable forward planning for infrastructural services and community facilities.
- Give effect to the recommendations of the 2002 Hira Village Centre Strategy Study.
- Provide clearer direction and greater certainty for applicants, the Applications Committee and Council staff.

Amendments

1. Amend RUr.78.2(e)(ii) to delete reference to 2ha minimum, and make the 3ha average the minimum lot size as follows:

e) the net area of every allotment is at least <ol style="list-style-type: none">i) 15ha except in the Small Holdings Area;ii) 3ha average lot size with a 2ha minimum lot size in the Lower Density Small Holdings Area...

2. Amend RUr.78.3 as follows:

Any subdivision that contravenes a controlled activity standard is discretionary if it is for the purposes of a network utility.
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Any other subdivision that contravenes a controlled activity standard is discretionary if:
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| <ol style="list-style-type: none">a) it complies in all respects with all the standards relating to water, stormwater, and sewerage in Appendix 14 andb) it is not located in the rural zone or small holdings area between the Glen Road (including all areas east of The Glen road) and Whangamoā Saddle the net area of allotments is greater than 1ha in the Small Holdings Area except where lots have been created for the purposes of network utilities |
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Any subdivision in the rural zone or low density small holdings area located between the Glen Road (including all areas east of The Glen Road) and Whangamoā Saddle which does not meet the controlled activity minimum lot sizes is a non-complying activity, except where lots have been created for the purpose of access or network utilities.
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3. Amend the last two sentences of DO16.1.1xi (pg 5-68) to read as follows: *"In line with Nelson City Council's philosophy of achieving ~~a similar or complimentary~~ an appropriate policy approach, a flexible approach has been taken to the rural environment in the Nelson area some provision is made in the rural environment in Nelson for rural small holdings, to help ease pressure on the quality soils which benefit both areas. However, protection of productive capability in Tasman should not be at the expense of loss of rural character and unsustainable, inefficient or inappropriate development in Nelson. To this end, a plan change was notified in 2005 to make undersize rural small holdings subdivisions in Nelson North a non-complying activity, until such time as a framework is in place to allow for more structured and coordinated rural small holdings subdivisions in Nelson North. The underlying philosophy of the management of this resource remains to protect its productive capacity and to meet other objectives of the zone.*

4. Add the following new explanation after RU2.ii(b) (pg 12-3): *"Since the plan was notified in 1996, there has been a trend of undersize subdivisions in the North Nelson Rural Zone and Rural Smallholdings area. A plan change was notified in 2005 to make undersize subdivisions between The Glen Road and Whangamoia Saddle non-complying activities. This is an interim measure to halt this trend and avoid further adverse effects on rural character, until such time as a more structured and coordinated framework for subdivision is in place."*

5. Add the following new policy in Chapter 12 (pg 12-6)

RU2.5 Structure Planning

Subdivision of the Rural Zone and Rural Small Holdings area between The Glen Road and Whangamoia Saddle which do not meet the minimum site sizes should be restricted as non-complying activities until such time as the Council has developed a strategic plan for further development in this area.

Explanation and reasons

Since the Plan was notified in 1996, there has been a clear trend towards undersize rural residential subdivisions in the Nelson North area. For example, 45% of all subdivisions granted in the Rural Small Holdings are in Nelson North between 1996 and 2002 were non-complying. A further 90% in the Rural Zone were less than half the permitted minimum lot size. The 2002 Hira Village and the Nelson Urban Growth Strategy 2004 both identified subdivisions and resubdivision in Nelson North as cause for concern as they are changing the character of the area to one not anticipated in the Plan. These concerns centre around:

- *Loss of rural character*
- *Adverse effects*
- *Precedent*
- *Cumulative effects*
- *Form, function and efficiency of dispersed rural-residential development*

Left unabated, there is the potential for continued undersize subdivisions to create a rural community and character more consistent with dispersed large residential holdings rather than rural small holdings.

Given this, and the continuing trend and demand for undersize rural lots, Council has identified the need for a more structured and coordinated approach to rural residential development in Nelson North. This will allow future development and subdivision to be undertaken within a framework which takes into account the future long term form and function of this type of development. However, until such a framework is in place, further land fragmentation by rural residential development will be more tightly controlled.

Methods

Making undersize rural and small holdings subdivision in Nelson North a non-complying activity.