

**PROPOSED PRIVATE PLAN CHANGES:  
05-03 (STOKE VALLEY HOLDINGS)  
05-04 (SOLITAIRE INVESTMENTS)**

**Planners report to the Hearings Committee for the combined hearing on private plan changes 05-03 and 05-04**

**Date of hearing: 18 December 2006**

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**1. INTRODUCTION**

- 1.1 My name is Tony Quickfall and I have been engaged by Nelson City Council to report on two private plan change requests. I have been involved in discussions with the plan change requestors for over two years, both as the NCC staff member and more recently as planning consultant. I have 13 years of planning experience and am a full member of the NZ Planning Institute.
- 1.2 This report relates to two requests for private changes to the Nelson Resource Management Plan: plan change request 05-03 (Stoke Valley Holdings Ltd) and plan change request 05-04 (Solitaire Investments Ltd).
- 1.3 Plan change 05-03 (Stoke Valley Holdings) covers an area of 52ha known as "Ngawhatu Valley", comprising of two separate valley systems (York valley and Highland Valley) which run into a single valley entrance. The property is well known as the site of the former Nelson Marlborough Health Board Ngawhatu Hospital complex.
- 1.4 Plan change 05-04 (Solitaire) mostly covers the hill area in between the two valleys, which is in separate ownership. This area is also known as the former Landcorp Farm. Change 05-04 also extends part way up the Barnicoat Range, and includes part of the front ridge south of the valley entrance.
- 1.5 The land relating to these requests is adjoining, and is held by two separate owners. The two plan changes are closely integrated through servicing and roading. Both landowners have also worked cooperatively together on the servicing and layout of the proposed changes. The separate plan changes have a shared servicing and roading system. For these reasons, this is a combined report which covers the two separate plan changes.

**Process to date**

- 1.6 Section 73(2) of the Act enables any person to request a change to the District Plan. The plan change requests were formally lodged with Council on 20 May 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 Council staff formally advised the proponents on 21 December 2005 that no further information was required.

- 1.7 On 7 February 2006 the Environment Committee agreed to proceed with public notification of the two plan change requests as a private request. The plan changes were notified together on 24 June 2006. Request 05-03 (Stoke Valley Holdings) received 5 submissions and 6 further submissions. Request 05/04 (Solitaire Investments) received 5 submissions and 7 further submissions. These submissions are described in more detail later.

## 2. PROPOSED CHANGES

### 05-03 Stoke Valley Holdings

- 2.1 The property subject to plan change 05-03 is in single ownership, and roughly half is currently zoned Ngawhatu Residential Area in the Nelson Resource Management Plan ("the plan"). This zoning permits low density residential development over the entire site, as a permitted activity. The balance of the area is set aside as "Community Areas". The intention of the current zoning is for low density residential to be integrated with *"the existing community / recreational facilities and extensive landscaping of the site"*. The zone description goes on to state *"...recognition of the development concept does not bind the Council in terms of the provision of community and recreation facilities. This area could still accommodate some higher density development providing this does not compromise the overall low density concept."*
- 2.2 The plan change has five main components.
- The first is to change the residential zoning from low density to standard density (400m<sup>2</sup> minimum) as per the standard Residential Zoning in the plan. This includes rezoning areas currently set aside for community areas. While standard residential zoning is sought, the plan change proposes to also provide for some lower density areas. In practice, the character is more likely to be one of mixed density.
  - The second change relates to an area of 6.41ha proposed to be rezoned for high density residential. The plan currently allows high density subdivision in areas zoned for that down to 300m<sup>2</sup>.
  - The third aspect is use of the two existing boarding houses (Clovelly and Airdrie) as apartment buildings. This is proposed as controlled activity.
  - Fourthly, the plan change proposes a Suburban Commercial Zone covering 2.85ha. This is to be located centrally within York Valley, which is the larger of the two valley systems, and is intended to provide local services (e.g. dairy, hairdresser) for the area covered by both plan changes.
  - The final aspect of the change is to rezone the Orphanage Cemetery to Open Space and Recreation zone.

- 2.3 The existing zoning has a “yield cap” of 150 lots in the valleys. Based on the land area and the densities proposed, the proposed change has a theoretical maximum yield of 913 lots, if the entire area was fully developed down to minimum lot sizes<sup>1</sup>. However, the theoretical maximum yield is unrealistic given the significant topographical constraints. In addition, the plan change has a strong focus on retaining existing landscaping, which further reduces the opportunity for full development. A reasonable best guess of the total yield from the plan change is between 200 and 300 lots, excluding the apartments in the two hostels.
- 2.4 The plan change also includes an Outline Development Plan, which shows indicative linkages for roading, reserves, walkways / cycleways and services.
- 2.5 The proposed planning method to give effect to this plan change is a combination of changes to existing policies and objectives and a new schedule which replaces the existing Schedule E in the plan (Ngawhatu Residential Area).
- 2.6 The plan change proponents anticipate that development will be staged over a number of years, with their traffic report estimating 25 years to full development. Stage one has already been granted subdivision consent. The plan change identifies a number of “neighbourhood areas”, which are likely to form separate stages of the development.

#### **05-04 Solitaire Investments**

- 2.7 The entire area covered by plan change 05-04 (138.3ha) is currently zoned Rural in the plan. There are two main aspects to the plan change, being a proposed rezoning of the area between the Ngawhatu Valleys to Residential, and rezoning of the front (southern) ridge and rear (eastern) steeper slopes to High Density Small Holdings.
- 2.8 Features of plan change 05-04 are:
- Geotechnical constraints associated with hill topography.
  - A proposed Services Overlay over the entire area. The Services Overlay is an existing overlay in the plan which allows servicing to be considered in detail at the time of subdivision.
  - A 20m building line restriction (setback buffer) on the entire southern boundary with the Raine farm.
  - A series of “neighbourhoods” with different amenity and density characteristics.
  - Roading and servicing integrated with plan change 05-03.
  - Shared access to the rural small holdings lots.
  - Walking and cycleway links.
  - An area of existing planting identified as a possible reserve.

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<sup>1</sup> 213 high density lots plus 700 medium density lots at 600m<sup>2</sup> gross.

- 2.9 The yield from this area is very difficult to estimate, due to the steep nature of the topography. A theoretical yield is unrealistic. However, the traffic report accompanying the two plan changes has estimated the maximum yield from both plan changes combined, at 750 lots. If the Stoke Valley Plan change yields between 200-300 lots, then the Solitaire plan change could on its own yield between 550 and 450 lots.
- 2.10 The plan change includes an Outline Development Plan.
- 2.11 The plan changes propose to change existing provisions of the plan, with no special scheduling.
- 2.12 Like Stoke Valley Holdings, Solitaire Investments anticipate staged development, with an estimate of 25 years to full development. The “neighbourhood areas” are likely to form separate stages of the development.
- 2.13 The first stage of subdivision for rural lots on the ridge to the south of Ngawhatu Road has been lodged with Council.

### 3. SUBMISSIONS & FURTHER SUBMISSIONS

- 3.1 Both plan change requests attracted few submissions. The submissions and further submission are summarised as follows:

**Table 1: 05-03 Stoke Valley Holdings – submissions received**

Submission	Submitter	Topic	Status	Remedy	Further submissions
1.1 withdrawn	Ministry of Education	Entire plan change	Support in part	Set aside some land for education purposes	none
2.1	Ngawhatu Bowling Club	Entire plan change	Support	Approve the request	none
3.1	Nelson Marlborough District Health Board	Entire plan change	Support in part	1. Retain E.10v of Schedule E (maintenance of recreational and community assets in their present or modified form) 2. Rezone the area of the pool “recreational reserve”	3 in support
4.1	Julian Raine	Entire plan change	Oppose in part	Limit development until NUGS is finalised; covenants to avoid negative cross boundary effects; provision for legal access to the Raine property	3 in support
5.1	G & G Wright	Effects on Orphanage Creek	oppose	Adequate provision for high intensity rainfall, & Council check that the retention dams are adequate.	None

Submission	Submitter	Topic	Status	Remedy	Further submissions
5.2	G & G Wright	Traffic assessment	oppose	None specified. Submitters expressed surprise that the road corridor is capable of handling expected traffic	none

**Table 2: 05-04 Solitaire Investments – submissions received**

Submission	Submitter	Topic	Status	Remedy	Further submissions
1.1 withdrawn	Ministry of Education	Entire plan change	Support in part	Set aside some land for education purposes	none
2.1	George Truman	Pedestrian linkages – extent	Oppose	Amend (more) pedestrian linkages	4 in support (includes petition of 192 signatures)
2.2	George Truman	Pedestrian linkages - staging	Oppose	Delete reference to completing the pedestrian linkages in stages	
2.3	George Truman	Pedestrian linkages - terminology	Oppose	Replace “Barnicoat Range” with “Barnicoat Walkway”.	
3.1	Julian Raine	Entire plan change	Oppose in part	Limit development until NUGS is finalised; covenants to avoid negative cross boundary effects; provision for legal access to the Raine property	3 in support
4.1	G & G Wright	Effects on Orphanage Creek	oppose	Adequate provision for high intensity rainfall, & Council check that the retention dams are adequate.	None
4.2	G & G Wright	Traffic assessment	oppose	None specified. Submitters expressed surprise that the road corridor is capable of handling expected traffic	none

3.4 The combined issues identified by submitters on both plan changes are:

- Additional land for education facilities.
- More pedestrian links developed together rather than in stages.
- Retention of the swimming pool.
- Avoiding cross boundary effects on the Raine farm.
- Provision of legal access to the Raine farm.
- Adequacy of stormwater controls on mitigating flood risk.
- Capacity of the road network.

#### 4. STATUTORY CONSIDERATIONS

4.1 Section 72 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 shall 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 following matters are considered relevant to these plan change requests:

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

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

7(aa) The ethic of stewardship (as it relates to the extensive landscaping).

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

7(ba) The efficiency of the use of energy (as it relates to the location of the Suburban Commercial Zone to service the local community).

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

7(d) Intrinsic values of ecosystems.

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

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

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:

- *Regional Policy Statement*
- *Regional Plan*
- *Management plans and strategies prepared under other Acts*
- *Relevant entry in the Historic Places Register*
- *Regulations relating to sustainability of fisheries resources*
- *Extent to which the district plan needs to be consistent with plan or adjacent authorities*
- *Any relevant planning document by an iwi authority and lodged with the territorial authority*

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

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

- *Any regional policy statement*

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

- *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 A number of provisions of Part II (principles of the Act) are considered relevant to the proposed changes. There are a number of principles which the plan changes will specifically provide for, including public access along rivers, stewardship (preservation) of extensive mature landscaping, and provision of a local service centre which will reduce energy use and dependency on vehicle trips beyond the local community.

4.8 Productive rural land is a finite resource in Nelson (7(g)). While Solitaire land does have some productive value, this is limited by the steep topography. Meeting demand for residential development on the Solitaire land may also avoid or reduce residential demand on more productive land, such as the Waimea Plains. On a regional scale, this is considered efficient use of finite resources, and is consistent with sustainable management.

4.9 The plan changes will result in this area changing from predominately rural open space to mixed residential. The landscape controls in plan change 05-03 will

ensure retention of existing mature landscaping. Given the mix of densities, and retention of landscaping, it is considered that a change to residential will in itself not compromise amenity values (section 7(c)).

- 4.10 However, one matter of concern is that earthworks in the Landscape Overlay affecting the Rural Zone - Small Holdings (change 05-04) are proposed as controlled activities. This provides a very low threshold of control over earthworks, and is a change from the existing plan rules, where earthworks in the Rural Zone Landscape Overlay are discretionary (except for road maintenance). It is considered that this proposed amendment has the potential to adversely affect s7(c) amenity values during land development. This is discussed further in the planning assessment.
- 4.11 Overall, it is considered that neither plan change is inconsistent with or contrary to any of the principles of the Act.

### **Regional Policy Statement**

- 4.12 The Act requires that the Council “have regard” to the proposed Regional Policy Statement (RPS), and the plan changes “give effect to” the RPS. The Nelson RPS became operative in 1997, and is due for review next year.
- 4.13 The RPS is a regionally based document, with objectives and policies focused on regional council issues like discharges, water quality, energy use, natural hazards, and the coast. The two plan changes are considered to give effect to the regional components of the RPS, insofar as they include controls which will meet the regional objective and polices of the RPS.
- 4.14 The RPS also includes provisions relating to urban expansion and transport which require greater consideration.

### **Urban Expansion**

- 4.15 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 cost and benefits of greenfields development. When assessed against those criteria, it is considered that the two plan changes give effect to the RPS with the benefits outweighing costs.

### **Land Transport**

- 4.16 The two plan changes combined have the potential to yield up to 750 lots/dwellings according to the applicant’s traffic report. At full development, the traffic report provides a conservative estimate of an additional 4680 vehicles per day and 540 vehicles per hour through the road network from the two plan changes combined.



- 4.17 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. It is considered that the plan changes and the intersection upgrades identified are able to give effect to the RPS in terms of a safe and efficient land transport system. Although the plan changes involve greenfields development, the land is close to existing services and facilities. The provision of a proposed Suburban Commercial Zone to service the new development will also reduce trip generation. These aspects are assessed as giving effect to the RPS in terms of energy efficiency and discouraging dispersed development.

## Regional Plan

### Resource Management Plan

- 4.18 The Nelson Resource Management 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 Air Quality Plan (AQP)

- 4.19 The Proposed Regional Air Quality Plan contains provisions designed to improve existing air quality and to avoid discharges which would adversely affect existing air quality.
- 4.20 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).
- 4.21 While Ngawhatu Valley is within the AQP "urban area", the Solitaire 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.
- 4.22 However, for a plan change of the scale proposed, it would be appropriate to provide greater certainty by amending the AQP's map showing the extent of the urban area. The urban area should be extended to take into the Solitaire land proposed to be rezoned residential.
- 4.23 This issue was raised with the plan change proponents during pre-application discussions. Their response was that this was a matter that Council should address through a variation to the AQP.
- 4.24 The Council currently has no proposed amendments to the AQP. **It is therefore recommended** that as a consequential amendment, the Proposed Air Quality Plan is amended at a later date so that the Solitaire land proposed to be rezoned as residential is included within the "urban area" on the air quality map. Such a

change to the Proposed Air Quality Plan must follow due statutory process and cannot be 'tagged' on to this plan change.

### **Management Plans and Strategies Prepared under Other Acts**

#### **Long Term Council Community Plan (LTCCP)**

4.25 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.

4.26 The LTCCP also contains a number of very high level, broad outcomes. My assessment is that, subject to the recommended modifications being made, the plan changes are 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

#### **Council Annual Plan**

4.27 Similarly, funding provision in the 2007/08 relates to general growth, rather than consequences of these specific plan changes. Funding for any infrastructure upgrades or reserves purchases required as a result of these plan changes are 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)**

4.28 At the time of drafting this report, the Council is preparing a review of its 2002 RLTS. As part of this review, the RLTS consultants have specifically looked at additional growth generated by these plan changes, to the extent of undertaking specific traffic modelling to assess the effects of increased vehicles on the entire road network.

4.29 As such, the RLTS review has anticipated these plan changes being approved with full development, and the reviewed RLTS will include relevant provisions to address the consequences of this.

#### **Historic places register entries**

4.30 There are no historic places entries on either of two sites. The Orphanage Cemetery has a Group A listing within the Plan, but no historic places listing. Rezoning of this site to "Open Space and Recreation" will help preserve the historic values of the cemetery.

### **Fisheries resources**

- 4.31 The two branches of Orphanage Creek contain some native fisheries values. These comprise native freshwater fish and eels. While there are some fisheries values, there is no fisheries resource of significance. It is also noted that adverse effects on the ecological and fisheries resources can be avoided and mitigated through conditions on subdivision consent, and through the retention and enhancement of existing landscaping.

### **Consistency of Nelson and Tasman District Plans**

- 4.31 The plan changes have been proposed in a format consistent with the Nelson RM Plan. The sites proposed to be rezoned are located far enough from the Tasman District boundary for plan consistency not to be considered relevant.

### **Iwi planning documents**

- 4.32 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 these requests is the Iwi Management Plan's key objectives for urban planning and land management:

- 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.

- 4.33 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.
- 4.34 The plan change requests are considered to generally align with the desired actions. In particular, request 05-03 gives effect to some of the actions through preservation of existing landscaping and enhancing stream riparian areas. 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**

- 4.35 Both plan change requests have been drafted to be consistent with the Nelson RM Plan, the AQP and the Freshwater Plan.

### **Statutory consultation**

- 4.36 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 proponents as if the plan change was a new plan being developed by the council.
- 4.37 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 requests have been presented by the proponents, to the Nelson Iwi Management Advisory Committee. This process would meet the requirements of Clause 3B, and as such that condition has been satisfied.

## **5. ASSESSMENT OF ISSUES**

### **Water Supply**

- 5.1 Council engineering staff (see Appendix A) advise that there is inadequate water pressure and/or capacity in the Ngawhatu Road and Marsden Valley Road systems to serve this proposal. An integrated system, linking to the High Level supply in the Marsden Valley will be required. Depending on the staging of the development, work may be required beyond the areas to be rezoned to connect to an approved system.
- 5.2 Engineering staff advise that these matters can be overcome by a "Services Overlay" placed over the subject land. This would enable water supply to be dealt with in detail at the subdivision consent stage.
- 5.3 The plan change proponents have proposed a Services Overlay over both the Stoke Valley Holdings and the Solitaire land. This is consistent with the existing use of a Services Overlay in the Plan. On this basis, water supply is able to be adequately dealt with.

### **Stormwater detention**

- 5.2 The Wright submission raises concerns about stormwater dams and seeks an assurance from Council that these dams will be adequate. The subject land will drain through to Orphanage Creek.
- 5.3 Council engineering staff have reviewed the drainage assessment. They advise that the design and upgrades that have been undertaken on Orphanage Creek allows for "rural" stormwater runoff from the land proposed for rezoning. They advise the proposal for on-site detention is to an acceptable standard. Once again, engineering staff also recommend a services overlay to deal with specific design details of stormwater runoff.
- 5.4 The assessment by council engineers, combined with a Services Overlay which allows detailed designs to be considered at the time of subdivision, will address the concerns raised by Mr. and Mrs. Wright.

## Sewer

- 5.5 Council's engineers advise that the existing sewerage system does not have capacity for the proposed level of development. Upgrades are not currently anticipated in the LTCCP. However, they advise that this can be addressed through provision of the Services Overlay, and the ability to require a contribution or development impact levy towards the upgrade of the sewerage system.

## Roading and traffic

- 5.6 The plan changes include a comprehensive traffic report setting out the various traffic issues. This has been reviewed by Council's roading engineer (see Appendix B). He confirms that the proposed rezoning does have impacts on levels of service for key intersections, and that timing will be a key issue for roading impacts. He advises that the existing transport routes do have sufficient "mid-block" capacity to accommodate the rezoning. This addresses the concern raised in the Wright submission.
- 5.7 Council's traffic engineer recommends that upgrading of intersections and capacity is best dealt with by assessment at the time of subdivision. His recommended modifications / conditions for are:
- a) Undertake a traffic impact assessment for every 100 lots subdivided (cumulatively). This ensures that impacts are linked to the rate of development (as determined by market forces), and allows assessment at key thresholds of development.
  - b) Imposing a Services Overlay on all internal transport infrastructure.
  - c) Cycle and pedestrian plans as part of each subdivision consent.
  - d) Upgrade Ngawhatu Road hierarchy to a Collector road.
- 5.8 Items (a), (c) and (d) can be addressed through modifications to the plan changes.
- 5.9 Item (b) is already addressed, with a Services Overlay proposed by the plan change proponents.
- 5.10 Based on advice from Council staff, **it is recommended** the plan changes be modified in accordance with item (a), (c) and (d) above in the following way:
- (a) Modify schedule E as follows:  
Modify E.2 general Rules as follows:  
*For subdivision consents lodged under REr.107, a traffic impact assessment, undertaken by a suitably qualified and experienced person, shall be supplied to Council for every 100 additional lots created (cumulatively) within the Ngawhatu Residential Area. The assessment*

shall be supplied at the time of lodging subdivision consent for the 101st, 201st, and 301st lot and shall assess, as a minimum, the following:

- *The impact of cumulative traffic increase on Suffolk Road Ngawhatu intersection level of service, safety performance, and need to upgrade to a roundabout control.*
- *The impact on key intersections of Suffolk/Polstead, Polstead/Main Road Stoke, The Ridgeway/Songer St, and Main Road Stoke/Saxton Road levels of service.*
- *A review of the reported crash record of access routes.*
- *Recommended mitigation to address any effects on the roading network efficiency, function, or safety.*

*Note: For the purposes....”*

Modify E.3 as follows:

*“E.3 Discretionary activities*

*Activities that contravene any general rule E.2(ii), E.2(iii), or E.2(iv).”*

- (c) Modify both plan changes to amend REr.107 to add the following as a new matter of control and a new assessment criteria:

*“Provision of adequate cycle and/or pedestrian routes and linkages, including both connections within the subdivision, and connections between the subdivision and adjacent land.”*

- (d) Amend Planning Maps A2.1 and A2.2. to show Ngawhatu Road as a Collector Road.

### **Geotechnical constraints**

- 5.11 Council’s geotechnical advisor Dr. Mike Johnson has reviewed the plan change requests (see Appendix C). He advises that the Tonkin and Taylor report represents an accurate assessment of the geology and geotechnical hazards. The report confirms the position of the Waimea Fault and refines the position of a Fault Hazard Overlay to which the fault hazard rule in the Plan will apply.
- 5.12 The property is divided into four slope stability zones. Zone 1 has the lowest risk while Zone 4 has the highest risk. Dr. Johnson notes that some building may be feasible in Zone 4, but this is unlikely due to cost and other factors.
- 5.13 Tonkin and Taylor suggest that an extended Land Management Overlay, incorporating Zone 4, be used to prevent practices which could lead to slope instability. Dr. Johnson advises that this proposed overlay appears to be a much narrower definition of the Land Management Overlay than what is defined in the Plan as it exists. He further advises there may be other simpler means of

achieving the objective of avoiding unstable slopes, as Zone 4 is similar to other areas of steep hill slopes.

- 5.14 Under the current rules, earthworks within any Land Management Overlay in the Residential and Rural Zones are a restricted discretionary activity. Subdivision is permitted, on the rationale that it is the earthworks which cause potential slope instability, rather than subdivision per se. Tonkin and Taylor recommend extending the existing Land Management Overlay to cover the areas they have identified as Zone 4 stability risk. The effect of this is that any earthworks undertaken within the extended Land Management Overlay (High Risk areas) would be a restricted discretionary activity, with conditions which must be met before consent could be granted for earthworks. The plan changes do not propose any amendments to the existing earthworks rules as they relate to the Land Management Overlay.
- 5.15 The proposed plan change is consistent with the existing approach in the Plan, and this would ensure that earthworks are able to be adequately assessed, with earthwork consent applications having significant effects able to be declined. This approach also allows the imposition of consent conditions to avoid or mitigate risk of slope instability.
- 5.16 On this basis, the extended Land Management Overlay and linking this with the existing earthworks provisions seems the best approach to managing risk of land instability. Dr. Johnson also notes that at the time of subdivision, building site certification will be required to be undertaken by a chartered professional engineer practicing in geotechnical engineering, or by an experienced engineering geologist. This will provide additional assurance that risks of slope instability will be avoided, or mitigated.

### **Community facilities (schools and pool)**

- 5.17 Two submitters raised matters relating to community facilities. The Ministry of Education sought additional land be set aside for education purposes in the Central Neighbourhood Area, while the Nelson Marlborough District Health Board (DHB) sought the retention of the swimming pool as part of a recreation reserve. The DHB submission was supported by 3 further submissions. Following a pre-hearing meeting on 1 December 2006 the Ministry of Education has withdrawn its submission on plan changes 05/03 and 05/04. The Ministry has concluded there is unlikely to be a need for a school in Ngawhatu Valley given the estimate of allotments to result from the zone changes.

#### **Swimming pool**

- 5.18 The existing heated swimming pool is located in the proposed Suburban Commercial Zone. The DHB submission seeks a recreation reserve over the swimming pool (and Council ownership) to ensure its ongoing availability. The

plan change indicates a “possible reserve” within the Suburban Commercial Zone, but this excludes the swimming pool.

- 5.19 Council’s Community Projects Manager has advised that Council does not wish to take over ownership / management / maintenance obligations for the pool. Only one submission and <sup>2</sup>one further submission were received on this matter. I am also advised that both Council and the DHB have in the past had the opportunity to acquire the pool, but neither has chosen to take up this opportunity. I am also advised that the pool is in poor condition (leaking and in need of maintenance), that considerable funding would be required to bring it up to a standard suitable for community use, and that its therapeutic nature and design limits its use for the wider community.
- 5.20 For these reasons, and taking into account Council staff advice, **it is recommended** that the submission by Nelson Marlborough Health Board and the further submission in support be rejected.

### Walkways

- 5.21 One submitter (Mr Truman), supported by 4 further submissions and a separate petition, has sought an extended walkway link in respect of plan change 05-04 (Solitaire). He also seeks that the walkways be established together, rather than being established in stages at the time of subdivision. The submitter has provided a map of possible walkway linkages. It is noted that part of the map relates to a separate parcel of land owned by Solitaire Investments, which is subject to a different plan change, not being considered at this hearing.
- 5.22 The Council’s Community Services staff advise (see Appendix D) that additional walkway connections are desirable from the proposed esplanade reserves to nearby roads, the boundary of the property at the head of Highland Valley, and other roads within the Solitaire Investments property both to the south and north. This lends support to an extended walkway system beyond that shown in the plan change(s).
- 5.23 Mr. Truman has also requested that the network of walkways be established simultaneously, rather than at each stage of development. However, this could restrict subdivision layout, and may result in expectations of public access during construction and development with possible health and safety issues. It is also difficult to identify the final location of walkways (and cycleways), without a subdivision scheme plan. The only exception to this is the “high level” walkway on the Solitaire land (Plan 3). I understand this walkway follows an existing track, and note that this is a strategic walkway linking the head of York Valley with the head of Highland Valley. Given the extensive time period over which full development could occur, it is considered that this high level walkway should be established sooner rather than later.



- 5.24 Council traffic staff have reviewed the plan changes, and advise that they should be modified to indicate how cyclists will be provided for. As part of this, it would be desirable for off-road cycleway links to be considered as well as walkway links.
- 5.25 On the basis of the submissions received and Council staff advice, **it is recommended** that the Truman submission (and the further submission in support) be accepted in part, to the extent that:
- additional walkways / cycleways are considered at the time of subdivision consent (as provided by amendment to REr.107 under paragraph 5.10 above) and;
  - the “high level” walkway linking the head of York Valley with Highland Valley should be established and opened to the public at the time of the first stage of subdivision of the Solitaire land. Recommended change: For both plan changes modify schedule E.2 general Rules as follows:
- (iii) *The “High Level” walkway linking the head of York Valley with the head of Highland Valley on the Outline Development Plan shall be established on approval of the first stage of subdivision of any land which has access from either York or Highland valleys and which is legally described as Lot 38 DP 353023*

### Reserves

- 5.26 Plan change request 05-03 proposes a network of reserves along the margins of Orphanage Creek. This is supported by Council’s Community Services staff. These areas are proposed to be zoned as Residential, despite not being available for future residential development.
- 5.27 Plan change 05-04 indicates two areas of “possible reserve”, one up York Valley and one up Highland Valley. The Highland Valley possible reserve is proposed to have an underlying zoning of suburban commercial.
- 5.28 Stoke Valley Holdings have advised that they would be prepared for these reserves to be confirmed as reserves, and to be rezoned to Open Space and Recreation. These areas contain potentially high public value, with mature stands of trees adding to the amenity of the valleys. However, the underlying Suburban Commercial zoning on the Highland Valley reserve is inappropriate, since it will not be able to be developed for commercial purposes as a reserve. One consequence of rezoning this area to Open Space and Recreation is that the effective area of the Suburban Commercial Zone is reduced to approximately 2ha. The current ratio of residential to suburban commercial is 72:1<sup>2</sup>. At this ratio, exactly 2ha of Suburban Commercial land would be needed for the combined Solitaire and Stoke Valley Holdings residential rezonings. However, the density

<sup>2</sup> 2037ha total existing area in Nelson zoned Residential, 28ha total existing area zoned Suburban Commercial

of these areas is likely to be less than that of the standard residential zones, due to the steep topography of the Solitaire land,. For this reason, the reduced area of Suburban Commercial Zone which excludes the “possible reserve” area, is considered to be sufficient to meet the needs for the new residential zones.

- 5.29 Plan change 05-04 also indicates a possible reserve on an existing area of planted trees. This area is of steep topography, and is also located in an identified geotechnical hazard area. It is transected by an identified fault line. The possible reserve could be readily linked to the walkway system. While this may have some public benefit, Council’s Community Services staff have recommended that this reserve is not vested in Council.
- 5.30 Identifying reserves in the plan changes will not have significant implications in terms of Council’s reserve contributions. These contributions are triggered at the time of subdivision consent. Unless Council wanted to purchase the reserves at an earlier time for an agreed price, the indicated reserves will be assessed as part of the reserve contribution, and valued accordingly, at the time subdivision consent is triggered for area surrounding the reserves.

Given these considerations, **it is recommended** the following changes be made to *Proposed Zoning Plan, Plan 1, reserves* in both plan changes:

- Show all areas indicated as “possible reserves” on plan 3 of both plan changes as “reserves”, except for the triangular “possible reserve” on the Solitaire Investments land.
- Re-zone all areas indicated as reserves and “possible reserves” on plan 3 of both plan changes as “Open Space and Recreation Zone” on Plan 1, except for the triangular “possible reserve” on the Solitaire Investments land.

### **Village Green**

- 5.31 Page 19 of Plan Change 05/03 (SVH) describes a Village Green. The plan change describes it as follows: *“The vision, and reason for pursuing a Suburban Commercial Zone at this location, is it is central to the land areas to be developed, the flat topography does not constrain density of development, and the mature vegetation – which the Applicant seeks to largely maintain – offers the opportunity to incorporate a reserve area as a Village Green. The detailed design phase would be undertaken in consultation with the Council, and support fort such a design concept, and the vesting of such an area as reserve, would influence the layout of this area.”*
- 5.32 While a Village Green has not been identified, my understanding is that the Stoke Valley Holdings does not yet have a concept plan for the Suburban Commercial area. I am advised that they wish to retain some flexibility in terms of location of

the Village Green. In addition, a village green would normally be located only once the final roading pattern has been established.

- 5.33 Given this, it is not considered necessary to identify a Village Green as part of the plan changes.

#### **Cross boundary effects on the Raine farm**

- 5.34 The Raine submission (with 3 further submissions in support) seeks three separate remedies:

- limit development until NUGS is finalised
- covenants to avoid negative cross boundary effects
- provision for legal access to the Raine property

- 5.35 NUGS is discussed in more detail further in the report.

#### **Cross boundary effects**

- 5.36 Cross boundary effects are of concern for the Raines. Rural reverse sensitivity effects are well documented in planning practice and in case law. With the number of neighbours going from two existing neighbours to potentially very many, Mr Raine identified a possible future effect.

- 5.37 The proponents proposed a 20m rural buffer. The effect of this is to provide a physical separation between house sites and the working farm. This would go some way to mitigating reverse sensitivity effects by increasing the distance between neighbours and farm activities. However it is unlikely to altogether avoid reverse sensitivity effects. Mr. Raine has sought covenants on the individual titles of neighbours.

- 5.38 Private agreements or covenants on land titles are used to alert people to the presence of existing legitimate activities and to limit the scope of future complaints about that existing activity. A land covenant is an interest in land according to section 126A(1)(c) of the Property Law Act 1952. A covenant is registered on the certificate of title of a property. The intent of a covenant is to limit or restrict the owner and any future owners as to how they use the land/property.

- 5.39 According to the Ministry for the Environment<sup>3</sup>, covenants on the titles of rural subdivisions next to forestry plantations or viticulture blocks or rural industrial sites are common. Restrictive covenants are also becoming common in large residential developments, and act as supplementary land use controls outside the district plan. The Ministry does however have concern that such covenants could be used to usurp the normal rights of rural landowners under the RMA. There is potential for abuse of such techniques, particularly if covenants do not clarify the

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<sup>3</sup> "Managing rural amenity conflicts", Report - February 2000, Ref. ME372

overriding rights of sections 16 and 17 protections relating to the duty on all people to avoid, remedy or mitigate unreasonable noise and the adverse effects on the environment. The Ministry's advice is that covenants cannot, and should not, seek to deny people the basic rights guaranteed by sections 16 and 17 of the RMA. High court case law suggests that such covenants are lawful, but with some limitations. In a practical sense, such a covenant is unlikely to be effective.

- 5.40 Another tool would be to impose restrictive covenants on dog ownership of lots adjoining the Raine farm. Stray dogs from could have a significant adverse effect on farming operations, relating to loss of stock, animal distress, and loss of production. There is precedent for such a covenant, with covenants restricting cat ownership becoming more common.
- 5.41 Covenants are normally imposed at the time of subdivision, and it would be inappropriate to include a specific rule in the Plan relating to a restrictive covenant. However, it would be appropriate to consider reverse sensitivity as an assessment matter at the time of subdivision. The Plan currently contains general matters of control for controlled subdivisions, and more specific assessment criteria for discretionary subdivisions.
- 5.42 It is also noted that subdivision consent was recently lodged by Solitaire Investments with Council for rural subdivision adjacent to the Raine's farm, extending for more than half of the Raine boundary. The subdivision scheme plans show a 20m setback, and has identified building locations which are considerably further back than 20m from the Raine boundary. It is also noted that the 20m buffer is proposed to be heavily landscaped. While a decision has not been made on the subdivision application, the application is relevant insofar as it demonstrates that subdivision is able to be designed to mitigate adverse reverse sensitivity effects.
- 5.43 For these reasons, **it is recommended** appropriate to include a more specific matter of control / assessment criteria relating to adverse effects on adjacent rural activities (see below). Making this amendment would give partial relief to Mr. Raine's submission.

- Modify both plan changes to add the following as a matter of control under REr.107.2 and as an assessment criteria under REr.107.4:

*“effects on permitted adjacent rural activities, and the need for any consent conditions or covenants to avoid reverse sensitivity effects”.*

#### **Legal access**

- 5.44 The final matter raised by Mr. Raine relates to legalising access through York Valley to his property. This is currently covered by a gentleman's agreement.

- 5.45 The Plan has reserved Council's control for controlled activity subdivisions to include control over "*appropriate vehicle access*". While this would allow access to the Raine property to be considered at the time of subdivision, the matter of control could be made more specific to include "*including access to adjoining land*". This matter is considered to be best addressed as a condition of subdivision consent at the time of development, with the following **recommended amendment** to the existing matter of control:

Modify both plan changes to amend the matter of control under REr.107.2(k)(vii)(a) to read:

*"appropriate vehicle access, including legal and/or practical access to adjoining properties"*.

### **Planning Matters**

- 5.46 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 advisers 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 requestors have the right to appeal the Council's decision under clause 29.
- 5.47 Given the power under clause 29(4), it is appropriate to consider any wider effects or planning implications of the two plan change requests, beyond those changes sought in the submissions. These are considered as follows.

### **Format and Consistency with the Plan**

- 5.48 The two plan change requests have been written in a format which is consistent with the Plan. As written, it would be a relatively simple task to incorporate the amendments into the plan, and no further formatting modifications are considered necessary.

### **Effects of Proposed Amendments**

- 5.49 The plan changes propose a number of amendments to objectives, policies and rules. Generally, the amendments proposed should not give rise to any significant plan drafting issues, and are considered appropriate. However, several proposed amendments require further consideration.

Both plan change requests: New schedule "E.2"

- 5.50 New Schedule E.2 relates to the outline development plan, and requires subdivision layout to “generally accord” with the outline development plan. However, reference is also made in the note to “generally in accordance”. For consistency, “generally in accordance” should be changed to “generally accord” to avoid any misinterpretation of terms.

Plan change 05-04 (Solitaire): Amendment to rule Rur.56 (amendment 3.16, pg viii)

- 5.51 Amendment 3.16 proposes to exempt structures in the Ngawhatu high density small holdings area from being subject to the Plan’s controls for structure in the Landscape Overlay. Rule Rur.54 controls structures in the Landscape Overlay, with structures other than fences or network utilities being controlled activities. The effect of the proposed amendment would be to permit, as of right and without any controls, houses and buildings in the Ngawhatu rural Landscape Overlay.
- 5.52 The application land is not considered to contain any special features which differentiate it from other Landscape Overlays. There is also no sound planning reason for providing this exemption, which could potentially result in adverse effects on areas with high landscape value.
- 5.53 For these reasons, it is considered that amendment 3.16 is inappropriate and inconsistent with the Plan’s existing controls for rural landscape overlays. **It is therefore recommended** that amendment 3.16 is deleted, and the existing Landscape Overlay controls apply.

Plan change 05-04 (Solitaire): Amendment to rule Rur.56 (amendment 3.17, pg viii)

- 5.54 This amendment proposes that earthworks in the Ngawhatu rural Small Holdings Landscape Overlay are a controlled activity. Control is restricted to depth of cut and fill, and existing matters of control for rural earthworks which are not located in a Landscape Overlay.
- 5.55 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.
- 5.56 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. With very limited controls, and an inability to decline consents, this could give rise to adverse visual and amenity effects. It is noted that large parts of the Solitaire land are visible extensively from public places in Stoke and beyond.

- 5.57 For these reasons, it is considered that controlled activity status for earthworks in the rural landscape overlay is inappropriate. **It is recommended** that proposed amendment 3.17 be deleted and earthworks should be subject to the same controls under rule RUr.56 i.e. they should be assessed as discretionary activities.

Plan change 05-04 (Solitaire): Amendments 3.18 to 3.21 (page ix)

- 5.58 These amendments propose a new minimum lot size for High Density Small Holdings in the plan change area of 2000m<sup>2</sup>. The Plan currently permits lots down to 5000m<sup>2</sup>.
- 5.59 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.

Both plan changes: Proposed Zoning Plan – Plan 1, reserves

- 5.60 Plan 1 sets out the proposed rezoning. It is noted that it is proposed to apply a blanket Residential Zone to areas of proposed reserve and open space shown on Plan 3. The current underlying zoning is also residential, however the existing plan in Schedule E indicates reserve areas to be maintained as “community areas”.
- 5.61 Council’s Community Services staff advise that they would support the areas of “possible reserves” indicated on Plan 3 of plan change 05-03 (Stoke Valley Holdings). An “Open Space and Recreation” zoning on the reserve areas would be more appropriate, as the Plan’s Open Space and Recreation zone contains specific controls on the use of reserve land. An Open Space and Recreation zoning would better reflect the actual land use.
- 5.62 For these reasons, **it is recommended** that all areas indicated as reserves or possible reserves on plan 3 (except for the triangular are of “possible reserve” on the Solitaire plan change), be rezoned on Plan 1 as “Open Space and Recreation”. Each reserve and possible reserve to be rezoned to also be given a notation in the Neighbourhood Parks Schedule OSs.5 of the plan.

**Zoning Integration**

- 5.63 It is considered that the proposed zoning pattern would give rise to a functional and practical pattern of development. The subject land is quite contained by topography, and there are few opportunities for practical integration with other residential zones, existing or future. The central location for the proposed Suburban Commercial Zone surrounded by high density residential reflects best

planning practice. The area proposed for Suburban Commercial activities is considered sufficient to serve the local community.

#### **Corridor Study**

- 5.64 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 these plan changes being approved, so effects on the transport system and areas of future improvement have been documented through the corridor study.
- 5.65 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.



## **5. OTHER MATTERS**

### **Nelson Urban Growth strategy**

- 5.66 NUGS is at a fairly advanced stage, with a final draft having been considered by the Council. While it has not yet been formally adopted by the Council, NUGS has clearly indicated, through the consultation draft and the final draft, that the subject land is suitable for future residential land use.
- 5.67 These plan changes are therefore supported by Council's strategic land use planning process, as expressed in NUGS.

### **Section 32**

- 5.68 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.
- 5.69 Both applications have 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 these plan changes that they are supported by a defensible analysis. No submitters have commented on the section 32 analysis.

## **6. SUMMARY & CONCLUSION**

- 6.1 This report provides a statutory and effects assessment of two separate but integrated plan changes. The plan changes were jointly notified, and attracted few submissions.
- 6.2 The plan changes are both assessed as meeting the statutory requirements of the Resource Management Act.
- 6.3 Development is able to be serviced at the time of subdivision with the developers / purchasers contributing to any servicing upgrades with development levies and financial contributions.
- 6.4 Geotechnical hazards have been identified, and will be mapped, and are able to be addressed through a link to plan rules which control earthworks to avoid or mitigate effects on slope instability.
- 6.5 The plan changes identify a residential zoning over existing and "possible" reserves. Stoke Valley Holdings have agreed to confirm the two possible reserves on their land as reserves. It is considered more appropriate to apply an Open Space and Recreation Zoning to the reserve areas than the proposed Residential Zone.

- 6.6 Submitters has raised various concerns. These are generally considered to have been addressed in the plan changes and recommendations are made for specific modifications to the plan changes.
- 6.7 In terms of planning issues the plan changes generally do not give rise to any significant planning issues. There is a consequential amendment required to the Proposed Air Quality Plan, but there are existing “backstop” provisions in that Plan which will avoid adverse effects on air quality. The one exception relates to earthworks in the Rural High Density Zone proposed as controlled activities in the Landscape Overlay. It is recommended that this proposal be deleted, with the existing plan rules applying (earthworks being a restricted discretionary activity).
- 6.8 Overall, the plan changes are considered to represent sound resource management practice, will help give effect to growth issues facing Nelson, and subject to the recommended modifications being made, are able to be accepted for integrating into the Resource Management Plan.

## 7. Recommendations

### 7.1 Submission Recommendations

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

**Table 1: 05-03 Stoke Valley Holdings – submitter recommendations**

Submission	Submitter	Status	Remedy	Further submissions	Recommendation on submissions and further submissions
1.1	Ministry of Education	Support in part	Set aside some land for education purposes	none	Submission withdrawn
2.1	Ngawhātu Bowling Club	Support	Approve the request	none	Accept
3.1	Nelson Marlborough District Health Board	Support in part	1. Retain E.10v of Schedule E (maintenance of recreational and community assets in their present or modified form) 2. Rezone the area of the pool “recreational reserve”	3 in support	Accept in part Reject in part
4.1	Julian Raine	Oppose in part	Limit development until NUGS is finalised; covenants to avoid negative cross boundary effects; provision for legal access to the Raine property	3 in support	Accept in part
5.1	G & G Wright	oppose	Adequate provision for high intensity rainfall, & Council check that the retention dams are adequate.	None	Accept in part
5.2	G & G Wright	oppose	None specified	none	Accept in part

**Table 2: 05-04 Solitaire Investments – submitter recommendations**

Submission	Submitter	Status	Remedy	Further submissions	Recommendation on submissions and further submissions
1.1	Ministry of Education	Support in part	Set aside some land for education purposes	none	Submission withdrawn
2.1	George Truman	Oppose	Amend (more) pedestrian linkages	4 in support (includes petition of 192 signatures)	Accept in part
2.2	George Truman	Oppose	Delete reference to completing the pedestrian linkages in stages		
2.3	George Truman	Oppose	Replace “Barnicoat range” with “Barnicoat Walkway”.		

3.1	Julian Raine	Oppose in part	Limit development until NUGS is finalised; covenants to avoid negative cross boundary effects; provision for legal access to the Raine property	3 in support	Accept in part
4.1	G & G Wright	oppose	Adequate provision for high intensity rainfall, & Council check that the retention dams are adequate.	None	Accept in part
4.2	G & G Wright	oppose	None specified	none	Accept in part

## 7.2 Plan Changes & Modification Recommendations

Pursuant to Clause 29(4) of the First Schedule to the Resource Management Act, it is recommend that plan change 05-03 and 05-04 be approved for the reasons set out in this report, subject to the following modifications being made:

### Cross-boundary effects on rural activities: both plan changes

- a. Modify both plan changes to add the following as a matter of control under REr.107.2 (as xiii) and as an assessment criteria (as dd) under REr.107.4:

*“effects on permitted adjacent rural activities, and the need for any consent conditions or covenants to avoid reverse sensitivity effects”.* X

### Legal Access: both plan changes

- b. Modify both plan changes to amend the matter of control under REr.107.2(vii)(a) to read:

*“appropriate vehicle access, including ~~legal and/or practical access to adjoining~~ properties”.* X

### New schedule “E.2”: both plan changes

- c. Modify both plan changes to amend references to “*generally in accordance*” to “*generally accord*” for consistency of terms. J

### Earthworks in Landscape Overlays as a controlled activity: plan change 05-04 (Solitaire)

- d. Modify plan change 05-04 by deleting, in its entirety, proposed amendment to Rule RUr.54, (amendment 3.16, pg viii). J
- e. Modify plan change 05-04 by deleting, in its entirety, proposed amendment RUr.56 (amendment 3.17, pg viii).

**Proposed Zoning Plan, Plan 1, reserves: both plan changes**

- f. Show all areas indicated as “possible reserves” on plan 3 of both plan changes as “reserves”, except for the triangular “possible reserve” on the Solitaire Investments land. ✓
- g. Re-zone all areas indicated as reserves and “possible reserves” on plan 3 of both plan changes as “Open Space and Recreation Zone” on Plan 1, except for the triangular “possible reserve” on the Solitaire Investments land. Each reserve and possible reserve to be rezoned is to also be given a notation in the Neighbourhood Parks Schedule (OSs.5) of the plan. ?

**Traffic and roading and walking/cycle links – both plan changes**

- h. Modify schedule E as follows:

Modify E.2 general Rules as follows:

- (i) *Activities and subdivision in the Ngawhatu Residential Area as zoned are subject to the standards, conditions and activity status of the Residential Zone, the Suburban Commercial Zone, and the Rural Zone (as it applies to the High Density Small Holdings area), except where specific standards apply in Schedule E.2.*
- (ii) *In respect of subdivision development, infrastructure layout shall generally accord with the Outline Development Plan within Schedule E.*
- (iii) *The “High Level” walkway linking the head of York Valley with the head of Highland Valley on the Outline Development Plan shall be established on approval of the first stage of subdivision of any land which has access from either York or Highland valleys and which is legally described as Lot 38 DP 353023* X Soon as practical -submitter happy.
- (iv) *For subdivision consents lodged under REr.107, a traffic impact assessment, undertaken by a suitably qualified and experienced person, shall be supplied to Council for every 100 additional lots created (cumulatively) within the Ngawhatu Residential Area. The assessment shall be supplied at the time of lodging subdivision consent for the 101st, 201st, and 301st lot, and shall assess, as a minimum, the following:* X
- *The impact of cumulative traffic increase on Suffolk road Ngawhatu intersection level of service, safety performance, and need to upgrade to a roundabout control.*
  - *The impact on key intersections of Suffolk/Polstead, Polstead/Main Road Stoke, The Ridgeway/Songer St, and Main Road Stoke/Saxton Road levels of service.*
  - *A review of the reported crash record of access routes.*
  - *Recommended mitigation to address any effects on the roading network efficiency, function, or safety.*

*Note: For the purposes...."*

✓ Modify E.3 as follows:

*"E.3 Discretionary activities*

*Activities that contravene any general rule E.2(ii), E.2(iii), or E.2(iv)."*

- i. Amend REr.107 to add the following as a new matter of control and a new assessment criteria:

*change.* *"Provision of adequate cycle and/or pedestrian routes and linkages, including both connections within the subdivision, and connections between the subdivision and adjacent land."*

- ✓ j. Amend Planning Maps A2.1 and A2.2. to show Ngawhatu Road as a Collector Road.

**Other Change**

- ✓ k. Amend Plan 3 (in Schedule E) of both plan changes by replacing 'Faultline overlay' in the legend with 'Fault Hazard Overlay' to be consistent with the NRMP.

## **Appendix A: Engineering Staff Assessment**

File Ref:

When calling  
please ask for:  
Direct Dial Phone:  
Email:

Shane Overend  
03 546 0303  
shane.overend@ncc.govt.nz

24 Oct 2006

Memo To: Tony Quickfall  
Memo From: Infrastructural Assets  
Subject: **STOKE PLAN CHANGES: STOKE VALLEY,  
SOLITAIRE 1 & 2**

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We have reviewed the above application please see the following comments:

### ***Water***

There is inadequate water pressure and/or capacity in the Ngawhatu Road and Marsden Valley Road systems to serve this proposal. An integrated system, linking to the High Level supply in Marsden Valley, will be required. Depending on the staging of the development work may be required outside the development to connect to an approved system. Approval can be given for this plan change provided the 'Services Overlay' is placed on the land.

### **Sewer**

All lots will be connected to NCC reticulation. The existing downstream system does not have the capacity to cater for this proposal. This system is not in the current LTCCP for upgrade. Therefore at the time of subdivision the applicant will be required to make a financial contribution towards upgrading the downstream system in addition to Development Impact Levies. Approval can be given for this plan change provided the 'Services Overlay' is placed on the land.

### **Stormwater**

The Ngawhatu Valley development (Stoke Valley and Solitaire No.1) will drain to Orphanage Creek. The Marsden Valley development (Solitaire No.2) will drain to

Poorman Valley Stream. The design and upgrades that have been undertaken on these streams allowed for 'rural' stormwater runoff from the land proposed for rezoning (excluding Stoke valley land). Rezoning this land to provide for higher intensity development will result in increased stormwater runoff. Therefore works will be required to mitigate the increased flows. The applicant's proposal for onsite detention is approved.

Approval can be given for this plan change provided the 'Services Overlay' is placed on the land.

**Conclusion**

In relation to drainage and water supply, this application for rezoning can be approved subject to the Services Overlay being placed on this land.



## **Appendix B: Roading Engineer Assessment**

File Ref:

When calling  
please ask for: P Kortegast  
Direct Dial Phone: 546-0257  
Email: Peter.kortegast@ncc.govt.  
nz

Memo To: Martin Workman  
Memo From: Peter Kortegast  
Subject: **ROADING COMMENTS SOLITAIRE INVESTMENTS  
LTD NGAWHATU PLAN CHANGE**

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*21<sup>st</sup> November 2006*

### ***Introduction***

I have visited the site, reviewed both the original information supplied and the supplementary information. There is sufficient information supplied to assess the impacts of this proposal in respect to traffic impacts and suitable transportation servicing of this proposed residential community.

### ***Transportation impacts of the Plan Change***

*The proposed land rezoning does have a clear impact on the level of service of the key intersections of:*

- Suffolk Road Ngawhatu
- Suffolk/Polstead
- Polstead/Main Road Stoke
- Main Road Stoke/ Saxton Road
- The Ridgeway/Songer St ( when The Ridgeway connection is completed)

The key issue is the timing of these impacts and how these relate to the commercial development of the proposed subdivisions. This impact is not just related to level of service and delays. These impacts also relate to road safety of these intersections. It is possible for an uncontrolled intersection at Suffolk Road/ Ngawhatu Road to handle these volumes, but the safety performance of a high volume giveway T-intersection will perform poorly when compared with a roundabout.

The Transport routes have sufficient mid-block capacity to handle the land re-zoning. The upgrading of the intersection is best handled by a condition on this land zoning requiring a review of key intersections in relation to subdivision development timing.

### *Proposed Conditions*

2. The application for resource consent for subdivision of the re-zoned residential land shall undertake a traffic impact assessment after each 100 lot subdivision. If an individual subdivision is for a lesser number of lots, then a traffic assessment is not required until the cumulative increase exceeds 100 lots from the previous traffic assessment. It is not possible to do a single traffic assessment as the rate of development will be market driven and the network changes along The Ridgeway and Suffolk Road are such that traffic environment will be changeable. The traffic assessment should consider the following:
  - The impact of cumulative traffic increase on Suffolk Road Ngawhatu intersection level of service, safety performance and need to upgrade to a roundabout control.
  - The impact on key intersections of Suffolk/Polstead, Polstead/Main Road Stoke, The Ridgeway/Songer St and Main Road Stoke/ Saxton Road level of service
  - A review of the reported crash record of access routes
  - Recommended mitigation is any required to address impacts
3. Services overlay provision on all internal transport infrastructure layout.
4. A Cycle plan and pedestrian plan shall be prepared for each resource consent outlining how the needs of cyclists shall be provided for within the subdivision. This is an action point of the current draft Cycle Strategy and 2005 Pedestrian Strategy.
5. Ngawhatu Road shall be upgraded on Map A2.1 Urban Road Hierarchy Map and Map A2.2 District Road Hierarchy Map to a Collector Road.

## Appendix C: Geotechnical Assessment

File Ref: SOLITAIRE STOKE PLAN  
CHANGES  
J105774

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18 October 2006

Memo To: Tony Quickfall  
Memo From: Mike Johnston  
**Subject: STOKE PLAN CHANGES**

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The Tonkin & Taylor *Geology and Geotechnical Hazards Report, Proposed Rezoning Stoke Foothills Subdivision, Ngawhatu Valley*, dated September 2005 (ref.870412) presents an accurate assessment of the geology and geotechnical hazards. The information in the report is sufficient to assess the proposed changes and no further geological or geotechnical input is required as part of this process.

Potential geohazards identified by Tonkin & Taylor are principally the Waimea Fault, which diagonally crosses the property the subject of the proposed plan change, and slope instability. The report confirms the position of the Waimea Fault and refines the position of a fault hazard overlay to which Rule REr.73 of the Nelson Resource Management Plan would apply.

The property is divided into four slope stability hazard zones, with Zone 1 having the lowest risk and Zone 4 the highest. Zones 2 and 3 will require mitigation measures to be implemented before the land within them would be suitable for residential use. While mitigation could allow some building within Zone 4, the cost, and other factors such as steepness of slope and aspect, would probably make this unlikely.

Tonkin & Taylor has suggested that a modified Land Management Overlay, incorporating Zone 4, be used to prevent practices, such as inappropriate earthworks, that could lead to slope instability be adopted. This appears to be a much narrower definition of the Land Management Overlay that what is defined in the Nelson Resource Management Plan. There may be other, more simpler, means of achieving this objective as the Zone 4 is similar to other areas of steep hill slopes in Nelson. Irrespective of this, Council would require, at the time of

subdivision, building site certification (as a prelude to 224 Certification) to be by a chartered professional engineer practising in geotechnical engineering or by an experienced engineering geologist. The only exception would be for land within Stability Zone 1.

## **Appendix D: Parks and Reserves Assessment**

File Ref:

AS0600 03

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9 November 2006

Memo To: Martin Workman  
Memo From: Andrew Petheram  
Subject: **PROPOSED PLAN CHANGE FOR NGAWHATU**

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Please find attached feedback from the Community Services Division regarding the application for plan change from Stoke Valley Holdings and Solitaire Investments.

### **1. *Stoke Valley Holdings***

#### **1.1. *Esplanade Reserves:***

We support the provision of esplanade reserves along the length of both valleys in accordance with the proposed Nelson Resource Management Plan requirements. As detailed within the application these reserves will be developed to protect and enhance the riparian values and provide for walkway, cycleway or bridleway access into the adjoining property with linkages to Marsden Valley and the Barnicoat Range.

These would most likely limited to the size provided for in the NRMP rather than extended in size as occurred in Stage 1 of this development.

#### **1.2. *Neighbourhood/Community Reserves:***

Given intensive residential development of the Highland Valley, a neighbourhood/community reserve (Village Green) is supported within the mid area of Highland Valley to ensure adequate protection of existing landscaped grounds and the playing field area and access to these for future residents. In addition, this reserve could provide security of tenure for existing facilities such as the pool (subject to Community Services Committee approval) and provided that ownership/management and maintenance obligations for the pool did not rest with Council.

Similarly Council may if necessary, consider vesting of the existing bowling green as reserve if wider community access to this facility were not possible following the completion of this development.

The details of exact boundaries to such a reserve would need to be confirmed at the time of detailed design.

### ***1.3. Protection of Historic Values***

Council acknowledges there is some local historical interest at the Ngawhatu site and is prepared to accept the gifting and ongoing maintenance of the 'Working Men's Cemetery' in recognition of this historical interest. Legal access to the site from the nearest road would also be required.

### ***1.4. Protection of Natural / Landscape Values***

Staff support the proposed change from generic identification in this area of woodland heritage trees to the proposed specific schedule contained in a tree management plan and the provision of protective covenants to be established at each stage of the subdivision.

Other than esplanade reserve provision and the proposed village green reserve, other reserves such as that proposed for the top of highland valley are not sought apart from walkway access to the boundary. (see below)

### ***1.5. Walkways***

Walkway connections from the proposed esplanade reserves to nearby roads, the boundary of the property at the head of Highland Valley and other roads within the Solitaire Investments property both to the south and north will be required in a number of places. The details of the exact location of these is again best considered at the detail scheme plan stage.

## ***2. Solitaire Investments***

### ***2.1. Esplanade Reserves:***

The headwaters of Orphanage Stream above the Stoke Valley Holdings property boundary are not large enough for staff to promote an extension of the existing esplanade reserve provision. Existing requirements within the NRMP are considered adequate.

### ***2.2. Neighbourhood/Community Reserves:***

It is likely that additional neighbourhood reserve areas will be required to meet the target of availability of neighbourhood reserves within 4-500m of each property within the residential zone. The decision as to which specific areas of land to set aside for this purpose are best made at the detailed design stage.

The triangular block shown as 'Possible Reserve' on Schedule E Plan 3 is of no significant value to the Council but once again we would be prepared to discuss this at the detail scheme plan stage.

### ***2.3. Protection of Natural / Landscape Values***

No land is sought as reserve to provide for this purpose. Wider zoning and overlay decisions should adequately cover this need.

### ***2.4. Walkways***

Walkway connections through the subject property are shown in some detail in plan 3.

Additional indicative walkways are sought in the following locations:

- Upper highland valley to ridgeline road to the North East
- Walkway contact to upper boundary with NCC land in location suitable to join with Barnicoat Walkway
- Other walkway connection with NCC boundary at southern end of property
- Connection between road from Marsden Valley Road and Marsden Valley Cemetery land

The details of the exact location of these and those already marked on the outline development plan are again best considered at the detail scheme plan stage.

## ***3. Summary***

The details regarding the best location and boundaries for proposed reserve are best addressed at the detailed design stage, therefore the approach to not identify separately any open space zoning at this stage is supported unless these details are made clearer.

For proposed areas of reserve such as the village green in Highland valley however, the Community Services Division would not want to be disadvantaged due to increased valuation due to some of the land being rezoned suburban commercial prior to acquisition by Council for reserve. If this is a risk it would be preferable for detailed design for this area to be done at this stage.