

10 September 2009

The Mayor and Councillors
Council

**PROPOSED PLAN CHANGE 13 MARSDEN VALLEY REZONING AND
STRUCTURE PLAN PROJECT**

1. Reason for report

- 1.1. To obtain the Council's approval to publicly notify Proposed Plan Change 13 – Marsden Valley Rezoning and Structure Plan project (RAD 800863, Attachment 1), and to adopt the accompanying Section 32 report (RAD 805233, Attachment 2).

2. Background

- 2.1. A private plan change (08/01) was lodged with Council on 30 May 2008 for rezoning parts of Marsden Valley for predominantly residential use and supported by a suburban commercial zoned central area. This private plan change was adopted by Council (see report 672200 Attachment 3) as a Council Plan Change under clause 25 (2) (a) of the First Schedule of the Resource Management Act 1991 (RMA) and subsequently decided to include consideration of all that land in Enner Glynn and the upper Brook Valley as per report 696641 (Attachment 4) as part of the Change.
- 2.2. The proposed amendments to the RMA are expected to change when a Council plan change will take effect. Currently this is from the date of public notification; this is to change to the point at which all legal processes have been completed (usually the resolution of appeals). This resulted in the original private plan change applicant making a request to separately notify the Marsden Valley portion of the wider structure plan area earlier than the rest to get in ahead of this change to the law.
- 2.3. The Environment Committee resolved on 13 July 2009:
THAT a Plan Change for the rezoning of land within Marsden Valley from Rural to Residential as proposed by Ashley Trust and J D McLaughlin, B G McLaughlin, G & L Gillard, and Echo Holdings Ltd be prepared for notification by 31 August 2009
- 2.4. Since this resolution the proposed plan text has been drafted in consultation with the private plan change applicant with a review by the Plan Change Sub-Committee, and the Section 32 report produced. A summary of the main features of the Plan Change is contained in Attachment 5.
- 2.5. The Government has put the enactment of the proposed change to the RMA out to 1 October 2009; hence the notification date no longer needs to be before 31 August as noted in the resolution above.

3. Consultation

3.1. Public and Iwi Consultation

- 3.1.1. Consultation required by the First Schedule of the Resource Management Act has been carried out. This involves notifying the Ministry for the Environment, neighbouring Councils and Iwi. Iwi were consulted through Tiakina te Taiao (representing Ngati Rarua, Ngati Tama, Te Atiawa and Ngati Koata), as well as Ngati Toa and Ngati Kuia. No significant issues have been raised.
- 3.1.2. Land owners throughout the wider structure plan area, including those within the Marsden Valley area, have been consulted during preparation of the draft maps showing changes proposed. These draft maps have then been discussed at a public meeting as part of the wider structure plan work. This showed the zonings for Marsden Valley as proposed at the time. Some minor variations have been made to this but the intent is still the same.
- 3.1.3. The original private plan change applicant has been involved in a number of meetings and discussions about the provisions in this proposed Council Plan Change.

4. Funding

- 4.1. Notification and associated processing of this proposed plan change will be funded from existing budgets.

5. Views and preferences of interested or affected persons

- 5.1. The parties involved in the original private plan change application requested the earlier notification date. There has been extensive consultation with the major land owner in the area concerned (John McLaughlin). Mr McLaughlin is generally supportive of the proposed provisions. The areas of difference in opinion are clearly understood and the opportunity exists to deal with these through the submission and hearings process.
- 5.2. Through the consultation process Irene Turner (who owns property adjacent to the proposed plan change area) requested that her property also be included in this earlier notification. This was agreed to by the Plan Change Sub-Committee. Mrs Turner is supportive of the proposed zoning pattern in Marsden Valley.

6. Significance of Decision

- 6.1. A decision to adopt the proposed plan change and approve it for public notification is not significant in terms of Council's Significance Policy.

7. Relevant Council policies

7.1. Sustainability Policy

- 7.1.1. The provisions of the Plan Change support sustainability as it provides for transport connections (road, pedestrian and cycle) and it provides for biodiversity corridors and esplanade reserves. The provision of a commercial centre supported by a higher density residential area provides a more sustainable community with the ability to service some of the community needs within walking distance of a large part of the plan change area.

8. Options

- 8.1. The form and content of the proposed plan change has been determined by the Plan Change Sub-committee on advice from staff, consultants, and through consultation

with the original private plan change applicant. The options at this stage primarily involve the decision to notify or not. On notification the plan change is open for submission with a hearing and appeal process providing an opportunity for the public to have their say.

9. Staff recommendation

- 9.1. Staff recommend the Council adopt the proposed plan change documents and approve them for notification. The provisions of this proposed Plan Change have been developed in a short time and minor errors and amendments may still need to be made up until the actual notification date. It is recommended that the chair of the Plan Change Committee and the Divisional Manager Planning and Consents be given the authority to approve minor technical wording amendments, or correction of errors, to the proposed Plan Change documents to improve readability and/or consistency prior to public notification.
- 9.2. It is also recommended that the proposed plan change has effect from public notification.

10. Recommendation

THAT the Council:

- 1. Adopt and approve for public notification proposed Plan Change 13 (Marsden Valley Re-Zoning and Structure Plan Project) to the Nelson Resource Management Plan as in Attachment 1 to report 818444.*
- 2. Adopt the Section 32 report for proposed Plan Change 13 as in Attachment 2 to report 818444.*
- 3. Confirm that proposed Plan Change 13 has been prepared in accordance with the statutory procedures set down in the First Schedule to the Resource Management Act 1991;*

AND THAT in accordance with the Resource Management Act 1991, the provisions of the proposed Plan Change 13 have effect from the date of public notification;

AND THAT the Chair of the Plan Change Committee and the Divisional Manager Planning and Consents be given the authority to approve minor technical wording amendments, or correction of errors, to the proposed Plan Change documents to improve readability and/or consistency prior to public notification.

Keith Marshall
Chief Executive

11. Attachments

ATTACHMENT 1: PROPOSED PLAN CHANGE TEXT, INCLUDING MAPS # 800863

ATTACHMENT 2: SECTION 32 REPORT #805233

ATTACHMENT 3: REPORT #672200

ATTACHMENT 4: REPORT #696641

ATTACHMENT 5: MARSDEN VALLEY PROPOSED PLAN CHANGE SUMMARY #824675

ATTACHMENT 2

ATTACHMENT 3

Doc No: 672200
Author: Martin Workman
No. of attachments: 1

27 June 2008

The Chair and Councillors
Environment Committee

PRIVATE PLAN CHANGE REQUEST 08/01 (MARSDEN VALLEY)

1. Reason for report

1.1. To decide how to process private plan change 08/01 (Marsden Valley) under the First Schedule to the Resource Management Act 1991 (RMA).

2. Background

2.1. A private plan change was lodged with the Council on 30 May 2008 for rezoning part of Marsden Valley. The proposal was lodged by a number of Marsden Valley landowners. The proposal is summarised as follows, (the proposed changes to plan text and maps are available in the Councillor's lounge):

| Plan Change | Applicants | Area | Proposal |
|--------------------|--|--|---|
| 08/01 | Ashley Trust & JD McLaughlin; BG McLaughlin; G & L Gillard; Echo Holdings Ltd. | 124 ha in the Marsden Valley comprising: the north-eastern side of Marsden Valley Road (backing onto Panorama Drive); flat land on the south-western side of Marsden Valley Road (for which a subdivision consent for 128 residential lots has already been granted - RM065553). | Provide for mixed-residential development and a new mixed-use commercial village centre by: amending Schedule T in the rural zone rules; amending Schedule I in the residential zone rules; amending the planning maps for Marsden Valley. |

2.2. The Nelson Urban Growth Strategy (NUGS 2006) identified the Marsden Valley area for residential development, as set out below:

'Stoke Foothills' – Strategy

- Allow private development proposals to be processed through the private plan change and resource consent processes.
- Work with landowners and applicants to provide comprehensive and integrated developments through private plan changes and resource consents.

- *Retain the landscape values on the foothills and valleys, in particular the prominent 'front faces' overlooking Stoke.*

Reasons

- *This area has significant capacity with the potential to accommodate at least five year's worth of Nelson's estimated residential growth.*
 - *Private plan changes have been lodged for rezoning, and must be processed based on their individual merits.*
 - *If approved, the private plan changes will ensure continuity in supply of residential land.*
 - *The community values the rural backdrop to Stoke and the undeveloped front faces provide an important edge to urban development.'*
- 2.3 Since NUGS was produced both private plan changes and resource consents have been lodged and granted for residential development in this area, specifically Ngawhatu Valley and south of Marsden Valley Road, including the plateau area between the two valleys. The area covered by the private plan change 08/01 covers the majority of the area left in Marsden Valley with potential for residential development. This area is expected to yield approximately 600-650 allotments.
- 2.4 One of the options is for the Council to adopt the plan change and extend it to cover the Enner Glynn through to the Brook area (see Attachment 1). The increased area for this plan change would be approximately 450 ha, and is estimated to provide an additional 250 allotments in addition to the private plan change request. A large part of the Enner Glynn to Brook area may not be suitable for residential development, but the plan change provides the opportunity to plan for where development should and should not occur (e.g. providing a buffer for landfill activities in the York Valley area) and to determine where connections should be provided for.
- 2.5 Clause 25 of the First Schedule to the RMA provides several different options with respect to processing private plan changes. The various options for processing this private plan change were discussed at a Councillor workshop on 26 February 2008. At the workshop councillors indicated support in principle for the Council to adopt the private plan change as a Council plan change.

3. Consultation

- 3.1. This decision does not require consultation with other parties. The public's opportunity to submit on the private plan change will occur if the Committee decides to adopt or accept the private plan change for notification.
- 3.2. There is an obligation on the applicants under Clause 3 of the First Schedule to consult with the following parties:
- a) Minister for the Environment
 - b) Any other ministers who may be affected
 - c) Local authorities who may be affected
 - d) Tangata whenua of the area
 - e) Board of any foreshore and seabed reserve in the area.
- 3.3. The applicants have confirmed that they have consulted with the Department of Conservation, the Ministry of Education, the Ministry for the Environment, Tiakina to Taiao, Ngati Kuia, and Ngati Toa Rangatira.

3.4. The applicants have been in ongoing discussion with Nelson City Council staff in developing the private plan change proposal.

4. Funding

4.1. Council's funding policy provides for a 95% cost recovery of private plan change processing costs from applicants.

4.2. If Council was to adopt the private plan change as its own, then it would normally incur 100% of the processing costs. However, a cost sharing (public-private partnership) arrangement has been discussed with the applicants. They have written to Council offering to contribute up to \$20,000 to the cost of processing the plan change. The \$20,000 is based on an estimate of the processing cost of the private plan change. The funding options are discussed in more detail under 'options'.

5. Views and preferences of interested or affected persons

5.1. The applicants are supportive of the Council adopting the private plan change. The main benefit to the applicant of Council adopting is that it is usual for a Council plan change to take effect when notified while a private plan change does not have effect until the consultation and appeal process is complete. Views of affected parties will be considered in preparing the plan change for notification and through the statutory submission process.

6. Significance of Decision

6.1 This is not a significant decision for Council according to the Council's significance policy as it relates only to process, rather than the merits of the private plan change.

7. Relevant Council policies

7.1. Consideration of effects on Council policies

7.1.1. There are no Council policies relevant to this decision, which relates to a statutory RMA process. The content of the private plan change is generally consistent with a number of statutory and non-statutory Council documents (Nelson Resource Management Plan (NRMP), Nelson Urban Growth Strategy (NUGS)).

7.2. Sustainability policy

7.2.1. The option of Council adopting the private plan changes is considered to align with the Council's sustainability policy as it provides the Council with greater control to achieve sustainable outcomes.

8. Options

8.1 Whether to reject the private plan change

8.1.1 The RMA provides the following tests against which to assess private plan change requests and which constitute grounds to reject the requests:

8.1.2 Reject on the grounds the plan change is frivolous or vexatious (Clause 25(4)(a) First Schedule):

- Comment: The plan change has been professionally prepared by committed developers, and the changes are not considered to be frivolous or vexatious.

8.1.3 Reject on the grounds that the plan change has been considered by the Council or Environment Court within the last two years (Clause 25(4)(b) First Schedule):

- Comment: The plan change has not been considered previously by the Council or the Court.
- 8.1.4 Reject on the grounds that the request is not in accordance with sound resource management practice (Clause 25(4)(c) First Schedule):
- Comment: The plan change is in accordance with sound resource management practice in that it provides a considered basis on which to provide for the sustainable management of natural and physical resources.
- 8.1.5 Reject on the grounds that the plan change would make the Regional Policy Statement (RPS) or Nelson Resource Management Plan inconsistent with the purpose of the RMA (Clause 25(4)(d) First Schedule):
- Comment: The plan change would not make the RPS or NRMP inconsistent with the purpose of the RMA. The proposals include fitting the proposed land use zones within the existing NRMP zone framework.
- 8.1.6 Reject on the grounds that the Resource Management Plan has been operative (in part) for less than two years (Clause 25(4)(e) First Schedule):
- Comment: The NRMP has been operative for longer than two years.
- 8.2 The analysis in 8.1 shows there are no grounds for rejecting the private plan change request.

8.3 How to process the private plan change

8.3.1 The RMA provides Council with three options for processing the private plan change request. The advantages and disadvantages of the options are:

| Accept Options | Advantages | Disadvantages |
|---|--|---|
| (1) Adopt the plan change as Council's own plan change – Cl.25(2)(a) First Schedule | <p>(a) To adopt a plan change the Council should be in general support of it. The plan change is in line with NUGS, and quality urban design principles, and aligns well with the planning direction the Council is taking.</p> <p>(b) Provides an opportunity to widen the scope of the plan change area to achieve better integrated management of the Marsden Valley and Enner Glynn area through to the Brook, and pursue more comprehensive plan changes to achieve quality urban design outcomes.</p> <p>(c) Provides for better integration between the plan change and Council plans and strategies.</p> <p>(d) Allows Council more discretion to modify the plan change before it is notified for consultation.</p> <p>(e) The applicants supports this option.</p> | <p>(a) Extending the scope of the plan change will increase the cost to Council. However, this is budgeted for, and the developer has agreed to contribute \$20,000 to the cost of processing the plan change.</p> <p>(b) Required to notify plan change in a timely manner (within four months, but applicant accepts it will take longer). Limited time may restrict extending the scope of the plan change.</p> <p>(c) Extending the plan change to provide for more 'greenfield' development may slow down residential intensification.</p> |

| Accept Options | Advantages | Disadvantages |
|--|--|---|
| (2) Accept the plan change, in whole or part, as a private plan change and prepare change in consultation with the person who made the request: Cl.25(2)(b) First Schedule | (a) Applicants bear 95% of all processing costs (b) More narrow focussed plan change meaning some savings in staff time | (a) The plan change is unlikely to be as well integrated as if it were the Council's own plan change. (b) Miss out on opportunity to make wider urban design planning changes and to develop strategy and policy for the wider 'three valleys' area (Marsden, Enner Glynn, Brook). |
| (3) Deal with the plan change as if they were applications for resource consent | (a) None | (a) The scale and nature of the plan change mean the proposed residential development is contrary to some of the objectives and policies of the plan. This is not a feasible option. |

9. Staff recommendation

9.1. Staff recommend that the Council adopt private plan change 08/01 (Marsden Valley) as a Council plan change for the following reasons:

- Allows Council more discretion to modify the plan change before notification, while still working with the applicant.
- The private plan change request proposes changes to district wide policies and rules of strategic importance (e.g. comprehensive housing provisions) that needs to be integrated with other proposed changes to provide for better urban design outcomes across Nelson.
- Provides for better integrated management of areas of Marsden Valley not included in the private plan change request, and the potential adjacent Enner Glynn area through to the Brook. Consultation with landowners in the extended area will be required before notification.
- The cost of adopting the plan change and increasing its scope fits with the existing work programme and budget priorities for 2008/09 of implementing NUGS and managing growth to ensure good urban design outcomes. The 'three valleys' area makes up a significant proportion of the land close to Nelson that is suitable for residential development.

10. Delegations Register reference

10.1 "90. Power to set the priorities for the preparation or review of the Nelson Resource Management Plan (District and Regional Plans), or Nelson Regional Policy Statement under the Resource Management Act, 1991 and to confirm for public notification and submission discussion documents, strategies, variations and plan

changes (but not the approval of variations or plan changes following consideration of submissions) – First Schedule, Resource Management Act, 1991.

91. Power to determine procedural matters relating to the preparation, review, or changes to a plan or policy statement under the Resource Management Act, 1991.”

11. Recommendation

THAT Council adopt private plan change 08/01 (Marsden Valley) under Clause 25(2)(a) of the First Schedule to the Resource Management Act 1991, as a Council plan change

AND THAT staff are instructed to integrate the contents of the private plan change request 08/01 (Marsden Valley) with changes to the subdivision and comprehensive housing provisions of the Nelson Resource Management Plan and to investigate integrating with potential plan changes for the Enner Glynn to Brook area.

V R Altmants
Chief Executive
MW:RJ

ATTACHMENT 4

Doc No: 696641
Author: Martin Workman
No. of attachments: 1

17 October 2008

The Chair and Councillors
Environment Committee

MARSDEN VALLEY PLAN CHANGE 08/01

1. Reason for report

- 1.1. To seek approval to integrate the Marsden Valley plan change 08/01 with potential plan changes for the Enner Glynn to Brook Valley area (see Attachment 1) and with proposed changes to the subdivision and comprehensive housing provisions of the Nelson Resource Management Plan (NRMP).

2. Background

- 2.1. A private plan change was lodged by John McLaughlin and other parties with Council on 30 May 2008 for rezoning part of Marsden Valley. At the Environment Committee on 31 July 2008 the Committee agreed to adopt the private plan change as a Council plan change. At the same meeting Councillors requested that staff investigate integrating the contents of the private plan change with proposed changes to the subdivision and comprehensive housing provisions of the NRMP, and investigate integrating the contents of the private plan change with potential plan changes for the Enner Glynn and Brook area and to report back to the Environment Committee.
- 2.2. Council staff have investigated undertaking a structure plan process for the wider Marsden Valley and Enner Glynn to Brook area. Preliminary investigations indicate the Enner Glynn to Brook area would have potential for 350 extra dwellings. Initial contact with landowners in the area indicates some are looking at undertaking residential subdivision. A structure plan process and resulting plan changes would assist in integrating the management of development in the area. It is proposed a structure plan process would be largely undertaken by Council staff with input from representatives of the Infrastructure, Community Services and Environmental Policy teams. Staff from these teams have contributed to the investigations already undertaken. Some expert advice, such as a landscape assessment of options, would also be required.
- 2.3. Council staff have also begun investigating changes to the subdivision and comprehensive housing provisions of the NRMP and the related Engineering Standards. The purpose of these proposed changes is to improve the urban design quality of development across the Nelson City Council area. The Marsden Valley plan change 08/01 also includes proposed changes to the subdivision and comprehensive housing provisions of the NRMP. It is proposed the Marsden Valley plan change 08/01 needs to be integrated with the wider changes being investigated by staff,

especially as the Marsden Valley, Enner Glynn to Brook area will include a significant share of future residential development in Nelson.

- 2.4 To integrate and notify at the same time potential plan changes to the wider subdivision and comprehensive housing provisions of the NRMP, and plan changes for the Enner Glynn to Brook area, with the Marsden Valley plan change 08/01 it is likely to take 9-12 months. This would mean a delay to notifying Mr McLaughlin's Marsden Valley plan change. Under the Resource Management Act (RMA) it is required to notify the Marsden Valley plan change 08/01 by the end of November 2008. However, Mr McLaughlin has indicated to staff that he is happy for the Council not to keep to this RMA requirement and to accept this delay in order to get the plan changes right and to achieve better integration. It is a common practice amongst councils dealing with private plan changes to not meet the RMA timing requirement in consultation with the proponents of the private plan change.

3. Consultation

3.1. Public Consultation

- 3.1.1 This decision does not require public consultation. The proposed structure plan and subsequent plan change processes will include substantial consultation with relevant stakeholders and the public.

3.2. Iwi and Maori Consultation

- 3.2.1 The proposed structure plan and plan change processes would be discussed at scheduled meetings with iwi in November 2008.

4. Funding

- 4.1 Funding and staff resources are provided for in the 2008-09 budget to undertake the proposed structure plan and plan changes. The proposed work will be provided for in draft budgets for the 2009-2019 LTCCP.

5. Views and preferences of interested or affected persons

- 5.1 The views of Mr McLaughlin have been sought as discussed above. Initial contact with other land owners in the proposed structure plan area has indicated they support the undertaking of a structure plan process.

6. Significance of Decision

- 6.1 This is not a significant decision according to the Council's significance policy as it relates to setting the scope and process for proposed plan changes, rather than the merits of the plan changes.

7. Relevant Council policies

7.1. Consideration of effects on Council policies

- 7.1.1. The proposed structure plan process and integrating the proposed plan changes is consistent with the Nelson Urban Growth Strategy (NUGS) and the Council's Urban Design Protocol Action Plan.

7.2. Sustainability policy

- 7.2.1 The proposed structure plan process and integrating the proposed plan changes aligns with the Council's sustainability policy as it assists the Council to better achieve sustainable development outcomes.

8. Options

8.1 Two options for how the Council deals with the overlap in the Marsden Valley plan change 08/01 and with other plan changes are considered below:

| Option | Advantages | Disadvantages |
|---|--|---|
| <p>Option 1</p> <p>Notify the Marsden Valley plan change 08/01 on its own without integrating it with the wider plan changes being considered.</p> | <p>Better meets the RMA requirement to notify by the end of November 2008.</p> | <p>Council misses out on an opportunity to put in place an integrated land use development framework for the Marsden Valley to Brook area, and for the wider City.</p> <p>Landowners and interested parties are likely to face submitting on related plan changes at different times causing confusion and potentially poorer outcomes.</p> |
| <p>Option 2</p> <p>Carry out a structure plan process for the wider Marsden, Enner Glynn and Brook areas and aim to integrate any resulting plan changes with the changes to the subdivision and comprehensive housing provisions of the NRMP, and the Marsden Valley plan change 08/01. These plan changes would be prepared and notified at the same time but would be packaged separately.</p> | <p>Council can put in place an integrated land use development framework.</p> <p>The structure plan and plan change process will integrate development in the Enner Glynn to Brook area better than leaving to the consent process.</p> <p>Staff are already working on wider changes to the subdivision and comprehensive housing provisions of the NRMP as a priority.</p> | <p>Does not meet the RMA requirement to notify the 08/01 plan change by the end of November 2008.</p> |

9. Staff recommendation

9.1. Staff recommend option 2 to integrate Marsden Valley plan change 08/01 with the wider plan changes being considered because:

- It will result in a better integrated land use development framework
- The proponent of plan change 08/01 is comfortable with the proposed delay in its notification.

10. Delegations Register reference

10.1 *“To set the priorities for the preparation or review of resource management plans (District and Regional Plans), or Nelson Regional Policy Statement under the Resource Management Act 1991 and to confirm for public notification and submission discussion documents, strategies, variations and plan changes . . .”*

11. Recommendation

THAT the Committee agrees to a structure plan and relevant plan change options being prepared for the wider Marsden Valley and Enner Glynn to Brook area

AND THAT the Marsden Valley plan change 08/01 is integrated with plan changes for the wider Marsden Valley and Enner Glynn to Brook area, and with proposed

plan changes to the subdivision and comprehensive housing provisions of the NRMP

AND THAT the above plan changes are notified together by at least November 2009.

V R Altmans
Chief Executive
MW: