

MINUTES OF THE MEETING OF THE HEARINGS COMMITTEE HELD IN THE COUNCIL CHAMBER, CIVIC HOUSE, TRAFALGAR STREET, NELSON ON TUESDAY 3 APRIL 2007 COMMENCING AT 9.35AM

PRESENT: His Worship the Mayor (P Matheson – Chairperson) and Councillor E Davy

IN ATTENDANCE: R Palmer (Administration Adviser)

1.0 HEARING ON PLAN CHANGE 06/02 – 44 TRAFALGAR STREET

Appearance:

For Nelson City Council: J Pattison (Policy Planning Adviser).

Submitter: Carrie Mozena (Women in Nelson).

1.1 Planner's Report

Report No 7173, dated 21 March 2007, agenda pages 1-5 refer.

The Planner outlined the background to the present zoning of the property explaining that although the Council had entered into the agreement in 1996 to sell the property to Women in Nelson as a residential zoned property, the zoning had in fact been changed to Open Space Recreation pursuant to a late submission from the Council's Parks and Recreation Department.

Mr Pattison advised that subsequently the Council had acknowledged that a mistake had been made and as a result Change 06/02 had been initiated to address the situation.

1.2 The Submitter

Carrie Mozena on behalf of Women in Nelson advised that the Submitter completely supported the report put forward by the Planning Officer and the recommendation that the change of zoning be proceeded with.

She explained to the Committee that Women in Nelson had no plans to use the property for other than a woman's centre and it had no intention to redevelop the property for high density residential purposes.

The Hearings Committee reserved its decision.

2.0 HEARING ON PRIVATE PLAN CHANGE 05/05 – SOLITAIRE INVESTMENTS LTD NO 2

Appearance:

For Nelson City Council: Tony Quickfall (Consultant Planner) and Martin Workman (Manager Environmental Policy).

The proponents of the Plan Change: Shoshona Goodall (Counsel), Kathryn Randall (Solitaire Investments Ltd), Jacque McNae and Lisa Gibellini (Staig and Smith Ltd).

Submitter: Francis Earle

2.1 Planner's Report

Mr Quickfall presented his report explaining the purpose of the change being to rezone an area of land running between Ngawhatu Valley and Marsden Valley, from Rural to a mixture of Residential Lower Density (52.86 hectares), Residential Medium Density (69.22 hectares) and Rural Small Holdings (15.4 hectares).

He also explained that the change would allow a rationalisation of the boundary with the Marsden Cemetery and introduce a number of small consequential amendments to the Plan.

Mr Quickfall explained the various provisions to the legislation which needed to be taken into account and outlined the provisions of the Regional Policy Statement and the other Council policies and plans relative to the proposal.

The Committee was advised that the Submitter, Transpower NZ Ltd, would not be attending the Hearing but had provided written comments in relation to the Planner's recommendations, and these were drawn to the attention of all parties at the Hearing.

2.2 Submitter

Mr Francis Earle spoke to the Committee regarding his wish to see a public walkway provided from the end of Isel Place through the northern area of the subject land to connect with Marsden Valley Road and the Barnicoat Walkway.

Mr Earle expressed his thanks for the acknowledgement which Mr Quickfall provided in his report to establishing a walkway from Isel Place through to the Marsden Valley Cemetery and he explained how this could be then extended through the southern portion of the cemetery to connect with the access road to the rezoned land from Marsden Valley Road.

Mr Earle stressed that while he hadn't walked the length of his proposed route he considered that by keeping it as far down the hill as possible it would provide a much easier route than the proposed walkways which tended to follow the ridges.

The Committee noted Mr Quickfall's comments in relation to the submission and in particular the fact that the portion between Isel Place and the subject land was outside the present proposal.

2.3 The Change Proponents

Shoshona Goodall tabled and read written submissions back-grounding the Change and reiterating the Plan Change process and statutory considerations.

She also pointed out that the Section 32 analysis carried out by the Applicant had been recommended by Mr Tony Quickfall to be appropriate and that the Plan Change was consistent with sustainable management and the other provisions in Part 2 of the Resource Management Act 1991.

In relation to the submissions lodged to the Change Ms Goodall acknowledged the comments of Mr Earle and advised that Solitaire Investments Ltd accepted the recommendations made in the staff report on this issue.

Jacque McNae, Consultant Planner for Solitaire Investments Ltd, tabled and read written evidence outlining the significant features of the Plan Change and its relationship to the Nelson Regional Policy Statement and the various plans and strategies of the Council.

Mrs McNae advised that in general terms the Company accepted the assessment carried out by Mr Quickfall and his recommendations except in relation to earthworks under Rule RUr.56 which the Company sought to be provided for as controlled rather than discretionary activities.

Mrs McNae stressed that in her opinion it was inconsistent for there to be a different status for earthworks within the Landscape Overlay in the adjoining residential zone and a controlled activity status for earthworks within the small holdings area would go some way to addressing this inconsistency and providing some assurance for the Company.

The Hearing Committee reserved its decision.

3.0 DECISIONS

3.1 Plan Change 06/02 – 44 Trafalgar Street

THAT in accordance with Clause 10 of the first schedule to the Resource Management Act 1991, Plan Change 06/02 as publicly notified be confirmed;

AND THAT the submission and further submission by Women in Nelson be accepted;

AND THAT the submission by B and J Woods be rejected for the following reasons:

- i) The rezoning of the property at 44 Trafalgar Street proposed by Change 06/02 is to redress an inappropriate zoning on a property which was sold by the Council to Women in Nelson as a residential property; and***
- ii) The residential land adjacent to the property concerned carries a Residential (High Density) zoning and it would not be appropriate to apply any other zoning to the property at 44 Trafalgar Street.***

3.2 Proposed Private Plan Change 05/05 - Solitaire Investments Ltd No 2

THAT in accordance with Clause 29 (4) of the first schedule to the Resource Management Act 1991, Plan Change 05/05 be approved, subject to the following modifications being made in respect of the proposed amendments to the Nelson Resource Management Plan.

(Note the numbering of the following paragraphs follows the numbering of the clauses within the Plan Change request as submitted to the Council.)

- 3.8 New policy RE3.8 (to add provision for cycle links)
“Pedestrian and where practical, cycle linkages, should be provided between Marsden and Ngawhatu valleys...”***

- 3.9 *New explanation (to add provision for cycle links)*
“This policy seeks to ensure that, as subdivision and development progresses within the Ngawhātu Valley and Marsden Valley, pedestrian and cycle linkages are an integral part of the design as the Council and Community seek, over time, to achieve walkway links from the “sea to the sky”. The Structure Plans for these areas show “indicative” locations for walkways and or cycle paths. There is flexibility in the exact location and route of the walkways and cycle paths, provided that the connections are made...”
- 3.11 *New objective and policies under RE5 (to improve the descriptors)*
“Objective RE5
 (i) *Subdivision and development within the Marsden Valley Plateau Area (schedule J) that recognises the special visual landscape values of the area as an important part of the backdrop to Stoke...*
- RE5(iii) explanation and reasons*
The Marsden Plateau forms part of an important backdrop for Stoke. While the land has potential for urban development, the special visual landscape values of the area must be considered in any design...”
- RE5.1 explanation and reasons*
The Marsden Plateau is part of a sensitive visual landform when viewed from various public spaces, in particular parts of Stoke, Monaco and the Airport...
- RE5.2 Policy*
Subdivision and development within the Residential Area of Marsden Hills covered by Schedule K, must be generally in accordance with the Outline Development Plan for this area ...”
- 3.12 *Addition to rules RE.23.1a) and REr.24.1. Delete the proposed addition (superfluous and not needed).*
- 3.15 *New schedule J*
J.1 Application of the schedule
Modify second paragraph as follows (to better clarify the different “areas” on the Plateau):
“The Marsden Plateau is an important area to Nelson... Figures 1 and 2 of Schedule J are spatial tools used to direct development to appropriate parts of the Plateau. Although the Plateau has an underlying Residential Zone, development is restricted to the development areas shown in Figure 2. These areas act as default sub-zonings and have the same minimum lot standards as the zonings of the same description...”
- Add to J.2 as (i) the following requirement:*
 i) *Demonstrate how all earthworks, buildings, structures, and fences proposed to be located within 20 metres of the high voltage transmission lines traversing the Open Space Areas*

comply with the minimum safe separation distances outlined in the NZECP 34:2001.

Modify J.3.1 to read as follows (to give effect to Transpower's submission):

"Earthworks within the Residential and Open Space areas of the Marsden Plateau Landscape Area shown in Figure 2 area a permitted activity provided they comply with the following conditions..."

Modify J.3.1 third bullet point condition to read as follows (improved wording):

"The excavation area or fill area is to be retained or covered as soon as practicable immediately by a building..."

Add the following new bullet point condition to J.3.1 (to give effect to Transpower's submission):

- *"earthworks comply with the New Zealand Electrical Code of Practice 34:2001"*

Replace second sentence of J.4 with the following (for consistency with the Plan):

"Resource consent applications will be considered without notification or the service of notice, and without obtaining written approval of affected persons under section 94 of the Act."

Modify J.4.1 (iii) standard for controlled activities to read as follows (to give effect to Transpower's submission):

"All buildings shall comply with the permitted activity standards ~~for height, yards, coverage and daylight admission~~ in the Residential Rules table unless otherwise provided for by Schedule J or by conditions or consent notice..."

Modify last bullet point under J.4.1 standards for controlled activities to read as follows (to better describe the landscape values):

"Visual appearance of the building including materials, colour and built form from within the development, and externally from public places, in particular Stoke, Monaco and the Airport."

Delete the second explanatory paragraph under J.5 as follows:

~~*"The decision on whether or not a resource consent will be notified will be made in accordance with the provisions on notification in the Act. However, it is noted that the presumption is that subdivision and earthworks complying with the standards and terms for a Discretionary (restricted) Activity within the Marsden p[lateau] Landscape Area need not be notified."*~~

Reason – this statement is superfluous, and is contrary to the RMA presumption that all applications will be notified.

Modify J.5.1 (subdivision conditions) to read as follows (simplified wording and recognition of cycle links):

"(i) Subdivision to create residential sites ~~is located~~ in the Marsden Plateau is limited to the residential density areas (medium to low density) identified on Figure 2 provided it complies including compliance with the minimum lot size..."

- (ii) *Subdivision to create Low Density Small Holdings sites is located ~~in~~ on the Marsden Plateau is limited to the Low Density Small Holdings Areas identified on Figure 2 provided it complies including compliance with the minimum lot size...*
- (iv) *Pedestrian and where practical, cycle linkages are included in any proposal generally in accordance with those shown on Figure 2...*

The matters over which Council has restricted its discretion are as follows:

- *Layout and design...*
- *Provision of walkways and where practical, cycle links...*

Modify J.5.2 (earthworks conditions) to read as follows (to give effect to Transpower's submission):

"Any earthworks within the Residential or Open Space Areas of the Marsden Plateau Landscape Area shown on Figure 2 that do not comply with the permitted activity standard are a Discretionary (restricted) activity.

The matters over which Council has restricted its discretion are as follows:

- *Visual effects.*
- *Extent of compliance with the New Zealand Electrical Code of Practice 34:2001.*
- *Any adverse effects on the stability of high voltage transmission line support structures...*

Modify J.6.1 (discretionary activities) to read as follows (to give effect to Transpower's submission):

"a) Any buildings within the Residential Areas of the Marsden Plateau Landscape Area shown on Figure 2 that do not comply within the controlled activity standard are a Discretionary Activity.

b) Any buildings within the Open Space/Reserve area shown on Figure 2 are a Discretionary Activity."

Modify J.7 (non-complying activities) to read as follows (simplified wording and deletion of superfluous text):

~~"(i) All activities that are unable to comply with the any other activity in the Marsden Plateau area not listed as permitted, controlled or discretionary activity standards are is a non-complying activity in the Marsden Plateau Landscape Area. In considering whether to grant consent and impose conditions regard shall be had to the assessment criteria in section J.8.~~

(ii) The application for subdivisions and earthworks that do not comply with the Discretionary (Restricted) Activity Standards will be assessed as Non-complying Activities. ~~This will enable the full effects of the proposal to be considered with public involvement where appropriate. Even though subdivision and earthworks under this rule occur on land within Schedule J set aside to accommodate future urban growth, the resource consent process will be used to determine the extent of land determined suitable for subdivision and the most appropriate~~

~~design having regard to the intended future use and values should to be protected for the area.”~~

Modify item (x) under J.8.1 (assessment criteria) to read as follows (to better reflect landscape values):

“The actual or potential effects of the activity...especially when viewed from public spaces and Stoke...”

In J.8.2 change “cities” to city’s”.

Add the following to J.8.4 assessment criteria (to give effect to submission from Tiakina te Taiao):

“(iii) Likely presence of and disturbance to any archaeological sites.”

Modify J.8.5 (assessment matters) to read as follows (to better reflect landscape values):

“(i) Demonstration of how the building is to be integrated...In particular, the ability of landscaping to integrate the building visually, especially when viewed from public spaces and Stoke...

(ii) The extent to which building height is responsive to the site, its relationship to public open spaces, adjoining sites, and its visual prominence, especially when viewed from public spaces and Stoke...

(vi) (b) ~~The~~ walls and roofs of all buildings should shall be finished in colours that are recessive and which blend with the immediate environment taking care not to be visually obtrusive when viewed from public spaces, in particular Stoke, Monaco and the Airport. The roof colour should shall be darker than the walls...

Modify J.8.6 (assessment matters) to read as follows (for improved wording):

(ii) The proposed ownership, maintenance and management regime for open space areas and the effect affect...

(iv) The ability of the design to provide for a public lookout and associated infrastructure (carpark, walking track etc.) point with views unobstructed by buildings over Stoke, Monaco and out to Tasman Bay.

(vi) (b) Front the space by...the layout should shall be...

Modify J.8.7 (assessment matters) to read as follows (to provide for cycle links):

“(ii) The consideration of the design of pedestrian and/or cycle links routes with surface conditions...Where pedestrian and/or cycle links routes are to be used during the day only...

(iii) Financial contributions, including the provision of walkway/cycle recreational linkages and any credit for infrastructural works associated with those public reserves...

Modify J.8.8 (assessment matters) to read as follows (to better reflect landscape values):

“(i) ~~The extent of degree to which the subdivision proposal provides for the revegetation, at an appropriate scale, of the foreground open space area to ensure it provides a foreground that contributes to the vegetated backdrop to the City so that development of the Marsden Plateau can be and integration of Marsden Plateau into a setting dominated by landscape context rather than built features, thereby reducing its visual prominence.~~

(iii) the proposal’s ability to:

(a) Avoid, remedy or mitigate significant adverse effects on the City’s backdrop landscape when viewed from public spaces, in particular Stoke...

Add the following to J.8.8(iii) (assessment matters) to give effect to Transpower’s submission:

“(d) Present and future compliance with the Electricity (Hazards from Trees) Regulations 2003 around the existing high voltage transmission lines.”

Modify the second paragraph of J.9 (explanation) to read as follows (to avoid confusion with the explanation of the rule):

“Consideration of context requires recognition...In this situation where they play a significant landscape role as the backdrop for the city, they should ~~shall~~ be incorporated into the design of the subdivision...”

Modify the last paragraph of J.10 (explanation) to read as follows: *“The Development Plan has resulted from...The Marsden Plateau has visual and landscape values from various vantage points, particularly in the Stoke, Monaco and the Airport areas...”*

Modify J.11 table (road and access design) as follows (for improved wording):

a) Modify “residential lane” column 5 (carparking) to read: “2.00m wide strip adjoining earriganway along length of one side of the carriageway”

(b) Modify note 5 to read: “Individual lots accesses from residential lanes are to be paired up at every second lot boundary to act as passing lanes, except where there is a single access which cannot be paired up.”

3.16 New Schedule K.

Modify K.2 “note”, second paragraph to read as follows (for consistency and to provide for cycle links):

“Generally accord in accordance” in respect of the positioning of walkways and cycle paths on the Outline Development Plan shall mean that clear pedestrian or cycle connections are provided...Compliance with the Outline Development Plan in respect of walkways and cycle paths requires the connections...”

Modify K.4 (assessment criteria) to read as follows (to provide for cycle links):

“a) Where connections for roading and walkways or cycle paths are not provided...”

Modify K.6 (anticipated environmental outcomes) to read as follows (to correct an error and better reflect landscape values):

“iii) Provision for road access from the Marsden HGills to the Marsden Plateau, so as to minimise the visual impacts of earthworks and roading on the plateau when viewed from public spaces, in particular Stoke, Monaco and the Airport...”

iii) A network of pedestrian and cycling corridors...

- 3.18** *New assessment criteria. Add “and cycle” after “pedestrian”.*
- 3.25** *Amend RUr56 Landscape Overlay: Earthworks by adding as RUr56.3:
“Earthworks in the Landscape Overlay affecting the Marsden Valley Higher Density Small Holdings Area (within Schedule K) is a discretionary (restricted) activity.
The matters over which Council has restricted its discretion are as follows:*
- Visual effects.*
 - Stability, geotechnical and hazard effects particularly in the land management overlay.*
 - The minimisation of earthworks achieved through design and layout being responsive to the site.*
 - The need for the quantity of earthworks to support infrastructure, roading or future urban development.*
 - The extent of disturbance to natural drainage patterns.*
 - Sediment control.*
 - Extent of resultant hard surfaces.*
 - Staging of earthworks and relationship to the master plan of any subdivision proposal.*
 - In determining whether to grant consent, and what conditions to impose, Council will have regard to the assessment criteria in J.8.”*
- 3.26** *New rule RUr.77A referring to Schedule K. Under the “item” column, add “(refer Residential Zone, chapter 7)”, to provide a better cross-reference to the schedule.*
- 3.27** *Amended rule RUr.78.2.e.iii (minimum lot sizes). After “Schedule K” add “chapter 7” to provide a better cross-reference.*
- 3.28** *Amended rule RUr.78.2(iii) (design and layout). After “Schedule K” add “chapter 7” to provide a better cross-reference.*
- 3.29** *New assessment criteria. Add “and cycle” after “pedestrian”.*

Plan 4 (Figure 2). After the “area” descriptors in the key (e.g. “medium residential”), add “area” and the minimum lot sizes (e.g. “Medium Density Residential area (400m² minimum lot sizes).” This modification will help differentiate between zones and “areas”.

Plan 5. Add an indicative new walkway link between the Marsden Ridge Road and Marsden Valley Cemetery. This gives partial effect to Mr Earle’s submissions. The location of the walkway is not significant and can be at the Plan Change Proponents discretion;

AND THAT Council investigate the provision of a walkway/cycle path extension between Isel Place and the Marsden Valley Cemetery crossing the land owned by Council and the western portion of the land owned by Solitaire Investments Ltd;

AND THAT the resource consent for the subdivision of the Ching’s flat area between the northern boundary of the land owned by Solitaire Investments Ltd and Marsden Valley Road be assessed having regard to the desirability of integrating with Plan Change 05/05 and in particular Plan 5 entitled “Schedule K Outlined Development Plan 5” which outlines indicative walkway/cycle path links;

AND THAT Council give consideration to amending the Nelson Resource Management Plan to require geotechnical assessments to be carried out in respect of subdivisions within the land management overlay and/or to amend the Nelson Resource Management Plan such that all earthworks within any land management overlay are restricted discretionary activities;

AND THAT the submission by Francis John Wansford Earle be accepted to the extent that an indicative walkway/cycle path is required to be provided over land owned by Solitaire Investments Ltd between its western boundary and the Marsden Cemetery;

AND THAT it be rejected in respect of the remainder of the land owned by Solitaire Investments Ltd for the reason that such a link is not necessary as there will be a new road running the length of this portion of the property which in turn will link with a walkway connecting to the Barnicoat Walkway;

AND THAT the submission by Tiakina Te Taiao Ltd be accepted in part;

AND THAT in respect of any future subdivision of the land concerned in the Change, Council impose a condition covering the accidental discovery of any artefact or urupa site, and ensuring that appropriate work is carried out to ensure fish passage up and down the streams;

Reason:

The Committee acknowledges the concerns expressed by the Submitter and the role which it has accepted in relation to the area.

The Committee is of the opinion that the appropriate time to deal with the concerns raised, having regard to the fact that no specific urupa sites or sites of importance can be identified, is at the time that any actual subdivision of the land takes place.

The Committee also notes that the Council is programming a fish survey of the streams within this area in the near future.

AND THAT the submission by Transpower NZ Ltd be accepted for the reason that the Committee is satisfied that the modifications suggested by the Submitter, or words to similar effect, are appropriate to ensure the continued integrity of the Company's infrastructure where it traverses the land owned by Solitaire Investments Ltd.

The meeting closed at 2.15pm.

CONFIRMED AS A CORRECT RECORD OF PROCEEDINGS

_____ CHAIRPERSON _____ DATE