

**PROPOSED PRIVATE PLAN CHANGE:
05-05 (SOLITAIRE INVESTMENTS Ltd)**

Planners report to the Environment Committee hearing on private plan change 05-05

Date of hearing: 3 April 2007

1. INTRODUCTION

- 1.1 My name is Tony Quickfall and I have been engaged by Nelson City Council (NCC) to report on a private plan change request. I have been involved in discussions with the plan change proponents for over two years, both as the NCC staff member and more recently as a planning consultant.
- 1.2 This report relates to a request for a private change to the Nelson Resource Management Plan: plan change request 05-05 (Solitaire Investments Ltd).
- 1.3 Plan change 05-05 covers an area of approximately 138.7ha of land between Ngawhatu Valley and Marsden Valley. The property is characterised by a prominent ridge running from the Barnicoat Range down to Stoke. The plan change area encompasses 8,000m² of land owned by BC and JT Gass, and a further 2,940m² of Nelson City Council esplanade reserve. The balance of the land subject to the plan change is owned by Solitaire Investments Ltd.

Process to date

- 1.4 Section 73(2) of the Resource Management Act ('the Act') enables any person to request a change to the District Plan. The plan change request was formally lodged with Council in November 2005, following over 2 years of pre-application discussions between the proponents and Council officers. It is noted that the proponents and their advisors have worked cooperatively with Council officers, and have accommodated many changes and improvements which were sought by Council officers. Further information was requested, and this was subsequently provided.
- 1.5 On 14 September 2006 the Environment Committee agreed to proceed with public notification of the plan change request as a private request. The plan change was notified on 28 October 2006 and received 4 submissions and no further submissions. The Ministry of Education has since withdrawn their submission. These submissions are described in more detail later.

2. PROPOSED CHANGES

- 2.1 The subject property is currently zoned predominantly Rural in the Nelson Resource Management Plan ('the Plan'). There is a small area of Rural Small Holdings (low density) between the Marsden Cemetery and the McLaughlin land to the north.
- 2.2 The existing Rural Zoning permits subdivisions down to 15ha minimum, while the small holdings zoning allows subdivision down to 3ha minimum.
- 2.3 The key aspects of the plan change are:
 - rezone 52.86ha from Rural to Residential lower density (600m² minimum);
 - rezone part of 69.22ha from Rural to Residential medium density (400m²) with the balance in Reserve/Open Space;
 - rezone 15.45ha from Rural to Rural Small Holdings (higher density, 1ha average, 2000m² minimum);

- rationalize the boundary and scheduling of the Marsden Cemetery to reflect land owned by the plan change proponent;
- various amendments to the Plan to give effect to the rezoning.

2.2 The existing Rural zoning has a permitted yield of 9 lots. The proposed rezoning may realistically yield up to 300 new lots.

3. SUBMISSIONS & FURTHER SUBMISSIONS

3.1 The Plan change attracted four submissions, one of which has been formally withdrawn (Ministry of Education). The remaining three submissions are summarised as follows. No further submissions were received.

Table 1: submissions received

Submission	Submitter	Status	Issues	Remedy
2	Tiakina te Taiao Ltd	Support		• Urupa within the site set aside from development (and marked) • Fish stocks within the proposed area are assessed with results sent to the submitter • Any culverts designed to allow fish passage
3	Francis Earle	Not stated	Walkways	• New walkway link from Isel Place (past the substation) to the site • Additional walkway links to Ngawhatu Valley • Extend footpath up Marsden Valley Rd to the cemetery
4	Transpower	Support, with amendments	• Compliance with NZ electrical Code of practice • Vegetation planting • Buildings and earthworks	Various amendments are sought to strengthen controls on activities in the vicinity of high voltage lines.

3.2 There are no common issues between submitters, with each submitter seeking different relief.

4. STATUTORY CONSIDERATIONS

4.1 Section 72 of the Act establishes the purpose of a District Plan as “*to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act*”.

4.2 Part II of the Act sets out the purpose and principles of the Act. Section 5(1) establishes the purpose of the Act as being “*to promote the sustainable management of natural and physical resources,*” which is defined in section 5(2) as meaning:

“managing the use, development, and protection of natural and physical resources in a way or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for the health and safety while-

(a) Sustaining the potential of natural and physical resources (excluding mineral) to meet the reasonably foreseeable needs of future generations; and

(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”

- 4.3 Part II of the Act also establishes matters of national importance that must be recognised and provided for (section 6), and other matters to which particular regard must be had (section 7). Section 8 states that the principles of the Treaty of Waitangi shall be taken into account. The matters relevant to this plan change request are assessed as follows.

6(a) The preservation of the natural character of...rivers and their margins and the protection of them from inappropriate subdivision, use and development.

This section is relevant in respect of a small part of Poormans Stream which runs through the property. The natural character of this stream has already been modified, and the proponents have installed a two-way bridge in anticipation of this property being developed. Given the limited extent of river boundary, this proposal will have no more than a minor effect on natural character of the stream.

6(b) The protection of outstanding natural; features and landscapes from inappropriate subdivision, use and development.

This section is not directly relevant, as the Plan does not identify any outstanding features or landscapes on the site. However, the site does contain landscape overlays, and while not strictly falling under section 6(b) as being “outstanding”, these are a relevant consideration.

The plan change as notified was the result of a number of iterations and discussions with the proponents, stemming from a landscape study commissioned by the Council in 2004. That study recommended low density small holdings (3ha minimum) on the ridge and “front faces”. While the final form of the proposal departs from the recommendations of the landscape report, on-going discussion between Council staff and the proponents have resulted in what is considered to be an acceptable compromise, whereby the steeper gullies and front faces will have limited or no development in return for a higher level of development on the ridge and plateau. The proponents have also put in place controls on development on the plateau, to ensure the landscape significance of that part of the farm is not compromised. These measures are considered to address section 6(b) insofar as it is relevant.

6(d) Maintenance and enhancement of public access to and along...rivers.

The proposal will not affect or compromise public access to or along Poormans Stream.

6(e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other Taonga.

The plan change proponents advise (pg 35) that an archaeological file check has not revealed any recorded archaeological sites. Nor does the Plan identify any historical sites or features.

Tiakina te Taiao have submitted seeking that the urupa (burial site) “within the proposed area” is set aside from any future development, and is marked. Further discussions with the submitter reveal that there is a *possibility* of urupa on the southern side of Marsden Ridge (overlooking Ngawhatu valley). This can be addressed at the time of subdivision consent.

7(aa) The ethic of stewardship.

The retention of the front face gullies in vegetation and not providing for any development represents on-going stewardship of this part of the property. This is an amendment from the original proposal which identified the front face as residential with the only limitations being geotechnical.

7(b) The efficient use and development of natural and physical resources.

The rezoning of this site could be considered the efficient use and development of a physical resource, insofar as it will provide for an increasing population base in close proximity to infrastructure and facilities.

7(ba) The efficiency of the use of energy

This site is suited to development in respect of energy efficiency, given its close proximity to the urban area. Unlike many “greenfield” developments, this rezoning could not be considered as urban sprawl, as it is proposed within an existing urban area, on lower productivity land.

7(c) The maintenance and enhancement of amenity values.

The proposed amendments to the Plan and the proposed landscape controls will, if implemented as intended, ensure that visual amenity values are retained. There will inevitably be some loss of rural amenity values of openness, low traffic, and low noise. However, the site lends itself to a high level of residential amenity, which will offset any loss in rural amenity.

7(d) Intrinsic values of ecosystems.

The retention and enhancement of vegetation on the front faces will support this matter.

7(f) Maintenance and enhancement of the quality of the environment.

“Quality” is highly subjective. On one hand, the proposal could be said to be detracting from the quality of the environment by providing for residential development in a rural area. However, on balance, the proposal should improve the overall quality of this area, by opening up additional vistas to the public, enhancing visible hill slopes, and providing for a high-quality residential development.

7(g) Finite characteristics of natural and physical resources (as it relates to finite rural land within the Nelson boundary).

Productive rural land is a scarce and finite resource. The subject site is classified as class 6e and 7e in the New Zealand Land Resources Inventory, which indicates it is of low “versatility”, erosion prone, and suitable for a limited range of productive uses.

One benefit of allowing development in this area from a regional perspective is the possibility of relieving the development pressure on the finite productive land on the Waimea Plains. From a regional perspective, this rezoning should therefore be supported in favour of further residential development on the Waimea Plains.

7(i) The effects on climate change.

Climate change is becoming an increasingly important consideration. The proposed rezoning has the potential to minimise the effects on climate change, and to off-set effects from development located further from urban infrastructure. While not as carbon efficient as infill of existing urban areas, its primary point of difference from traditional greenfields development is proximity to established urban infrastructure, including schools, shops, roading and services. The consequent benefits of trip reduction will assist in minimizing carbon emissions. Furthermore, the plan change includes provision for walking and cycle links, and vegetation enhancement on the front faces which will provide some carbon sequestration. Combined with the Air Quality Plan restrictions on solid fuel burners, the proposed rezoning should have a low carbon footprint, (not allowing for construction and development).

4.4 Section 74 sets out the matters which a territorial authority shall have regard to when changing its plan. Note that it is a mandatory requirement for Council to “have regard” to these matters:

- *Proposed Regional Policy Statement*
- *Proposed Regional Plan*
- *Management plans and strategies prepared under other Acts*

- *Relevant entries in the Historic Places Register*
- *Regulations relating to sustainability of fisheries resources*
- *Extent to which the district plan needs to be consistent with plans of adjacent authorities*
- *Any relevant planning document by an iwi authority and lodged with the territorial authority*
- *Management plan for a foreshore and seabed reserve*

4.5 Section 75 specifies the contents of a district plan. Section 75(3) and 75(4) set out the following mandatory obligations:

(3) *A district plan must “give effect to”:*

- *Any national policy statement*
- *Any New Zealand coastal policy statement*
- *Any regional policy statement*

(4) *A district plan must not be inconsistent with:*

- *A water conservation order*
- *A regional plan*

4.6 The statutory matters are considered in detail along with other issues in the following sections.

Part II RMA Matters

4.7 As assessed above, the proposed rezoning is considered to be neither inconsistent with, nor contrary to the purpose or any of the relevant principles of the Act.

Regional Policy Statement

4.8 The Act requires that the Council “have regard” to the Regional Policy Statement (RPS), and the plan changes “give effect to” the RPS. The Nelson RPS became operative in 1997, and is currently under review.

4.9 The RPS is a regional document, with objectives and policies focused on regional council issues like discharges, water quality, energy use, natural hazards, and the coast. The plan change gives effect to the regional components of the RPS, insofar as it includes controls which will meet the regional objectives and policies of the RPS.

4.10 The RPS also includes provisions relating to urban expansion and transport which require greater consideration.

Urban Expansion

4.11 Policies DH1.3 of the RPS specifically relate to urban expansion (“greenfields”) as opposed to urban intensification. Policy DH1.3.3 contains a comprehensive list of criteria (refer Appendix A) which is intended to be used for assessing the costs and benefits of greenfields development. When assessed against those criteria, the plan change is assessed as giving effect to the RPS, particularly in respect of the close proximity to existing urban infrastructure.

Land Transport

4.12 The plan change has the potential to yield up to 300 lots/dwellings according to the applicant’s traffic report. At full development (achieved over an estimated 15 years), the traffic report provides an estimate of an additional 3,000 vehicles per day through the road network.

4.13 Section IN2.2 and IN2.3 of the RPS contains objectives and policies specifically relating to a safe, efficient, and energy efficient land transport system. Provided the necessary intersection and/or roading upgrades are undertaken, the plan change is able to give effect to the RPS in terms of a safe and efficient land transport system.

- 4.14 Although the plan change involves greenfields development, the land is also close to existing services and facilities. One consideration for any future development in the Marsden Valley would be to provide for a future Suburban Commercial Zone to service the proposed developments and to further reduce trip generation. This is however, not proposed as part of this plan change, and is a matter for consideration in any subsequent development in the valley.

Regional Plan

Resource Management Plan ('the Plan')

- 4.15 The Plan is a combined regional and district plan. The plan change does not give rise to any inconsistency with regional provisions in the Plan.

Proposed Regional Air Quality Plan (AQP)

- 4.16 The AQP contains provisions designed to improve existing air quality and to avoid discharges which would adversely effect existing air quality.
- 4.17 The AQP contains different controls depending on whether discharges are located within the urban area or rural area. The urban area boundary is indicated in the AQP and generally encompasses the existing residentially developed area. Rule AQr.25 controls discharges from domestic heaters (small scale solid-fuel burning appliances).
- 4.18 The subject land is not within the urban area. The AQP's definition for "urban area" includes any rural land which has been subdivided since notification of the plan (where the area of the site is less than 0.5ha). This is a "fall back" provision which will ensure that rural subdivision below 0.5ha meets the urban air quality standards.
- 4.19 A minor amendment to the definition for "urban area"¹ was recommended as part of the assessment for plan changes 05-03 and 05-04. The effect of this amendment would be that the residential parts of Solitaire land would be deemed "urban" and would be subject to the urban controls for solid fuel wood burners. This recommendation was raised as part of the consideration of plan changes 05/03 and 05/04, and Council has since undertaken to amend the AQP's definition for "urban area" accordingly.

Management Plans and Strategies Prepared under Other Acts

Long Term Council Community Plan (LTCCP)

- 4.20 Council's LTCCP prepared under the Local Government Act sets out Council's funding provision for 10 years, and sets out the community outcomes. Council staff advise that the LTCCP contains funding for upgrades as a result of general growth, rather than upgrading relating to specific plan changes. As such, there is no provision for specific upgrades (e.g. roading) as a result of development in Marsden Valley.
- 4.21 The LTCCP also contains a number of very high level, broad outcomes. My assessment is that the plan change is consistent with the following relevant community outcomes.

1 - HEALTHY LAND, SEA, AIR, AND WATER

We protect the natural environment

2 - PEOPLE-FRIENDLY PLACES

We build healthy, accessible and attractive places and live in a sustainable region

3 - A STRONG ECONOMY

We all benefit from a sustainable, innovative and diversified economy

¹ Recommended to delete "other than a privately-initiated plan change" in the definition for "urban area".

Council Annual Plan

- 4.22 Funding provision in the 2007/08 Annual Plan relates to general growth, rather than consequences of this specific plan change. Funding for any infrastructure upgrades as a result of the plan change is able to be dealt with through the Council's financial contributions policy, the subdivision and resource consent process, and through subsequent annual plan provisions.

Regional Land Transport Strategy (RLTS)

- 4.23 At the time of drafting this report, the Council is preparing a review of its 2002 RLTS. This review is on hold until the Corridor study has been finalised.
- 4.24 However, as part of the review, the RLTS consultants specifically looked at additional growth generated by this plan change, to the extent of undertaking traffic modelling for the increased vehicles from the subject land, fully developed. It is understood this modeling has highlighted some network deficiencies, which will need to be addressed as specific intersection upgrades as development progresses.
- 4.25 Although "on hold", the RLTS review has anticipated this plan change being approved with full development, and the 2007 RLTS will include relevant provisions to address consequences of this.

Historic places register entries

- 4.26 There are no historic places entries on the site. The applicant advises there is no file register of any archeological site.

Fisheries resources

- 4.27 Poormans Stream contains native fisheries values, comprising native freshwater fish and eels. While these resources have local value, they are not considered to be of any significance as a fisheries resource, relative to other fisheries resources in the Nelson District. It is also noted that adverse effects on the ecological and fisheries resources can be avoided and mitigated through conditions of subdivision consent, and through the retention and enhancement of landscaping.

Consistency of Nelson and Tasman District Plans

- 4.31 The plan change has been proposed in a format consistent with the Nelson Resource Management Plan. The site proposed to be rezoned is located far enough from the Tasman District boundary for consistency with the Tasman District Council (TDC) plan not to be considered relevant.

Iwi planning documents

- 4.28 There is only one Iwi Planning Document which has been lodged / registered with the Council. This is the Nga Taonga Tuku Iho Ki Whakatu Management Plan, which sets out the iwi perspective of 5 manawhenua iwi in Te Tau Ihu (top of the south). The plan is structured around the spiritual dimensions of wind and air (discharge of contaminants), the people, trees and birds, water and cultivated foods. Of direct relevance to this plan change is the Iwi Management Plan's key objectives for urban planning and land management. These are:
- The mauri (life-force) of nga whenua (the land) is healthy and able to support nga tangata, indigenous flora and fauna.
 - Nga whenua provides sustenance for present and future generations.
 - Waahi tapu (sacred places) are protected from the adverse effects of land use.
- 4.29 There are a number of supporting policies and desired actions associated with urban planning and land management. These revolve around iwi participation, partnerships and stewardship of the land resource, including appropriate processes.

- 4.30 The plan change is considered to generally align with the desired actions. The rezoning itself will not adversely affect the identified iwi values in the Iwi Management Plan, and subsequent development can be controlled through the resource consent process.

Consistent with Regional Plan

- 4.31 The plan change request has been drafted to be consistent with the Nelson Resource Management Plan and the AQP.

Statutory consultation

- 4.32 Clause 3B for the first schedule sets out a procedure for iwi consultation. This clause is relevant, as it is deemed to apply to the plan change proponent as if the plan change was a new plan being developed by the council.
- 4.33 The Clause 3B procedures are intended to provide opportunity for iwi consultation and to set up a process for engaging iwi. I understand that the plan change request has been presented to the Nelson Iwi Resource Management Advisory Committee. This process would meet the requirements of Clause 3B.

5. ASSESSMENT OF ISSUES

Assessment of Submitters' Concerns

Submitter 2: Tiakina te Taiao (Iwi values)

- 5.1.1 Tiakina te Taiao have sought three decisions:
- set aside and mark the urupa within the site;
 - undertake a fish stock assessment;
 - design culverts to allow fish passage.
- 5.2 Further discussions with the submitter indicated a *possibility* of urupa being present on the southern side of Marsden Plateau, overlooking Ngawhatu Valley. The submitter advises there are known burial sites in the Ngawhatu Valley. While there are no known or identified sites on the subject land, iwi advise that there may be sites on the higher southern face. This would be in accordance with Maori custom of burying higher ranking individuals on high points, overlooking other urupa. This issue is already addressed in part through the assessment matters for subdivisions which include the following:
- Actual and legal protection of significant heritage items.
 - Extent to which the proposal has regard to Maori values, particularly any traditional, cultural, or spiritual aspect relating to the land.
 - Any consultation, including with tangata whenua as appropriate.
- 5.3 Given the submission and the subsequent discussions with the submitter, an additional assessment matter is recommended to be included relating to subdivision in the Marsden Plateau.
- 5.4 In respect of the fish access, a fish stock assessment is more a function of the Council rather than a developer. The proposed development only fronts a very small part of Poormans Stream, and stormwater discharges are able to be addressed through specific designs as part of the subdivision process. Council undertook a consolidation of all fish data in December 2006. the next stage of this programme is to undertake fish surveys, which would address the issue raised by this submitter. In terms of timing, it may be prudent to undertake a fish stock assessment prior to any development taking place, as this could provide valuable pre-development baseline information for monitoring during and following subsequent development. Such a baseline

study may allow effects of future development to be better monitored. This issue may also be able to be addressed through subdivisions consents.

- 5.5 Culvert design is also best addressed as part of subdivision consent, with the Plan containing specific rules on fish passage. It is noted that the new access bridge crossing Poormans Stream is an improvement on the previous culvert, which was prone to gravel build up on the upstream side and scour on the downstream side, and which impeded fish passage.

Recommendation 1

- a) Accept in part the submission from Tiakina te Taiao, to the extent that modifications are made relating to urupa, and that fish passage can be assessed as part of any subdivision consent.
- b) Modify the plan change to add the following new assessment matter to J.8.4:
“(iii) *Likely presence of and disturbance to any archaeological sites*”.

Submitter 3: Francis Earle (Walkways)

- 5.6 Mr. Earle seeks three decisions in respect of this plan change:
- new walking link (for walkers only) from Isel Place to the Barnicoat track;
 - any other link between Ngawhatu Road end and Marsden Valley;
 - extending the footpath up Marsden Valley Road to the cemetery
- 5.7 The line of the new track from Isel Place crosses land owned by Transpower, and would require a separate landowner agreement outside the scope of this plan change. However, the land immediately south of the track alignment is owned by the Council. A walking link across this land would still require agreement with Transpower to cross a small portion of their land, but this would provide alternative access to the subject site. The suggested walkway extends along the northern side of Marsden ridge, for the full length of the property to link in with the Barnicoat Road.
- 5.8 There may be some merit in a walking link between Isel Place road end, and the Marsden Valley Cemetery. This would provide a lower level easier grade track, as an alternative to people using the valley road or climbing to the top of Marsden Plateau.
- 5.9 In addition, the plan change currently has no provision for a walking link between the Cemetery and the development site. Although not requested by the submitter, it would be relatively simple to create this link on the northern side of Marsden Ridge, and this should be provided for.
- 5.10 A walking link running the full length of the property as sought by Mr. Earle is not necessary, since the new road will create a link with the Barnicoat Road.
- 5.11 The suggested extension up the Ridgeway is outside the scope of this plan change.
- 5.12 The submitter has also requested that links should be exclusively for walkers. Council has a policy of shared walking/cycle links, and where practical, provision should be made for cycling on these links.

Recommendation 2

- a) Accept in part Mr Earle’s submission, to the following extent:
- b) Council should investigate, separately from this plan change, a walking/cycle extension between Isel Place and Marsden Valley Cemetery, crossing Council land and part of the Solitaire land.
- c) Modify Plan 5 of the plan change to show an indicative new walking link between the

Marsden Ridge road and the Marsden Valley Cemetery (the location of this link can be at the discretion of the plan change proponent).

Submitter 4: Transpower (High Voltage Lines)

5.13 Transpower have sought a series of modifications to mitigate effects of buildings and vegetation on their high voltage transmission lines. These include retaining a number of amendments. Overall, the Transpower submission can largely be accepted, as the suggested modifications will fill some rule gaps and better provide for the functionality and integrity of the high voltage transmission network. The requested modifications are assessed in detail as follows:

i) Schedule J, section J2 – additional information required

The suggested modification relates to information which demonstrates compliance with New Zealand Electrical Code of Practice (“NZECP”) 34:2001. NZECP sets out various standards for undertaking earthworks and construction near high voltage transmission lines. These standards are in addition to the 20m building setback currently in the Plan.

Reference to NZECP is supported, since this is the industry standard. However, section J2 (design statement) relates to landscape information, and is not the appropriate place to include information relating to transmission lines. This submission is best given effect to by a new assessment matter relating to all buildings within 20m of lines. Since this change goes beyond the application site, and would affect all parts of the district, it is beyond the scope of the plan change and would need to be initiated by Council.

Recommendation 3

- a) Accept Transpower’s requested modification.
- b) As a Council-initiated plan change, amend the Plan to add “*compliance with the New Zealand Electrical Code of Practice*” as an assessment matter for all buildings within 20m of high voltage lines.

ii) J.3.1 – earthworks. New condition for permitted activities.

The submitter seeks to add a new condition for permitted earthworks so that they comply with the NZECP. The effect of this would be that earthworks must comply with the Code in order to be permitted.

The Plan currently contains no controls on earthworks near high voltage transmission lines. Nor does the plan contain any designations over the transmission lines or pylons. The effect of this is that Solitaire could, as of right, undertake earthworks within close proximity to the transmission lines and/or pylons which could affect their integrity. The suggested modification would remedy this, as it would ensure that earthworks were undertaken in accordance with the NZECP.

Recommendation 4

- a) That Transpower’s requested modification be accepted.
- b) Modify the Plan Change to add “open space” to J.3.1 as follows:
“*Earthworks within the Residential and Open Space areas of the Marsden Plateau Landscape Area as shown in Figure 2 are a permitted activity provided....*”
- c) Modify the Plan Change to amend J.3.1 as follows:
“*The excavation area or fill area is to be retained or covered as soon as practicable immediately by a building...* ”
- d) As new bullet point to J.3.1 as follows:
 - “*earthworks comply with the New Zealand Electrical Code of Practice 34:2001.*”

iii) J4.1 – buildings. New condition for controlled buildings.

The submitter seeks to add a new condition for controlled buildings such that they comply with NZECP.

The plan contains existing controls for buildings with a minimum setback of 20m from high voltage transmission lines. Rather than introduce a new control, it would be preferable to use the existing controls in the Plan. This way, all the permitted activity standards will need to be complied within (including high voltage setbacks), not just height, yards, coverage and daylight.

Recommendation 5

a) Accept in part Transpower’s submission, to the following extent;

b) Modify section J.4.1(iii) as follows:

“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...”

iv) J.5.2 – earthworks. Modification to include “open space”.

The submitter seeks to expand the earthworks controls to include Open Space areas as well as residential areas. They also seek a number of new matters of control.

The earthworks controls in Schedule J currently do not apply to the Open Space areas, and are limited to the residential areas. The submitter’s suggestion is supported, as the earthworks controls are intended to manage landscape effects of earthworks. Extending this to include the open space areas is appropriate given the visibility of the “front faces”. The matters of control are also considered appropriate.

Recommendation 6

a) Accept the suggested modification in Transpower’s submission as follows;

b) Modify the plan change to add “open spaces” to J.3.1 to read as follows:

“Earthworks within the Residential or Open Space areas of the Marsden Plateau Landscape Area as shown on Figure 2 are a permitted activity providing they comply with the following conditions...”

c) Modify J.5.2 (earthworks conditions) as follows:

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

Matter 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...”*

v) J.6.1 – buildings. Modification to include “open space”.

The submitter seeks to expand the buildings controls to include Open Space areas as well as residential areas.

Schedule J is currently “silent” on any building within the Open Space and reserve areas, and any buildings within the rural areas. The default position is that buildings in these areas will fall under the existing plan controls for these zones.

The submitter's suggestion would not be effective. They seek that buildings in the open space that don't comply with the permitted conditions are discretionary. However, there are no permitted conditions for buildings within the Open Space areas. Building on the front faces could be affected by landscape and geotechnical constraints. To give effect to the submission, buildings on the front faces of the Marsden plateau within the Open Space areas should be simply listed as discretionary.

Recommendation 7

- a) Accept in part the suggested amendment in Transpower's submission to the following extent;
- b) Modify the plan change (Schedule J.6.1) so that buildings within the Open Space areas are listed as discretionary as follows:
 - "a) Any buildings within the Residential Areas of the Marsden Plateau Landscape Area as 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 as shown on Figure 2 are a Discretionary Activity."*

vi) J.8.8 – landscape and planting. New assessment matter.

Transpower seek to add a new assessment matter for landscaping for compliance with the electricity regulations relating to hazards from trees. This assessment matter is supported, as it is appropriate to consider the effects of vegetation on the functionality and safety of high voltage transmission lines.

Recommendation 8

- a) Accept the suggested amendment in Transpower's submission as follows:
- b) Modify the plan change to add the following new assessment matter to J.8.8.iii):
 - "(d) Present and future compliance with the Electricity (Hazards from Trees) Regulations 2003 around the existing high voltage transmission lines."*

Assessment of Planning Issues

- 5.14 Unlike a Council plan change, consideration of private plan changes is not limited to only those matters raised in submissions. Clause 29(4) of the Act provides that "*after considering a [private] plan or change, the local authority may decline, approve, or approve with modifications, the [private] plan or change, and shall give reasons for its decision*". Legal advice provided by the Council's advisors confirms that this clause gives the Council the ability to modify a private plan change beyond only those modifications sought by submitters. It is noted that the plan change proponent has the right to appeal the Council's decision under clause 29.
- 5.15 Given the power under clause 29(4), it is appropriate to consider any wider effects or planning implications beyond those changes sought in the submissions.

Water Supply

- 5.16 Council engineering staff advise there is sufficient capacity in the reticulated water supply to service the proposed subdivision. New water storage tank(s) will be required, which will provide gravity fed water to parts of the development. The establishment of a services overlay

over the entire site means that water reticulation can be designed in detail as part of staged subdivision consent.

Stormwater detention

- 5.17 Similarly, Council staff advise of no significant issues with stormwater discharges. Proposed Schedule J relating to the Marsden Plateau includes specific controls on stormwater discharges, including “soft” engineering options, and utilization of natural treatment systems. The Services Overlay will allow the detail of stormwater systems to be designed at the time of subdivision.

Sewer

- 5.18 Council financial contributions policy requires contribution or development impact levy towards the upgrade of the sewerage system. This would include any “downstream” upgrades required beyond the subject site, but which are attributable to the increased development.
- 5.19 These contributions, along with the Services Overlay will allow for detailed design to be considered, and costs to be recovered, at the subdivisions stage.

Roading and traffic

- 5.20 The applicant’s traffic report has estimated traffic volumes for full development (conservatively) to be 3000 vpd. The report identifies the following:
- All intersections assessed will require upgrading “irrespective of the proposed plan change”.
 - Marsden Valley Road will need to be upgraded from local road to collector “irrespective of the plan change”.
 - A “properly controlled intersection” at the intersection of the Solitaire access road and Marsden Valley Road will be required.
 - The main connecting road into the subdivision to be developed to Collector road standard.
- 5.21 It is accepted that the road network can be upgraded, as required, to accommodate the additional traffic, and that some upgrades may be required even if the plan change did not proceed. However, the proposed plan change will contribute significantly to traffic generation in Marsden Valley, and there should be an appropriate contribution towards any roading upgrades. This is a matter for Council staff to consider carefully as part of the development contributions.
- 5.22 One upgrade where the proponents should contribute in full is any intersection upgrade with the access to the Solitaire Land and Marsden Valley Road. It would be appropriate for the proponents to contribute to this upgrade, as it will be required directly and solely to service the subject land. Again, this is a design detail which is able to be considered at the time of subdivision consent.

Geotechnical constraints

- 5.23 Council’s geotechnical advisor, Dr Mike Johnson, has advised that the geotechnical report provided with the application is an accurate assessment of the geology and geotechnical hazards. He has advised however, that he is unsure whether the criteria used for the proposed modifications to the Land Management Overlay are the same as those used by the Council when the overlay was established. Dr. Johnson also advises that site certification will be required by a geotechnical engineer at the time of subdivision for subdivisions in a Land Management Overlay.
- 5.24 There are currently no controls on subdivision within the Land Management Overlay in the plan, other than the standard subdivisions controls. Subdivisions in the Coastal Environment,

Conservation, and Natural Hazard Overlays are discretionary, but these controls do not include the Land Management Overlay. Subdivision within Land Management Overlays is a controlled activity, subject to meeting the normal subdivisions standards (lot sizes etc). Consent must be granted for these subdivisions. It is understood that current practice is to request geotechnical assessments for such subdivisions. However, there appears to be no rule which differentiates subdivisions in the Land Management Overlays from other subdivisions, or which require geotechnical assessments. Given Dr. Johnson's recommendation for geotechnical certification prior to issue of the survey plan, Council may wish to consider whether there needs to be an amendment to the current subdivision rules to require this. Any such amendment would be beyond the scope of this plan change and would require a Council initiated plan change.

- 5.25 Earthworks within a Land Management Overlay and which exceed 4m in depth or fill are discretionary in the Plan. Earthworks within the Land Management Overlay are otherwise treated the same as earthworks in other areas.
- 5.26 The plan change proposes that in the Marsden Plateau (proposed Appendix J), *all* subdivisions are restricted discretionary activities. It also proposes that *all* earthworks within the Land Management Overlay on the Plateau (and the Fault Hazard Overlay) are restricted discretionary activities. This level of control is appropriate. It is noted this is a higher threshold than exists for the rest of the District. Council may wish to consider whether restricted discretionary status is also appropriate for earthworks in the Land Management Overlay for the remainder of the District. As this would affect earthworks district-wide, it would require a Council-initiated plan change.
- 5.27 Earthworks within the Land Management Overlays on the balance of the application site are subject to the standard Plan rules.
- 5.28 In summary:
- There are no specific controls for subdivisions within the Land Management Overlays, existing in the plan.
 - The plan change proposes that *all* subdivisions on the Marsden Plateau (including the Land Management Overlay) are restricted discretionary, and this is supported.
 - The plan change also proposes that *all* earthworks within the Land Management Overlay on Marsden Plateau are restricted discretionary, irrespective of the depth of cut or fill. This is more stringent than the existing Plan rules, and is supported
 - Earthworks within Land Management Overlays on the balance of the site ("Marsden Hills", Schedule K) are subject to the existing Plan rules i.e. earthworks exceeding 1.2m in depth or fill are controlled activities, and those exceeding 4m in depth or fill are restricted discretionary.
- 5.29 The approach to the Land Management Overlays in the plan change is considered appropriate, but it raises the question of whether the Plan's existing controls are sufficient. Any subsequent amendment would have a district-wide effect, and is therefore outside the scope of this plan change and would require a Council-initiated plan change.

Recommendation 9

a) That Council considers the need to amend the Plan to require geotechnical assessments to be provided for subdivision within the Land Management Overlay, and/or to amend the plan such that all earthworks within any Land Management Overlay are restricted discretionary activities.

Reserves

- 5.30 The plan change (plan 4) identifies areas of “reserve/open space” on the Marsden Plateau. However reserves have a different function and potentially a different zoning than open space areas. This requires greater clarification. In the current proposal, the entire Marsden Plateau has an underlying Residential Zoning, but it could be interpreted that the “areas” of Plan 4 (figure 2) are also zones. The same zoning terms are used, which could cause confusion.
- 5.31 It is understood that the intention is for an underlying Residential Zone on Marsden Plateau, but with specific parameters around the retention of open space, limitations on the extent of residential development, and provision for rural small holdings. To remedy this, Schedule J requires additional modifications, and the key on Plan 4 should be amended by adding “area” after each of the area descriptors.

Recommendation 10

- a) Modify the plan change to provide clarification for Figures 1 and 2 as follows:
J.1 Application of the schedule
“The Marsden Plateau...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. This combined with...”
- b) Modify Plan 4 of the plan change as follows: 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).”*

Cross boundary effects & integration

- 5.32 The zoning and development aspirations of adjacent landowners are such that cross boundary effects are able to be mitigated and addressed through subdivision consent conditions.
- 5.33 In terms of integration, the topography of the property lends very little scope of practical integration with the development of Ngawhatu Valley, apart from walking/cycle links. Walking / cycling links are indicated on the Plan 5 (Outline Development Plan) with the Barnicoat Range, Ngawhatu valley, and Ching’s Flat. It has been recommended in response to the Earle submission that an additional walking/cycle link is also provided to Marsden Valley Cemetery.
- 5.34 The area of Ching’s Flat is zoned Low Density Residential (1500m² minimum) by way of schedule. A resource consent has been lodged to subdivide the property into 125 lots (including reserves), with sizes ranging from 610m² to 4270m². The subdivision plan lodged with the Council shows no roading links with the Solitaire land, with separate roading access across Poormans Stream in close proximity to the existing Solitaire access.
- 5.35 Discussions have been held previously with the plan change proponents and the subdivisions applicant, to investigate roading integration between Chings Flat and the Solitaire land. The plan change proponents advise they are receptive to allowing their access to also serve Chings Flat. Alternative practical access from the Solitaire main access to Chings Flat is feasible. However, this would require a re-design of the subdivision consent currently with Council.
- 5.36 The issue of integrating roading and walking links needs further consideration in the interests of integrated land use planning, and to achieve an integrated and “seamless” pattern of development. However, this requires detailed assessment of subdivision design, which can only effectively be addressed through the subdivision consent process. As the “first subdivision off

the block”, the Chings Flat subdivision proposal provides the first crucial opportunity to consider in detail, the options for integrating the two separate developments.

Recommendation 11

- a) That the resource consent for subdivision of Chings Flat is assessed taking into account integration with plan change 05/05, in particular Plan 5 Outline Development Plan.

Format and Consistency with the Plan

5.37 The plan change is generally consistent with the format of the Plan.

Effect of Proposed Amendments

5.38 The plan change proposes a number of amendments to objectives, policies and rules. Generally, the amendments proposed should not give rise to any significant adverse effects, and are considered appropriate. However, several proposed amendments require further consideration as follows.

Walkways

5.39 A number of amendments refer generally to “walkways”. However parts of the plan change also refer to walkways and cycleways. Council’s Community Projects Manager had advised that provision should be made for dual purpose walkways and cycleways wherever possible.

Recommendation 12

- a) All references to walkways in the Plan Change should be changed to “walkways and cycleways”.

General

- 5.40 Parts of the plan change could be improved by greater clarification, or grammatical improvements. There are also parts of the plan change which are superfluous, and which create inconsistencies.
- 5.41 The plan change also makes reference to assessing viewsapes from “Stoke, Monaco” and the Airport”. These terms could cause interpretive problems, with arguments over the boundaries of Stoke for example. Greater certainty should be provided in these descriptors.
- 5.42 Rather than describe each of these issues in detail, these have been addressed in the recommended modifications, with deletions shown through ~~strikeouts~~ and additions shown by underlining.

Recommendation 13

- a) Add a new objective and policies under RE5 to improve the descriptors – refer to Section 3.11 (under 8. Recommendations).
- b) Delete the proposed addition to rules REr.23.1a) and REr.24.1 (superfluous and not needed).
- c) Replace the second sentence of J.4 with the following to improve 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.”
- d) Modify J.5.1 (subdivision conditions) to read as follows (simplified wording):
“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 in Figure 2 provided it complies including compliance with the minimum lot size...”

- e) Modify J.7 (non complying activities) to improve wording and delete superfluous text – refer to Section 3.15 (under 8. Recommendations).
- f) In J.8.2 change “cities” to “city’s”.
- g) Modify J.8.6 (assessment matters) to improve wording - refer to Section 3.15 (under 8. Recommendations).
- h) Modify the second paragraph in J.9 (explanation) to avoid confusion with the explanation of a rule - refer to Section 3.11 (under 8. Recommendations).
- i) Modify K.6 (anticipated environmental outcomes) to correct an error and to better reflect landscape values - refer to Section 3.17 (under 8. Recommendations).
- j) To provide a better cross-reference, in new rule RUr.77A referring to Schedule K, add “(refer to Residential Zone Chapter 7)” under the ‘item’ column.
- k) To provide a better cross-reference, amend rule RUr.78.2.e)iii) (minimum lot sizes) to add “Chapter 7” after ‘Schedule K’.
- l) To provide a better cross-reference, amend rule RUr.78.2.iii) (design and layout) to add “Chapter 7” after ‘Schedule K’.

Amendment to rule Rur.56 (amendment 3.25, pg xxii)

- 5.43 Amendment 3.25 proposes to make earthworks in the landscape overlay in the Rural High Density Zone a controlled activity. Control is restricted to depth of cut and fill, not being located in the Land Management Overlay, and existing general matters of control for rural earthworks not located in a landscape overlay.
- 5.44 This amendment is inconsistent with the current provisions of the plan. Under existing rule Rur.56, all earthworks *anywhere* in the rural (and small holdings) landscape overlay are discretionary. The *only* exceptions are for earthworks associated with maintaining roads or underground network utilities.
- 5.45 The amendment seeks a specific reduction in activity status from discretionary to controlled. The effect of this is that earthworks applications in the rural small holdings area within a landscape overlay could not be declined, as they would be controlled activities. While there are some controls in depth of cut and fill, there are no controls on the area (extent) or the volume of earthworks. It is therefore conceivable, and likely, that extensive earthworks could be undertaken on the Solitaire land. An example might be earthworks for tracking and building platforms.
- 5.46 With very limited controls, and an inability to decline consents, this could give rise to adverse visual and amenity effects. The area subject to the landscape overlay is visible extensively from public places in Stoke and beyond. It is further noted that the 2004 Boffa Miskell landscape report relating to this land recommended standard rural zoning on this land (15ha minimum) and identified the proposed rural small holdings area as having high landscape value.
- 5.47 For these reasons, it is considered that controlled activity status for earthworks in the rural landscape overlay is inappropriate.

Recommendation 14

- a) Modify the plan change to delete proposed amendment 3.25. The effect of this is that earthworks within the landscape overlay would be discretionary activities.

Deletion of the Marsden Plateau Landscape Overlay

- 5.49 The plan change proposes to remove the existing Landscape Overlay over the Marsden Plateau. However, this is offset with a set of controls and restrictions on development of this area, such that landscape values are accorded a high priority. The effect of this is at worst neutral, with the proposed amendments providing a greater level of consideration for landscape than the exiting landscape overlay rules.

Lot sizes, small holdings areas

- 5.48 The amendments propose a new minimum lot size for high density small holdings in the plan change area of 2000m². The Plan currently permits lots down to 5000m².
- 5.49 This approach provides a site specific exemption from the standard lot size in rural high density areas. However, it does not constitute “spot zoning” since it still falls within an existing zoning. The topography and very low productive potential for this land means there is some merit in a lower minimum lot size. It could be argued that the proposed new threshold has characteristics associated with rural residential rather than rural small holdings. However, the proposed approach is considered reasonable, with the effect of smaller lots being offset by areas of undeveloped open space (geotechnical constraints) between the rural enclaves.

Roading standards

- 5.50 The plan change proposes roading standards specific to the Marsden Plateau. This is a departure from the district-wide roading standards in Appendix 14. However, the proposed roading standards appear to be intended to achieve improved urban design and functioning of the subdivision, through lack of cul-de-sacs (better permeability and pedestrian links), low speeds, provision for “soft engineering” (e.g. swales) and provision for footpaths to be located outside the road reserve.
- 5.51 While these amendments provide for generally reduced levels of service for vehicles, they provide for greater design flexibility, and are likely to result in a more pedestrian friendly neighbourhood. One recommended modification is to reduce the on-street parking for the residential lanes to only one side of the lane. With parking provided on-site, this would result in more efficient use of land.

Recommendation 15

- a) Modify the plan change so that note 5 on the roading table in J.11 provides for single residential lanes which cannot be physically “paired up” i.e. 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.”*

Corridor Study

- 5.52 As a concurrent project with the review of the RLTS, the Council and Transit are jointly progressing a corridor study looking at the future functionality of the land transport system. This study has involved technical traffic modelling. The modelling has anticipated this plan change being approved at full development, so effects on the transport system and areas of future improvement have been documented through the corridor study.

- 5.53 The modelling to date has projected increasing pressure and constraints on the transport system, some of which can be attributed to the increased development from the proposed plan change requests. However, at the time of writing, the corridor study has not been completed. It is noted that Transit have not submitted on the plan change requests. It is likely that the land transport system will simply be upgraded to accommodate additional growth.

6. OTHER MATTERS

Nelson Urban Growth strategy (NUGS)

- 6.1 NUGS has been adopted by the Council, and identifies the subject land as being suitable for future residential land use. The plan change is therefore supported by Council's strategic land use planning process, as expressed in NUGS.

Landscape reports

- 6.2 The Council commissioned Boffa Miskell to prepare two landscape reports, one in 2004 which was commissioned specifically in response to the discussion with the proponent over their development proposals, and a later report in 2005.
- 6.3 The 2004 report involved a comprehensive assessment of the subject land. The final plan change request is largely in accordance with the landscape report, except for the Marsden Plateau. The landscape report recommended retaining this area as a Rural Zone, with 3ha as the minimum site size. The reason for this was to retain the open space landscape characteristics.
- 6.4 Through a series of iterations and discussions, the proponents have applied a cluster approach to development, allowing for development of the easy grade land while offsetting this with large tracts of open space. The effect will be different than that envisaged in the landscape report. The landscape report would have resulted in low density development, dispersed housing, and large open areas of landscaping between the housing.
- 6.5 The plan change will result in higher density residential clusters on the ridge top, but larger areas of undeveloped ridges and gullies on the front face. However, landscape treatment is a high priority for the residential development, with controls on subdivision and buildings.
- 6.6 The net result is expected to meet the overall principles of the landscape report, by retaining open spaces and vegetation as the immediate backdrop to Nelson. The higher density of clusters will allow for more efficient servicing, and could be said to better provide for future growth needs identified in NUGS.
- 6.7 Given the emphasis on landscape treatment and controls, and the absence of any submissions on landscape values, the final plan change should result in a form and pattern of development which does not significantly detract from the landscape backdrop. However, it is crucial that the development is implemented as it is intended through the subdivision consent process, and that the resource consent assessment matters are closely assessed at each stage of development.

Section 32

- 6.8 As part of any plan change, the RMA requires that a "Section 32" analysis be undertaken of alternative planning methods, the risk of not acting, and the effectiveness, efficiency and appropriateness of the methods proposed.
- 6.9 The application has included a comprehensive Section 32 analysis which supports the proposed rezoning. This analysis is considered to satisfy the requirements of section 32 of the RMA, and

Council can have confidence in adopting this plan change that it is supported by a defensible analysis. No submitters have commented on the Section 32 analysis.

7. SUMMARY & CONCLUSION

- 7.1 This report provides a statutory and effects assessment of plan change 05/05. The plan change attracted 4 submissions with one being subsequently withdrawn.
- 7.2 The plan change is assessed as meeting the statutory requirements of the Resource Management Act.
- 7.3 Development is able to be serviced at the time of subdivision with the developers / purchasers contributing to any servicing upgrades through development levies and financial contributions.
- 7.4 Geotechnical hazards have been identified, and are able to be addressed at the time of subdivision.
- 7.5 The plan change sets out a development framework through scheduling which should result in an acceptable pattern of development, and retention of important and prominent landscape values.
- 7.6 Submitters have raised a number of issues. These are considered to have been addressed in the recommendations.
- 7.7 The plan change does not give rise to any significant planning issues. There are a number of “tidy up” modifications to the plan change which are recommended. The one exception relates to earthworks in the Rural High Density Zone proposed as controlled activities within the Landscape Overlay. It is recommended that this proposal be deleted, with the existing plan rules applying (earthworks assessed as a restricted discretionary activity).
- 7.8 Overall, the plan change is considered to represent sustainable and sound resource management practice, will help give effect to growth issues facing Nelson, and subject to the recommended modifications being made, is able to be accepted for integrating into the Resource Management Plan.

8. Recommendations

8.1 Submission Recommendations

The following recommendations are made in respect of submissions, for reasons outlined in this report.

Summary of Submitter Recommendations

Submission	Submitter	Status	Recommendation	Reasons
2	Tiakina te Taiao Ltd	Support	Accept in part	- Recognition of possible archaeological sites on the Southern face of Marsden Plateau. - Council is programming a fish survey in the near future.
3	Francis Earle	Not stated	Accept in part	- Suggested walking link crosses private land and are not considered necessary. - It is recommended to provide additional walking / cycling links. - The Ridgeway link is outside the scope of plan change 05-05
4	Transpower	Support, with modifications	Accept in part	- Most of the suggested changes provide additional controls against reverse sensitivity effects on Nelson's electricity network - Some amendments could be more effectively provided by alternative methods

8.2 Recommended Plan Change Modifications

Pursuant to Clause 29(4) of the First Schedule to the Resource Management Act, it is recommended that plan change 05-05 be **approved** for the reasons set out in this report, subject to the following modifications being made. The numbering is as per the numbering in the plan change.

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 Ngawhatu 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 cycleways. There is flexibility in the exact location and route of the walkways and cycleways, 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...”

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

“Earthworks with the Residential and Open Space areas of the Marsden Plateau Landscape Area shown in Figure 2 are 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...*
- (i) *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, walk 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 integrated 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 visual 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 ~~carriageway 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 positing of walkways and cycleways 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 cycleways 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 cycleways 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 ~~H~~Gills 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 Amendment to Rur.56 (earthworks within the landscape overlay as a controlled activity). Delete this amendment completely to retain consistency with the existing plan rules (earthworks within a landscape overlay are discretionary).
- 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.

Consequential recommendations

1. That Council should investigate, separately from this plan change, a walking/cycleway extension between Isel Place and Marsden Valley Cemetery, crossing Council land and part of the Solitaire land..
2. That the resource consent for subdivision of Chings Flat is assessed taking into account integration with plan change 05/05, in particular Plan 5 Outline Development Plan.
3. That Council considers the need to amend the Plan to require geotechnical assessments to be provided for subdivision within the Land Management Overlay, and/or to amend the plan such that all earthworks within any Land Management Overlay are restricted discretionary activities.
4. That a consequential amendment to the Plan be initiated at the first opportunity, to include as a new assessment matter for all buildings within 20m of high voltage lines “compliance with the New Zealand Electrical Code of Practice 34:2001”.

Appendix A: Nelson Regional Policy Statement Urban Expansion Criteria (DH1.3.3, pg 45)

- iv) have high natural amenity value;
- v) have significant open space values such as greenbelt(s);
- vi) make significant contribution to the natural character of the coastal environment, wetlands, rivers and their margins; and/or
- vii) are outstanding natural features and landscapes.

DH1.3.2 To have regard to community expectations when determining the extent and location of urban expansion.

DH1.3.3 Where urban expansion is considered to have greater net benefit than intensification, to provide for the most appropriate form of urban expansion for Nelson. In determining what is most appropriate, to assess the costs and benefits of various options according to the following criteria:

- i) energy efficiency in terms of location and structures;
- ii) infrastructure costs including opportunity costs of existing infrastructure;
- iii) natural or physical barriers to expansion;
- iv) existence of incompatible rural activities such as quarries or smelly activities;
- v) susceptibility to natural hazards;
- vi) existence of sensitive uses such as land transport links, airports or ports;
- vii) utilisation of the land resource for primary production purposes;
- viii) proximity to existing facilities;
- ix) impacts on natural and conservation values associated with riparian and coastal margins, rivers and the coast;
- x) effects on internationally, nationally, or regionally significant natural features and landscapes;
- xi) effects on internationally, nationally, or regionally significant native vegetation and significant habitats of indigenous fauna;
- xii) effects on ancestral land, water sites, waahi tapu and other taonga of significance to tangata whenua;
- xiii) effects on heritage values of sites, buildings, places, and areas of regional, national, or international significance;
- xiv) effects on amenity values of international, national, or regional significance;
- xv) effects on recreation resources of international, national, or regional significance;
- xvi) effects on urban form and on the demarcation between urban and rural areas; and
- xvii) effects on availability of land resources for future generations.

DH1.3.4 To ensure that any proposals for urban subdivision and/or development include adequate and appropriate provision of services including waste disposal, stormwater, water supply, electricity and other network services.

(DH) development & hazards