

Tasman Resource Management Plan

Plan Change 77: Growth Murchison

FINAL

Decision Report

**Pursuant to Clause 10 of the
First Schedule of the Resource Management Act 1991**

9 March 2023

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1 Introduction

This report provides the decision of Tasman District Council (Council) for Plan Change 77 – Growth Murchison (Plan Change 77). The decisions on the Plan Change and reasons for those decisions can be found in Section 6 of this report. The specific changes to the Tasman Resource Management Plan (TRMP) arising from this Plan Change can be found in Appendix 1: Schedule of Amendments.

2 General-Hearing Timeline

- 2.1 The Hearing Panel consisted of Cr Maling (chair) and Crs Bryant and MacKenzie.
- 2.2 The hearing was held at the Tasman District Council Chambers on 16 December 2022 at 1.00 pm. The hearing related solely to proposed Plan Change 77.
- 2.3 Submitters present: Ricky Leahy (Submitter 4212), Trudi Burney (Representing Transpower, Submitter 174).
- 2.4 Council officers present: N White (Consultant Planner and reporting officer), R Peterson (Consultant Planner), A McKenzie, N Armstrong, and J Butler.
- 2.5 The deliberations were held and finalised on 16 December 2022.
- 2.6 A site visit of the proposed residential and all the rural residential sites except the Mangles Valley sites was undertaken by Crs Maling and Mackenzie on 8 November 2022. Cr Bryant did not attend a site visit due to familiarity with the sites.
- 2.7 The recommendations of the Hearing Panel were approved by the Strategy and Policy Committee on 9 March 2023.

3 Decision Overview

Three submissions were received on Plan Change 77 in support and support in part, and two further submissions in opposition and opposition in part. Evidence was presented at the hearing by Ricky Leahy, and by Trudi Burney, representing Transpower NZ Ltd.

All submissions were on specific aspects of Plan Change 77 which were of relevance to the individual submitters.

Submitter 4212, Ricky Leahy, submitted and provided evidence in support in part to the plan change and sought an amendment to include his land on Mangles Valley Road in the Rural Residential rezoning. Transpower submitted in support of the Plan Change and the retention of the provisions proposed. They also provided a further submission in opposition to Submitter 4212 on the basis that this submission was out of the scope of the plan change and that the information provided by the submitter regarding setbacks from the National Electricity Grid was incorrect.

Submitter 4206, Waka Kotahi NZ Transport Agency (Waka Kotahi), supported the Plan Change in part, however opposed the rezoning of 2595 Kawaitiri-Murchison Highway from Rural to Rural Residential. Waka Kotahi sought reverse sensitivity provisions for this property, as well as access compliance with the Waka Kotahi Planning Policy Manual and a reduction in the area being rezoned which has a Nelson Tasman Future Development Strategy 2022 estimated yield of 28 houses. A

further submission was received from Karen Steadman, the owner of the 2595 Kawaitiri-Murchison Highway, opposing the suggestion of 28 dwellings on the site.

During deliberation it was observed that the matters of deferral need to be added to the Schedule of Amendments. These matters were listed in the Section 32a report but the changes to the TRMP Schedule 17.14A were not included in the Schedule of Amendments. It was agreed during deliberations that this change would be made in the Schedule of Amendments (Attachment 1).

Having had regard to the issues raised by submitters and the evidence presented at the hearing and the statutory requirements, the decision of Council regarding Plan Change 77 is to **Accept with a minor modification** Plan Change 77. A copy of Plan Change 77 can be found in Appendix 1: Schedule of Amendments (TRMP Text). Maps can be found in Appendix 2: Schedule of Amendments (Maps)

After considering the recommendations of the Hearing Panel, the Strategy and Policy Committee made the decision to accept Plan Change 77 with a minor modification on 9 March 2023.

4 Background

4.1 The Plan Change

The purpose of Plan Change 77 is to provide additional land for residential housing in the Murchison township and to provide for rural residential living opportunities in the wider Murchison area. The Plan Change seeks to achieve this by rezoning sites within the Murchison township from Rural 2 to 'Rural 2 deferred Residential' and rezoning sites in the wider Murchison area from Rural 2 to Rural Residential. The Plan Change responds to the Nelson Tasman Future Development Strategy 2022 which identified all of the sites for growth. It also responds to regional issues around the need to provide additional residential land to support the population growth and feedback from the Murchison community around the need for additional residential and rural residential land.

Plan Change Timeline

On 18 August 2022, the Strategy and Policy Committee resolved that the Plan Change be notified. On 16 September 2022, Plan Change 77 was publicly notified. The period for making submissions closed on 17 October 2022. Three submissions were received.

The summary of Submissions was publicly notified on 28 October 2022 with the further submission period closing on 11 November 2022. Further submissions were received from one original submitter and one new party.

The hearing was held at the Tasman District Council Chambers on 16 December 2022, 1:00 pm. The hearing (Hearing 82) related solely to proposed Plan Change 77.

The deliberations were held on 16 December 2022 and finalised on 16 December 2022. A site visit was undertaken to the proposed residential land by Crs Mackenzie and Maling on 8 November 2022. No site visit was undertaken by Cr Bryant as he is familiar with all of the Plan Change sites.

5 Statutory Context

5.1 Introduction

The Resource Management Act 1991 (RMA) provides the statutory framework for decision-making on plan changes and Part 1 of the Schedule 1 applies. After considering a plan change, Clause 10 of Schedule 1 requires Council to give a decision on the provisions and matters raised in the submissions. The decision must include the reasons for accepting or rejecting submissions and must include a further evaluation of the plan change in accordance with section 32AA (if changes are made); and may include consequential alterations and any other matter relevant to the plan change arising from submissions. Council is not required to address each submission individually in the decision.

Council has delegated the authority to make decisions on plan changes to the Strategy and Policy Committee, and by resolution on 9 March 2023 the Strategy and Policy Committee accepted the recommendations from the Hearing Panel and approved notification of this decision.

The following documents have been considered in making this decision and due consideration and weight has been given to the various provisions. The key provisions are detailed below.

5.1.1 Resource Management Act 1991

5.1.1.1 Section 30 and 31

The Section 32 report, in assessing the Plan Change Objective states *'The objective of this Plan Change assists Council with carrying out its statutory functions by ensuring that there is sufficient development capacity for housing – RMA s30(1)(ba) and s31(1)(aa).'* In making this decision, the Committee has considered that Plan Change 77 has been prepared to assist with Council's requirement to meet these provisions.

5.1.1.2 Section 32 and Section 32AA

A detailed Section 32 report accompanied the Plan Change and the matters raised in the Section 32 report were further considered in the Section 42A report and in the deliberations. Section 32AA requires a further evaluation of any changes that have been made to Plan Change 77 after the Section 32 report was completed. The Committee has decided to accept the Plan Change without modification. No modifications were required to the Section 32 report and therefore a Section 32AA evaluation report was not appended to the Section 42A report.

The section 32 has also appropriately considered relevant RMA Part II matters (Sections 6, 7, and 8), section 66 and 74 relating planning documents of adjacent authorities, the need to consider the section 32 assessment, and relevant national and regional planning documents. These included:

- National Policy Statement on Urban Development (NPS-UD) 2020
- National Policy Statement for Freshwater Management (NPS-FM) 2020
- Proposed National Policy Statement for Highly Productive Land (NPS-HPL). Noting that this was not in force at the time the section 32 report was drafted but was at the time the hearing was held and this decision is made. This status is covered in section 2.3.2.1 of the s42a report.

5.1.2 Tasman Regional Policy Statement and Tasman Resource Management Plan

The section 32 report has identified the relevant objectives, policies, and methods within the Tasman Regional Policy Statement (TRPS) and the Tasman Resource Management Plan (TRMP). This

assessment found that the Plan Change was consistent with the relevant provisions of the TRPS and the TRMP.

5.1.3 Other relevant documents

The section 32 has also extensively covered other relevant documents including iwi management plans, Council and Central Government strategies, policies, and actions plans, along with legislation such as the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021, and the Government Rounding Powers Act 1989.

We concur with the findings of the section 32 assessment that the Plan Change is consistent with the relevant statutory documents as identified above and included in more detail in the section 32 report.

6 Decision and Reasons for the Decision

This section contains a summary of submissions, summary of evidence, the decision, and the reasons for the decision. Each topic within Plan Change 77 that has received submissions is addressed in turn in this section. This is in the same order as the Section 42A report and provides the decision and reasons for the decision. A consolidated copy of the Plan Change can be found in Appendix 1: Schedule of Amendments.

The decisions on submissions are separated into three topics, as follows:

Table 1: Topics

Topic
Topic 77.0 General
Topic 77.1 National Grid Transmission Lines
Topic 77.2 Transportation

The table below outlines the submission and further submission points.

Table 2: Submissions and Further Submissions

Submitter Number	Submitter Name	Position	Further Submitter Number	Further Submitter Name	Position
4212	Ricki Leahy	Support in Part	FC77.174.1	Transpower NZ Ltd	Opposed
174	Transpower NZ Ltd	Support	n/a	n/a	n/a
4026	Waka Kotahi NZ Transport Agency (Waka Kotahi)	Support in Part	FC77.4076.1	Karen Steadman	Opposed in Part

6.1 Plan Change Topic Reference 77.0 - General

6.1.1 Introduction

This decision considers the submissions made which relate to Plan Change Topic Reference 77.0 - General.

6.1.2 Submitter 174 – Transpower NZ Ltd

Submission Point 77.6-2, Support: The submitter supports the suggested change associated with TRMP sections 6.18.1.4, 6.18.3.3 and 6.18.20.1(b) (Issues, Policy and Method of Implementation enabling a variety of housing options).

6.1.2.1 Summary of the Section 42A Report

Submission Point 77.6-2: It was recommended that the Hearing Panel accept the decision sought by the submitter to retain the changes associated with TRMP sections 6.18.1.4, 6.18.3.3 and 6.18.20.1(b) as notified. These changes identify a lack of housing options in Murchison as an issue and introduce an associated policy and method of implementation to address this issue.

6.1.2.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.1.2.3 Decision

Submission Point 77.6-2: Accept.

6.1.2.4 Reasons

Submission Point 77.6-2: The submitter is in support of the Plan Change. The decision is made to accept the submission point in support.

6.1.3 Submitter 4212 – Ricki Leahy

Submission Point 77.0-1 Support in part: The submitter supports the proposed Plan Change in part and seeks that it be amended to include their property (Section 1 SO 14888, RT 562862; and Section 2 and Section 3 SO 14888, RT 562863) within the Rural Residential rezoning.

Further Submission Point FC77.174.1 Submitter 174: Transpower NZ Ltd Opposed to the original submission made by Submitter 4212: The further submitter considers that the relief sought by Submission Point 77.0-1 is outside of the scope of Plan Change 77 and that, if the submission is accepted, new rules would be required to ensure appropriate an building setback from the National Grid Transmission Line.

6.1.3.1 Summary of the Section 42A Report

Submission Point 77.0-1: It was recommended that the Hearing Panel reject the decision sought by the submitter. The inclusion of the submitter's property within the Rural Residential rezoning was considered out of scope of Plan Change 77. It was considered out of scope because it would change to status quo of the Pplan Cchange which sought only to rezone land that had been identified within the Nelson Tasman Future Development Strategy 2022. The submitters property was not identified within the Strategy. Additionally, the Submitter's property was not included within the Plan Change consultation process or the notified documentation and potentially affected parties were not provided with an opportunity to submit on the rezoning of the site.

Further submission FC77.174.1 opposed Submission Point 77.0-1 on the basis of the relief sought by the submission being out of scope. It was recommended that the Hearing Panel accept the further submission.

6.1.3.2 Summary of Evidence Presented at the Hearing

Mr Leahy spoke and outlined his evidence. The evidence stated the following key points relating to his submission:

- Mr Leahy compared the estimated yields from the Future Development Strategy 2022 to the number of allotments that can be achieved based on the proposed 2ha minimum allotment size. Mr Leahy suggested that the Plan Change could be more ambitious in allowing smaller sites.
- Mr Leahy sought flexibility and enabling rules, referencing the feedback from Murchison community attached to the Section 32 report. Mr Leahy discussed the lack of flexibility of a 2ha minimum, and provided his property, which is 1.4 ha and has various land use activities (one dwelling, beehives, garden, onsite servicing, second consented dwelling), as an example

of what can be achieved on a site that is less than 2ha in area. Mr Leahy considered that there should be the ability to subdivide further based on specific criteria.

- Mr Leahy noted that the Rural Residential sites contain existing dwellings, therefore have limited development potential.
- Mr Leahy listed other places in the surrounding area that could also be rezoned.

6.1.3.3 Decision

Submission Point 77.0-1: Reject.

Further Submission FC77.174.1: Accept.

Scope: The decision is made that the rezoning of the submitter's property from Rural 2 to Rural Residential is outside of the scope of Plan Change 77.

6.1.3.4 Reasons

Submission Points 77.0-1: The inclusion of the submitter's property in the Plan Change is out of scope. The submitter raised additional matters in the hearing which were not included in the submission, and therefore are not part of the decisions in this report.

Further Submission Point FC77.174.1: It is accepted that, as per the Further Submission, Submission Point 77.0-1 is out of scope of the Plan Change.

6.2 Plan Change Reference 77.1 – National Grid Transmission Lines

6.2.1 Introduction

This decision considers the submissions made which relate to Plan Change Topic Reference 77.1 – National Grid Transmission Lines.

6.2.2 Submitter 174 – Transpower NZ Ltd

Submission Point 77.16-1, Support: The submitter supports the inclusion of 6.3.8.1, Figure 16.3C and 16.3.8.119(m).

Submission Point 77.17-1, Support: The submitter supports the inclusion of 17.8.3.1(g)(vii) and 17.8.3.2 Matters of Discretion (5).

6.2.2.1 Summary of the Section 42A Report

Submission Point 77.16-1 and 77.17-1: The submitter is in support of the Plan Change and the proposed provisions to protect the National Grid Transmission Lines. The Section 42A report recommended that the submission points in support be accepted.

6.2.2.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission.

6.2.2.3 Decision

Submission Points 77.16-1: Accept.

Submission Points 77.17-1: Accept.

6.2.2.4 Reasons

Submission Points 77.16-1 and 77.17-1: The submitter is in support of the Plan Change. In particular, the submitter is in support of the proposed provisions to protect the national grid transmission lines. The decision is made to accept the submission points in support.

6.2.2 Submitter 4212 – Ricki Leahy

Submission Point 77.6-1, Support in Part: The submitter seeks that the 32 metre building setback distance from the National Grid Transmission Line, which is proposed to apply to buildings on the proposed Rural Residential site in Mangles Valley, be re-considered and that more technical detail be included.

Further Submission Point FC77.174.1 Opposed to the original submission made by Submitter 4212: The further submitter considers that some of the information stated in the original submission made by Submitter 4212 is not correct. The further submitter states that they have undertaken a robust assessment of the necessary National Grid Transmission Line setbacks across the country.

6.2.1.1 Summary of the Section 42A Report

Submission Point 77.6-1: It was recommended that the Hearing Panel reject the decision sought by the submitter. The 32 metre setback distance is based on feedback from Transpower NZ Ltd, and is consistent with their general approach throughout the country. This setback is also consistent with the existing National Grid Transmission Line setback distances in the TRMP.

Further Submission Point FC77.174.1 was recommended to be accepted on the basis that the setback distance is part of a consistent approach used throughout the country by Transpower NZ Ltd.

6.2.1.2 Summary of Evidence Presented at the Hearing

Mr Leahy spoke at the hearing about the lack of flexibility around the 2 hectare minimum allotment. He did not specifically speak about the setback distances discussed in Submission Point 77.6-1.

Transpower spoke and answered questions from the Hearing Panel. The following key points were raised:

- The transmission corridor distance varies based on line voltage. The National Grid Transmission Line, where it runs through Mr Leahy property, requires a 32 metres minimum setback for habitable buildings. Engineering evidence would be required to support a reduction in the 32 metre minimum setback. The further submitter was only aware of the minimum setback being approved to be breached once before.
- The 32 metre setback allows for line swing and failure.
- There are different building classifications and setback requirements. Non-habitable buildings like sheds could be located closer.
- In the case of the proposed Rural Residential Mangles Valley site, the separation created by Mangles Valley Road provides a degree of safety.

6.2.1.3 Decision

Submission Points 77.6-1: Reject.

Further Submission Point FC77.174.1: Accept.

6.2.1.4 Reasons

Submission Points 77.6-1: The 32 metre setback is a national setback applied by Transpower NZ Ltd consistently throughout New Zealand. Submitter 4212 provided no evidence that would support a change to this setback distance. As such, Submission Point 77.6-1 is rejected.

Further Submission Point FC77.174.1: It is accepted that, as per the Further Submission, a robust assessment has been undertaken to determine setback distances at a national-wide level.

6.3 Topic 3 Plan Change Reference 77.2 - Transportation

6.3.1 Introduction

This decision considers the submissions made which relate to Plan Change Topic Reference 77.2 – Transportation.

6.3.2 Submitter 4206 – Waka Kotahi

Submission Point 77.0-2 Support: Support for the deferred Residential zoning and proposed indicative walkway.

Submission Point 77.0-3 Oppose: Opposed to the rezoning of 2595 Kawaitiri-Murchison Highway from Rural 2 to Rural Residential at the yield of 28 dwellings as identified in the Nelson Tasman Future Development Strategy 2022. The submitter seeks that the scale of the area to be rezoned is reduced to provide for a small amount of rural residential land use, that safe and suitable access complying with the Waka Kotahi Planning Policy Manual is ensured, and that provisions be included for this site to address potential reverse sensitivity effects. Waka Kotahi is neutral on the other Rural Residential sites.

Further Submission Point – Karen Steadman FC77.4076.1 Opposed to the Submission Point 77.0-3 in part: The further submitter considers that the proposed rezoning of 2595 Kawaitiri-Murchison Highway should be retained with a 2 hectare minimum allotment size, and opposes the suggestion of the potential for 28 dwellings on this site.

6.3.2.1 Summary of the Section 42A Report

Submission point 77.0-2: It was recommended that the Hearing Panel accept the decision sought by the submitter.

Submission point 77.0-3: It was recommended that the Hearing Panel reject the decision sought by the submitter. The scale, access and reverse sensitivity concerns were considered to be addressed by the minimum allotment size (2 hectare), provisions in the TRMP, and the rural location of the site.

Further submission FC77.4076.1 was recommended to be accepted. The owner of the site explained her intentions in the further submission to subdivide the property into four 2 hectare lots and one 4 hectare lot which is consistent with the scale of development envisioned by the proposed provisions.

6.3.2.2 Summary of Evidence Presented at the Hearing

No evidence was presented at the hearing regarding this submission and further submission.

6.3.2.3 Decision

Submission Point 77.0-2 – Accept. *Note: the Section 42a Report incorrectly recommended that this point be rejected.*

Submission Point 77.0-3 – Reject.

Further Submission FC77.4076.1 – Accept.

6.3.2.4 Reasons

Submission Point 77.0-2 is in support of the residential zoning and indicative walkway.

Submission Point 77.0-3 is recommended for rejection as the submitter's concerns over the scale, access and reverse sensitivity issues are all addressed through the 2 hectare minimum allotment size, the location of the site, and the provisions in the TRMP.

Further Submission FC77.4076.1 it is accepted that, as per the Further Submission, the scale of the intended development is consistent with the proposed provisions and 2 hectare minimum allotment size.

Appendix 1: Schedule of Amendments (TRMP Text)

[Under separate cover]

Appendix 2: Schedule of Amendments (Maps)

[Under separate cover]