

Report No:	REP12-06-01
File No:	L332-5
Date:	18 June 2012
Decision Required	

REPORT SUMMARY

Report to: Environment & Planning Committee
Meeting Date: Thursday, 28 June 2012
Report Author: Steve Markham, Policy Manager
Subject: **TRMP DRAFT CHANGE 37 - RICHMOND WEST - SOUTH GREENWAY**

“In Committee”

EXECUTIVE SUMMARY

1.1 The report evaluates feedback issues and options concerning the draft Change 37 Richmond west and south greenway and recommends a draft change to the TRMP for notification. The

RECOMMENDATIONS

2.1 That the Environment & Planning Committee adopts the recommended option 3 of proceeding to remove both the indicative reserve notation and the deferred urban zoning, over deferred urban on rural zoned lands forming the Richmond west and south greenway network, together with specified indicative reserve locations, with open space zone.

DRAFT RESOLUTION

THAT the Environment & Planning Committee:

- a) **Receives the TRMP Draft Change 37 Richmond West - South Greenway Report No. REP12-06-01.**
- b) **Adopts for notification proposed Change 37 attached as Appendix 1 to REP12-06-01 at the next TRMP update date.**
- c) **Notes its satisfaction that the proposed change is the most appropriate, effective and efficient option under its assessment of alternatives contained in REP12-06-01.**

Report No:	REP12-06-01
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Report to: Environment & Planning Committee
Meeting Date: Thursday, 17 May 2012
Report Author: Steve Markham, Policy Manager
Subject: **TRMP DRAFT CHANGE 37 RICHMOND WEST – SOUTH GREENWAY**

“In Committee”

1. Purpose

- 1.1 This report evaluates feedback issues and options concerning the draft Change 37 Richmond west and south greenway and recommends a draft change to the TRMP for notification as Proposed Change 37.

2. Background

- 2.1 Draft Change 37 was circulated during April and May to all property owners in the Richmond West and Richmond south development Areas with land affected by the greenway for comment. The draft change was approved by the Committee for consultation in March 2012 (REP12-03-09 refers).

The draft change arises from the establishment of a network of land corridors called greenways over the drainage pattern for Borck Creek in the west of Richmond extending from the Barnicoat Range to the Waimea Inlet. The greenway network is to provide for future stormwater drainage, stream ecosystem enhancement, open space amenity and recreation, and active transportation via walking and cycling within future urban areas.

This greenway network is currently notated as indicative reserve overlying rural zone also zoned with deferred urban (residential, mixed business or light industrial) zonings. It is also subject to a Council works requirement for greenway purposes, but is not yet a confirmed designation as there is one live appeal. The requirement footprint is a more complete network than the indicative reserve. The pattern of each is shown on the attached map (yellow for the requirement network, and green for the existing indicative reserve locations). The requirement commits Council to purchase land and to form the greenway. Land is currently purchased from Headingly Lane to close to SH60. Parts in private ownership may remain so for many years, as the development sequence is from the bottom of this catchment to the upper end.

- 2.2 The objective of the draft change is to provide a more appropriate zoning and development restrictions over the land, in recognition of its future urban open space functions. Given this intended end-use, the Council has recognised that deferred urban zoning over the affected rural zoned lands, is inappropriate over lands that were never intended to be built on for urban purposes and that this may continue to send incorrect signals to landowners, and also affect the market value of the land concerned, in the business of negotiating purchases.

The key concern for Council is the absence of a clear open space objective for the lands concerned, as represented by the appropriate land-uses under the open space zoning. The placement of buildings or other disturbances of the lands before Council acquisition may be a risk also supporting the altered zoning at this time; however the RMA does provide an interim power to limit such activities only to those consented by Council (s 178(2)). This risk is effectively avoided by the requirement for designation. Despite this, the current zoning sends the wrong expectations as to development potential, and the responses to the draft change show this clearly.

- 2.3 The indicative reserve notation has been overlaid by a more complete network of land subject to the requirement for the Borck Creek greenway. In some specific locations shown on the map, the current greenway requirement should provide the basis for any amended zoning pattern.

3. Present Situation/Matters to be Considered

- 3.1 Two submissions were received on draft Change 37; both are from Richmond south. These are attached. The issues raised are:

- Rezoning from rural + deferred urban zoning, with an indicative reserve notation, to open space zoning and no reserve notation, is only proposed for the purpose of reducing market value of the affected lands for their acquisition and so is unfair. The Council's previous assessment of costs and benefits has ignored this landowner cost.
- Over one submitter's land (Paton Rise Ltd in Richmond South Development Area) the indicative reserve notation has already been deleted as an appeal resolution under the Richmond South Change 5, leaving rural deferred residential zoning.

The two submitters both request retention of the current zoning pattern, but are not opposed to relying on the designation as the land securement means rather than the indicative reserve notation. The essential concern is that an Open Space zoning would devalue those parts of the affected properties compared with the assessed value obtained from rural + deferred urban (either deferred residential, mixed business or light industrial) in the various locations in Richmond West and south. As relief both submitters seek the abandonment of the draft change.

Paton Rise Ltd identifies what it sees as the income foregone through rezoning from rural + deferred urban to open space zone, as the cost to itself, and it compares this with the income receivable by Council for securing the greenway lands. This list of asserted income sources follows with a commentary on its nature:

- Assessed value of the lands under current (rural + deferred urban) zoning in acquisition under the designation.

This zoning is not the full regulatory influence on any assessed value of the lands concerned, as except for the Paton Rise Ltd land, virtually all other intended greenway lands from 2006 (Richmond south) and 2007 (Richmond west) to the present had this zoning notated by indicative reserve, which showed the intention that the land be not built on but vested for public utility and amenity purposes. Council has indeed argued this in litigation over the value of land in Richmond west adjoining Headingly Lane, for greenway purposes.

What this means is that even with rural + deferred urban status, the presence of indicative reserve notation in place over most of the lands concerned, from the beginning of the Richmond development planning processes, also reduces the assessed value of land. Not only is the land not assessable as urban, but also even as rural land, it is subject to a highly restrictive vesting for various reserve purposes. Arguably, the difference between this full regulatory influence on assessed value at present, and its replacement with open space zoning, is not significant. However, where on the Paton Rise Ltd land in Richmond South there is no longer an indicative reserve notation, there may be some difference in this assessed value with acquisition.

- Financial contribution for reserves and community services upon urban subdivision.

This is a standing return for all urban subdivision, to pay for public amenity and recreation needs. However, in the area served by the greenway, additional lands are required to adequately manage stormwater generated from the land and concentrated by built and sealed surface. This is a cost additional to and so offsetting the income receivable from the financial contribution, that is not recognised as such by the submitter.

- Development contributions for stormwater

This income is a levy to help fund the securement of the greenway lands and is not a standalone income stream.

- 3.2** The submitters argue that the Council has effectively broken agreements with landowners in contemplating altering the zoning within a future urban setting to an open space. As indicated, and the submitters so recognise, the signal given by the indicative reserve from the outset must sit alongside the blanket intended but deferred urban zoning. Ideally, a designation and open space zoning should have been initiated in the first place.

However, the Council's integration of urban land use and infrastructure needs was in a development mode itself a few short years ago. Paton Rise Ltd asserts that an appeal resolution agreement to remove the indicative reserve notation is a final intention; but that appeal cannot be relied on to argue against a more appropriate zoning in view of the intended end-use of the greenway lands. Council is entitled to refine its policy controls through time, in no sense is it bound to retain an inappropriate zoning. Paton Rise Ltd also asserts that there has been no consultation; patently there has, with its submission, and consultation does not have to yield agreement. This report assesses the worth of the arguments and finds that there is little other than expected private return, and possible savings in public costs that are at stake. In context the submitters and other landowners subject to the greenway, have land that will appreciate significantly in value with urban zoning and development (called betterment). While other landowners do not, it is impossible to redistribute the betterment equally over all landowners.

4. Financial/Budgetary Considerations

4.1 There are no significant financial or budgetary considerations; the recommendations if adopted will likely lead to a lesser need for financial expenditure by Council over time in relation to the assessed value of lands for acquisition, although the size of this possible saving may not be significant itself.

5. Options

5.1 In the report supporting the draft change in March there were three options identified in relation to the status of the land under the greenway network:

- status quo (no change to pattern of rural with deferred urban zoning over remaining parts of the greenway network in private ownership);
- remove indicative reserve and deferred urban zonings to have the lands remain rural; and
- remove indicative reserve and rezone as open space zone.

In the light of the issues raised in the feedback, a revised evaluation of these options is:

Option 1

This is to take no action, and leave the two means of securement in the TRMP, and allow in time with uplifting of current deferrals, an urban zoning over the greenway.

Benefits: None

Costs: Additional costs of greenway land under an urban deferred or urban zoning when this is an incorrect signal of the intended end-use of the land concerned.

Risks: Confusion about which method of land securement prevails (vesting without complete compensation, or Council purchase). Litigation with the contrary subdivision requirement applying, against the acquisition commitment with designated status of the lands. Litigation over assessed value with acquisition.

This option is not recommended as it does not resolve any of the issues identified to Council. It is not effective nor efficient in light of the objective of defining a clear open space objective for the lands concerned, as represented by the appropriate land-uses under the open space zoning. It would continue the complexity and inconsistent effects of the various restrictions over the lands. It would certainly result in process (including litigation) costs on each subdivision. Most significantly, it signals incorrectly, that there is some built development value over land that is not intended to be ever built on. This would be manifest in the litigation over the expected pricing or assessed value of all the lands, and this is potentially significant in scale.

Option 2

This option is to amend the TRMP by a plan change to:

- Remove the indicative reserve notation and the rules applying to indicative reserves for subdivision in the RSDA and RWDA for residential, mixed business or rural zones
- Amend the policies concerning urban greenways to clarify the intended means of securement, and the appropriate zoning to reflect the intended end-use of the lands
- Remove the deferred residential, business zonings to leave the greenway lands zoned rural throughout the network as the zoning underlying the designation to be.

Benefits: Removal of conflicting restrictions affecting subdivision of greenway lands and so avoidance of some process costs.

Likely marginally less cost to Council in pricing the lands for acquisition under the designation

Costs: Likely minor level of opportunity costs to landowners where assessed value for acquisition is done; the scale of any reduced pricing compared with status quo is not significant in light of valuation assessments already carried out for Council for some greenway lands in the Richmond west area.

Plan change processing costs.

Risks: Appeals on plan change. Rural zoning continues to send an inappropriate signal as to the end-use of the lands, which will patently not remain rural in character or community value.

This option is not recommended as it does not provide the most appropriate zoning for the greenway lands in recognition of the suite of public purposes, and the setting of an urban environment. It is assessed as marginally less effective and efficient as option 3.

Option 3

This option is the draft Change 37. It is the same as option 2 except that the rural zoning is further amended to Open Space zone, to reflect the public open space function and character of the future network, and so formally to signal its permanent unbuilt end-use without relying on the designation for public works. It imposes a consent requirement for any building other than any accessory building for public recreational space. This would allow control both before and following Council purchase of the greenway lands. The fact of the designation works alongside this control, but is not the complete way to signal its open space objective in a future urban setting. An underlying zoning gives context to not only the works for the designated purpose, but also to any contrary activity proposed over time.

In addition to the indicative reserve locations shown on the attached map, the notice of requirement for the Borck Creek greenway (shown on the map as a yellow network) extends over additional lands adjoining the Hope section of the Richmond Bypass designation, at Hope, and a link that extends in Richmond south to Paton Road.

Benefits: As for option 2 but a greater benefit, as open space zoning rather than rural is a far more appropriate signal, of the unbuilt, open public space value of the lands concerned within the future urban setting.

Costs: As for option 2; but it is likely that the opportunity costs to landowners with greenway land under open space zoning may be marginally greater, yet still minor over the whole of the greenway lands. Certain properties may have greater costs as return foregone where the indicative reserve has already been removed.

Risks: Appeals remain a risk; but the merit of an appropriate policy and regulatory setting for the greenway network offsets this risk.

6. Evaluation of Options

6.1 Option 1 is not effective nor efficient. The Council cannot do nothing. Option 2 has partial effectiveness, and greater efficiency. Option 3 is recommended as the most effective and efficient alternative. Open space zoning is a more appropriate zoning than under other options to show the end-use and function of the network lands than is a rural zoning. A “rural” land network in an urban location is anomalous, and it or the deferred urban might signal some development opportunity for such time as the lands remained in private ownership. The intention of the indicative reserve notation has no purpose and is contrary in light of the designation to be.

7. Significance

7.1 This is not a significant decision under Council’s Significance Policy, but it is likely to have a minor localised impact on some land within the Richmond west and south development areas because of amended restrictions on urban development.

8. Recommendations

- 8.1 That the Environment & Planning Committee adopts the recommended option 3 of proceeding to remove both the indicative reserve notation and the deferred urban zoning, over deferred urban on rural zoned lands forming the Richmond west and south greenway network, together with specified indicative reserve locations, with open space zone.

9. Timeline/Next Steps

- 9.1 Following adoption of a proposed change for notification, a submission period with a hearing and decision is required before any amendments first take legal effect. This process can be commenced with Update 44 scheduled for end July 2012.

11. Draft Resolution

THAT the Environment & Planning Committee:

- a) **Receives the TRMP Draft Change 37 Richmond West – South Greenway Report No. REP12-06-01.**
- b) **Adopts for notification proposed Change 37 attached as Appendix 1 to REP12-06-01 at the next TRMP update date.**
- c) **Notes its satisfaction that the proposed change is the most appropriate, effective and efficient option under its assessment of alternatives contained in REP12-06-01.**



Steve Markham
Policy Manager

Appendices:

Appendix 1: Proposed Change No. 37

Appendix 2: Map of Proposed Designation, Indicative Reserve Richmond West and South

Appendix 3: Submission from Arizona Land Limited

Appendix 4: Draft Plan Change No. 37 - Richmond West and South Greenway

TASMAN DISTRICT COUNCIL**PROPOSED TASMAN RESOURCE MANAGEMENT PLAN****Proposed CHANGE NO. 37****RICHMOND WEST AND SOUTH GREENWAY****Notified 28 July 2012****EXPLANATORY STATEMENT AND SECTION 32 EVALUATION**

The Council proposes to amend the Tasman Resource Management Plan to clarify the appropriate zoning of lands forming the Richmond West and south greenway. The greenway is to be progressively acquired and managed as urban open space to support stormwater drainage, recreation, aquatic ecosystem and active transport values in the future urban setting of the network.

The Council first considered the proposed amendments in policy report REP12-03-04. It has since considered feedback from affected landowners, and the subsequent revised report REP12-06-01. Council has assessed the issues and the options, and is satisfied that they are the most appropriate and effective means of addressing the issues associated with conflicting and obsolete restrictions over greenway lands and the appropriate zoning of the land that is intended to become the urban greenway network across both Richmond west and south.

AMENDMENTS

The Proposed Tasman Resource Management Plan is amended in accordance with the following schedule.

1. CHAPTER 6: Urban Environment Effects**1.1 Section 6.8: Richmond****1.1.1 delete Policies 6.8.3.9 and 6.8.3.24 and replace with:**

6.8.3.24 *To establish open space networks of greenways that link the hills to the sea from Richmond South Development Area to Richmond West Development Area and from Richmond East Development Area through Richmond north and Nelson south, and create:*

- a) *waterway networks that ensure effective stormwater management*
- b) *enhancement of stream ecosystem values*
- c) *pedestrian and cycleway networks that link residential and business environments*
- d) *enhanced public access and recreation opportunities in the networks that link with other reserves.*

2. CHAPTER 16: GENERAL RULES

2.1 Section 16.3: Subdivision

2.1.1 delete in Rule 16.3.3.1 conditions (o) (iii) and (o) (iv).

2.1.2 delete in Rule 16.3.3.1 assessment matter (8) and matter (9).

2.1.3 delete in Rule 16.3.3.2 conditions (c) (iv) and (c) (v).

2.1.4 delete in Rule 16.3.4.1 conditions (v) and (w).

2.1.5 delete in Rule 16.3.5.1 conditions (j) and (k).

2.1.6 in 16.3.20 delete under the heading *Richmond South Development Area and Richmond West Development Area* the third and fifth paragraphs and replace as shown:

The greenway network extending from the Richmond South Development Area through the Richmond West Development Area to the margin of the Waimea Inlet incorporates Borck Creek is shown by Open Space Zone. The network links both development areas and provides an important role in managing stormwater flows in the greater catchment area to reduce the adverse effects of flooding. It also provides an important alternative movement path for pedestrians and cyclists, a link between the two areas and to the coast, as well as supporting and enhancing existing ecological values.

~~The indicative reserve network is a critical element for the Richmond South Development Area and the Richmond West Development Area. Borck Creek links both development areas and provides an important role in managing stormwater flows in the greater catchment area to reduce the adverse effects of flooding. It also provides an important alternative movement path for pedestrians and cyclists, a link between the two areas and to the coast, as well as supporting and enhancing existing ecological values.~~

As subdivision takes place it is important that the contribution made in respect of the environmental outcomes envisaged for each development area is considered, including the location and mix of activities and the forming of both greenway and road networks. The greenway land is to be acquired by Council and the network formed as the land is developed. Road networks are created and vested with the Council upon subdivision in accordance with the standards for development or higher standards, and the amenity values of the areas are enhanced.

~~As subdivision takes place it is important that the bigger picture for both development areas in respect of the environmental outcomes envisaged is considered, the reserve and road networks are created and vested with the Council upon subdivision in accordance with the standards for development or higher standards, and the amenity values of the areas are enhanced.~~

3. AREA AND ZONE MAPS

3.1 On Area Maps 23, 57, 124, 127, 128, 133 **delete** the indicative reserve notation.

3.2 On Zone Maps 23, 57, 124, 127, 128, 129, 133 in the following locations:

1. the lands subject to the notices of requirement RM 090604 and RM 090608 (collectively known as the Borck Creek Greenway) (shown on the map attachment to REP 12-06-01 as yellow network; and
2. the lands subject to the notice of requirement RM 080291 (known as the Poutama Drain); and
3. on Area Map 124, the lands in the location of the indicative reserve that extends north from the Borck Creek greenway at Headingly Lane, adjoining Lower Queen Street, and the lands in the locations of the two indicative reserves that extend from the indicative road network northeast to the Waimea Inlet; and
4. on Area Map 128 the lands in the location of the indicative reserve that extends from Hill Street, north adjoining Hart Road, and to the north;

delete the Rural 1, Light Industrial, Rural 1 Deferred Mixed Business, and Rural 1 Deferred Residential zones as applicable to the locations affected, and replace in every location with Open Space Zone.