

**MINUTES OF THE MEETING OF THE HEARINGS COMMITTEE TO HEAR AND CONSIDER SUBMISSIONS TO THE PROPOSED PLAN CHANGES 05/03 AND 05/04 HELD IN THE COUNCIL CHAMBER, CIVIC HOUSE, TRAFALGAR STREET, NELSON ON MONDAY 18 DECEMBER 2006 COMMENCING AT 9.00AM**

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

IN ATTENDANCE: R Palmer (Administration Advisor)

APOLOGIES:

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**1.0 PROPOSED PRIVATE PLAN CHANGE 05/03 (STOKE VALLEY HOLDINGS LTD) AND 05/04 (SOLITAIRE INVESTMENTS LTD)**

Report dated December 2006, file ref RM0100-06 and 07, agenda pages 1-31 refer.

Appearance:

For the proponents: Nigel McFadden (Counsel for Stoke Valley Holdings Ltd), Camila Owen (Counsel for Solitaire Investments Ltd), Shoshona Goodall (Solicitor for Solitaire Investments Ltd), Jacqui McNae (Consultant Planner), David Petrie (Traffic Engineer), John McCartin (Civil Engineer) and Peter Newbury (Staig and Smith Ltd).

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

Submitters: Claire McKenzie (NMDHB), Paul Marshall (Ngawhatu Bowling Club Inc), George Truman, Graham Wright, Julian Raine and Tim Percival, Julian Daly and Stewart Karstens.

The Chairperson advised that the Hearing panel would, as far as possible, hear submissions and evidence in relation to the two changes together however it accepted that the two proponents were represented by different counsel and certain submitters had only objected to one or other of the proposals, so on this basis it would when appropriate hear submissions or evidence relating first to the Stoke Valley Holdings Ltd change and then the Solitaire Investments Ltd change.

**1.1** Mr Quickfall read his report outlining the issues which were common to the two changes and outlining his recommendations in relation to the proposed zoning provisions.

The meeting was advised that the Ngawhatu Pool was presently leased to the Nelson City Council for 10 years from 2001 and operated and maintained by the Ngawhatu Pool Users Group pursuant to a license to occupy. It was noted that the Council's lease had no right of renewal.

Mr Quickfall in presenting his evidence pointed out that although the area to be rezoned under the Solitaire Investments Ltd proposal was outside the Nelson urban area the Air Quality Plan contained a definition which provided that any land which was subdivided subsequent to the notification of the Plan, for any residential purposes with site areas less than 0.5 hectares, would be deemed to be an urban area and therefore covered by the provisions of that Plan.

**2.0 STOKE VALLEY HOLDINGS – LEGAL SUBMISSIONS**

Counsel for Stoke Valley Holdings Ltd tabled and read a submission outlining the statutory provisions relating to the proposed plan change and the obligations on the Hearings Committee in relation to the process.

Mr McFadden also pointed out that the Council had now formally adopted the Nelson Urban Growth Strategy (NUGS) which recognised that new residential development would be implemented;

“Through private initiatives such as resource consent and private plan changes.”

Mr McFadden also addressed the submissions which had been received in respect of the proposed changes and outlined the manner in which he considered these submissions should be dealt.

## **2.1 Planning Evidence**

Jacqui McNae tabled and read her written evidence relating to the Stoke Valley Holdings Ltd change, addressing the recommendations of Mr Quickfall as they related to the provisions of that proposal.

## **2.2 Traffic Evidence**

Donald Petrie presented and read written evidence outlining his opinions in relation to the existing and proposed traffic patterns and flows associated with the residential development of the land concerned, explaining that he saw no reason for any upgrading of any existing roads. However, he acknowledged that as development proceeded pressure could well come to bear on some of the local intersections which could well require improvement over the next 20 years, however most of this upgrading would be required irrespective of where future residential development occurred.

Mr Petrie explained that the services overlay within the Nelson Resource Management Plan covered the land in question and this in his opinion made it unnecessary for there to be any additional traffic impact assessment required to be undertaken as each 100 additional lots were created, as suggested by Mr Quickfall.

Mr Petrie confirmed that in his opinion once the Ridgeway Link Road had been completed the Polstead Road/Main Road Stoke intersection may well need to be addressed.

## **2.3 Engineering Evidence**

John McCartin tabled and read evidence specifically relating to drainage and stormwater issues in relation to the potential further development of the properties which were the subject of the plan change.

He explained that in his opinion all stormwater could appropriately be dealt with through a range of engineering options to be determined at subdivision consents stage.

### **3.0 SUBMISSIONS**

- 3.1** Claire McKenzie, on behalf of the NMDHB, together with Mr George Truman, a member of the Disability Services Advisory Committee of the Health Board, presented the submission.

Ms McKenzie explained that the Health Board sought to ensure the ongoing availability of the Ngawhatu Swimming Pool to the Nelson/Tasman community.

She explained that the pool had been sold by the Nelson Marlborough District Health Ltd at the time it was undertaking a \$35 million redevelopment of the Nelson Hospital. However, over the last 5 years with the advent of the District Health Board the focus had changed to one of providing “well being services” that were needed by the community, and on this basis the Board would urge the Council to zone the land on which the pool is located as a recreational reserve.

Ms McKenzie advised that the pool could remain the responsibility of the User Group however Council ownership would ensure that the 300 people who use the pool each week would have their access protected.

Mr Truman advised that the User Group was confident that it could meet the ongoing costs in respect of the future operation and maintenance of the pool.

### **3.2 Ngawhatu Bowling Club Incorporated**

Mr Paul Marshall, on behalf of the Ngawhatu Bowling Club, advised that the Club used the established bowling green towards the eastern end of Highland Valley and while it appreciated the goodwill of the present landlord who had allowed the Club to continue its use it hoped the Council would remember the facility which existed when it considered subdivision of the land concerned.

Mr Marshall advised that the green had been established by hospital staff approximately 65 years ago and presently the Club rented the land at the owner’s pleasure.

### **3.3 George Truman**

Mr Truman advised that he had been an active walker in the Nelson area for a long time and explained that the public had used the area now the Solitaire Investments Ltd Farm for over 70 years and that an extensive network of walking paths had been formed.

He advised that when the property was sold by Land Corp in 1990 this area was lost to the residents and he would urge the Council and subdividers to ensure that appropriate pathways could be provided to enable the walkers to return to enjoy this amenity.

## **4.0 SOLITAIRE INVESTMENTS LTD – LEGAL SUBMISSIONS**

Shoshona Goodall, Solicitor for Solitaire Investments Ltd, tabled and read a submission outlining the zoning changes being sought and the various aspects of the proposal in relation to the submissions received.

Ms Goodall explained that the question of walkways through the area should be further considered at the time of subdivision and that the existing services overlay would ensure that the subdivision would proceed in the appropriate manner.

Ms Goodall in addressing the submission by the Raine family in relation to cross boundary effects and reverse sensitivity advised that at each stage of subdivision Solitaire was prepared to deer fence the common boundary with the farm and also to place “rural emanation easements” on the titles of the allotments joining the Raine Farm.

She also pointed out that the new rules proposed in the change required a 20m building set back along the south western boundary of the Solitaire Investments land.

### **4.1 Planning Evidence**

Mrs Jacqui McNae tabled and read written planning evidence relating to the proposed change of zoning in respect to the Solitaire Investments land, advising that the Company was not interested in establishing any walking tracks within the property before the subdivision stage as it was a working farm which had already suffered a degree of vandalism and without substantial fencing of walkways there was no guarantee of security from further damage by the users.

The Committee was advised of the manner in which rural emanation easements operated noting that these were basically a form of notification in the way of an easement over the allotments adjoining the Raine farm which allowed dust, noise, vibration and other normal activities from the farm to pass over the properties concerned and the owner of the residential allotments undertook not to object.

It was explained that these could not be imposed by the Council as a condition of subdivision as they related to the rights of a third party, however they could be and would be volunteered by the owners on subdivision.

## **5.0 Submitters**

### **5.1 Mr G Wright advised the Committee of his concerns relating to stormwater disposal explaining that the area was subject to high intensity rainfall at times.**

He also expressed concern at the high number of vehicles likely to use Ngawhatu Road. However he indicated that he was prepared to accept the expert evidence provided and leave it to the Council to protect the adjoining landowner’s rights at the time of subdivision.

### **5.2 Tim Percival, Julian Daly and Stewart Karstens, spoke to the Committee on behalf of the Nelson Paragliding Club and the large number of recreational pilots who flew from the Barnicoat Range to land on the Solitaire Investments property. They advised that they supported the Raine submission regarding the status of NUGS and while they acknowledged that NUGS had now been adopted they felt that more note should be taken of the objectives of that strategy.**

They advised that they had not discussed their concerns with the owners of the land.

### **5.3 Julian Raine**

Mr Raine tabled and read his submission outlining the concerns which his family had in relation to additional residential development adjacent to the boundaries of their farm.

He explained that while he acknowledged that the rules would require houses to be erected no closer than 20m to the common boundary, for top dressing purposes he considered a 50m separation would be more appropriate.

Mr Raine also expressed concern in relation to the Stage One development which he felt was vulnerable to slips from the Raine property.

### **6.0 Reporting Officers**

Mr Quickfall responded to the submissions made on behalf of the Proponents and the Submitters, advising that he proposed an additional recommendation in relation to the definition of “Urban area” within the Air Quality Plan to the effect that Council undertake a variation to remove the words “other than a privately initiated change” from A2-86(b).

Mr Quickfall reiterated his wish to see the proposed reserves provided with an appropriate open space zoning as he was comfortable with the fact that any future boundary adjustments to give effect to a subdivision could be dealt with as minor non-notified amendments to the Plan.

Mr Quickfall discussed the suggestions made by Mrs McNae in relation to his recommended modifications to the proposed changes, advising that in respect of his suggestions on pages 28-30 of the agenda he was happy to see (a), (b), (h iii) and (h iv) deleted but he would still recommend the other modifications.

### **7.0 Right of Reply**

Nigel McFadden, on behalf of Stoke Valley Holdings Ltd, replied to the concerns raised by the submitters, explaining the Company’s concerns regarding the proposal to zone the reserves. He advised that as he saw it they were indicative only and should be kept as such so at the subdivision time the options could be considered. However, he acknowledged that the Company could accept the proposal as long as it suffered no disadvantage in relation to compensation when the land was actually acquired for reserve.

Mr McFadden reiterated the concerns of the owners regarding the walkways explaining that over time the walkways would be developed as the respective stages of the subdivision were put in place.

As far as the paragliders were concerned Mr McFadden explained that they could only support an existing submission and could not attempt to extend the relief which had been sought by Mr Raine, which in fact was what they were attempting to do.

He reiterated that they needed to talk to the landowners and to the Council in relation to their aspirations.

Mr McFadden pointed out that as far as Mr Raine was concerned the Council could not give the family any relief and he also needed to talk to the landowners.

In conclusion he advised that the owners were happy to accept the change suggested by Mr Quickfall in relation to the definition in the Air Quality Plan to remove the ambiguity.

Camila Owen, on behalf of Solitaire Investments Ltd, advised that she adopted the comments by Mr McFadden in his right of reply as also applicable to her client.

The Hearing closed at 4.20pm.

CONFIRMED AS A CORRECT RECORD OF PROCEEDINGS

\_\_\_\_\_ CHAIRPERSON \_\_\_\_\_ DATE