



AGENDA

Ordinary meeting of the

Planning and Regulatory Committee

**Thursday 25 June 2015
Commencing at 9.00am
Council Chamber
Civic House
110 Trafalgar Street, Nelson**

Membership: Councillor Brian McGurk (Chairperson), Her Worship the Mayor Rachel Reese, Councillors Ian Barker, Ruth Copeland, Eric Davy, Kate Fulton (Deputy Chairperson), Matt Lawrey, Mike Ward and Ms Glenice Paine

Guidelines for councillors attending the meeting, who are not members of the Committee, as set out in Standing Orders:

- All councillors, whether or not they are members of the Committee, may attend Committee meetings (SO 2.12.2)
- At the discretion of the Chair, councillors who are not Committee members may speak, or ask questions about a matter.
- Only Committee members may vote on any matter before the Committee (SO 3.14.1)

It is good practice for both Committee members and non-Committee members to declare any interests in items on the agenda. They should withdraw from the table for discussion and voting on any of these items.

1. Apologies

An apology has been received from Councillor Eric Davy.

2. Confirmation of Order of Business**3. Interests**

3.1 Updates to the Interests Register

3.2 Identify any conflicts of interest in the agenda

4. Public Forum

4.1 Carolyn Hughes and Andrew Goldsworthy - Nelson Environment Centre

Carolyn Hughes and Andrew Goldsworthy of the Nelson Environment Centre will speak on Sustainability Education.

5. Confirmation of Minutes

5.1 14 May 2015

9 - 16

Document number M1219

Recommendation

THAT the minutes of the meeting of the Planning and Regulatory Committee, held on 14 May 2015, be confirmed as a true and correct record.

6. Status Report - Planning and Regulatory Committee - 25 June 2015**17 - 19**

Document number R4432

Recommendation

THAT the Status Report Planning and Regulatory Committee 25 June 2015 (R4432) and its attachment (A1155974) be received.

7. Chairperson's Report

REGULATORY

8. Submission to the Rules Reduction Taskforce 20 - 33

Document number R4254

Recommendation

THAT the report Submission to the Rules Reduction Taskforce (R4254) and its attachments (A1349652 and A1366848) be received;

AND THAT the submission in Attachment 1 of this report (R4254) be confirmed by the Committee as the position of the Council for submissions to the Rules Reduction Taskforce.

9. Sandwich Boards 34 - 47

Document number R4332

Recommendation

THAT the report Sandwich Boards (R4332) and its attachments (A1372336, A1372341, and A1369029) be received;

AND THAT the Committee review its recommended bylaw provisions regarding sandwich boards in Nelson.

Recommendation to Council

THAT the Bylaw provisions for Sandwich Boards, as detailed in report R4332, include either:

Option A – Status Quo; or

Option B – Status quo plus controls on flashing, illuminated signs; or

Option C – All sandwich boards on the kerb plus controls on flashing, illuminated signs; or

Option D – All sandwich boards against shop frontages plus controls on flashing, illuminated signs;

AND THAT this approach to sandwich boards be adopted by Council.

10. Election signs - current practice and issues 48 - 50

Document number R4260

Recommendation

THAT the report Election signs - current practice and issues (R4260) be received.

Recommendation to Council

THAT election sign rules in the Nelson Resource Management Plan be considered for change as part of the Nelson Plan review.

11. Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules 51 - 60

Document number R4140

Recommendation

THAT the report Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules (R4140) and its attachments (A1349284, A1349105, A1349156, A1350309, A1350307, A1359621) be received;

AND THAT the following alterations to the Schedules of Bylaw No 207, Parking and Vehicle Control (2011) be approved:

Schedule 4: Special Parking Areas;

Schedule 9: No Stopping;

Schedule 14: Give Way Signs.

ENVIRONMENT

12. Use of Glyphosate 61 - 65

Document number R4372

Recommendation

THAT the report Use of Glyphosate (R4372) be received;

AND THAT Council officers continue to monitor the use of glyphosate; take steps to mitigate any known adverse effects; and work to identify effective and safer alternatives.

POLICY AND PLANNING

13. Land Development Manual Review 66 - 75

Document number R4261

Recommendation

THAT the report Land Development Manual Review (R4261) and its attachments (A1365598) be received;

AND THAT the Committee nominate Councillors

..... and to be members of the Land Development Manual Steering Group.

AND THAT the attached draft Terms of Reference are adopted by Council for finalisation at the first Steering Group meeting after which they will be confirmed by the Mayor and the Chair of Planning and Regulatory.

AND THAT those nominated Councillors provide regular reports back to Council on progress with the Land Development Manual alignment and review.

AND THAT where possible both Tasman District Council and Nelson City Council use the same Hearing Commissioners to hear and make recommendations on submissions.

Recommendation to Council

THAT a draft aligned Land Development Manual be brought back to Council in December 2015.

14. Dogs off the leash on Monaco Reserve

76 - 90

Document number R4134

Recommendation

THAT the report Dogs off the leash on Monaco Reserve (R4134) and its attachments (A1374151, A1261310 and A1374167) be received;

AND THAT the Planning and Regulatory Committee makes a recommendation to Council about whether the Dog Control Bylaw is amended in relation to Monaco Reserve.

Recommendation to Council

THAT the Council determines that an amendment to the Dog Control Bylaw for Monaco Reserve is considered as part of the review of the Dog Control Bylaw in 2018.

AND THAT a response is provided to the petitioners.

15. Plan Change 18 Nelson South Operative Date

91 - 106

Document number R4136

Recommendation

THAT the report Plan Change 18 Nelson South Operative Date (R4136) and its attachments (A1352380 and A1340607) be received.

Recommendation to Council

THAT Council resolves to make Plan Change 18 – Nelson South operative on 17 August 2015, pursuant to Clause 20(1) of the First Schedule of the Resource Management Act 1991.

PUBLIC EXCLUDED BUSINESS

16. Exclusion of the Public

Recommendation

THAT the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
1	Enforcement of the fence rule (REr.31.1)	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none">• Section 7(2)(g) To maintain legal professional privilege

17. Re-admittance of the public

Recommendation

THAT the public be re-admitted to the meeting.

Note:

- **Lunch will be provided at 12.30pm.**
- **Youth Councillors Keegan Phipps and Helena George will be in attendance at this meeting.**

Minutes of a meeting of the Planning and Regulatory Committee

**Held in the Council Chamber, Civic House, 110 Trafalgar Street,
Nelson**

On Thursday 14 May 2015, commencing at 9.00am

- Present: Councillor B McGurk (Chairperson), Her Worship the Mayor R Reese, Councillors R Copeland, E Davy, K Fulton (Deputy Chairperson), M Lawrey, and M Ward and Ms G Paine
- In Attendance: Nelson Youth Councillor Taylah Shuker, Group Manager Strategy and Environment (C Barton), Manager Communications (P Shattock), Senior Strategic Adviser (N McDonald), Administration Adviser (S McLean)
- Apologies: Councillor I Barker for attendance and Her Worship the Mayor R Reese for lateness

1. Apologies

Resolved PR/2015/001

THAT apologies be received and accepted from Councillor Barker for attendance and Her Worship the Mayor for lateness.

McGurk / Davy

Carried

2. Confirmation of Order of Business

There was no change to the order of business.

3. Interests

There were no updates to the Interests Register, and no interests with items on the agenda were declared.

4. Public Forum

There was no public forum.

5. Confirmation of Minutes

5.1 2 April 2015

Document number M1002, agenda pages 6 - 10 refer.

It was noted that further information was called for under items 4.1 and 7, and this would be added to the minutes.

Resolved PR/2015/002

THAT the amended minutes of the meeting of the Planning and Regulatory Committee, held on 2 April 2015, be confirmed as a true and correct record.

McGurk / Paine

Carried

5.2 2 April 2015

Document number M1003, agenda pages 11 - 15 refer.

Attendance: The meeting adjourned from 9.04am to 9.07am during which time Her Worship the Mayor joined the meeting.

At the request of Councillor Fulton, it was agreed that the sentence at the top of page 4 of the minutes would be expanded to 'After discussion on sandwich boards and relevant submissions,...'

Resolved PR/2015/003

THAT the amended minutes of the meeting of the Planning and Regulatory Committee to deliberate on submissions to the draft Urban Environments Bylaw, held on 2 April 2015, be confirmed as a true and correct record.

McGurk / Ward

Carried

6. Status Report - Planning and Regulatory Committee - 14 May 2015

Document number R4253, agenda pages 16 - 17 refer.

It was agreed that the communications plan for the Urban Environments Bylaw should commence after deliberations on the Long Term Plan 2015-25.

In response to a question, Group Manager Strategy and Environment, Clare Barton, confirmed that sandwich boards would be considered at the 25 June 2015 Committee meeting, and that no new information would be presented.

Resolved PR/2015/004

THAT the Status Report Planning and Regulatory Committee 14 May 2015 (R4253) and its attachment (A1155974) be received.

Davy / Lawrey

Carried

7. Chairperson's Report

Document number R4252, agenda pages 18 - 19 refer.

The Chairperson provided a verbal update on a proposed Nelson Resource Management Plan 101 workshop. It was agreed that a workshop on 23 June 2015 was appropriate.

Attendance: Councillor Fulton left the meeting at 9.20am.

The Chairperson advised that an officer report on the use of glyphosate would be reported to the 25 June 2015 Committee meeting.

Resolved PR/2015/005

THAT the Chairperson's Report (R4252) be received and the contents noted.

McGurk / Lawrey

Carried

REGULATORY

8. Submission on Proposals for Regulations under the Food Act 2014

Document number R4115, agenda pages 20 - 46 refer.

Manager Consents and Compliance, Mandy Bishop, and Manager Environmental Inspections Limited, Stephen Lawrence, presented the report.

In response to a question on the implication of the Food Act 2014 (the Act), Mr Lawrence said he believed the Act would open up more possibilities for home kitchens, as opposed to current food hygiene regulations.

Attendance: Councillor Fulton returned to the meeting at 9.23am

In response to further questions on the impact of the Act, Ms Bishop advised the industry was shifting from a regulation focus to an education focus to help operators achieve standards under the Act. Mr Lawrence added that the onus would be on food operators to take ownership of

their systems, which may result in additional paperwork. He said premises in Nelson which had been involved in the Voluntary Implementation Programme had provided positive feedback.

In response to a question, it was advised that the regulations may be available by the end of 2015, unless a further round of consultation was undertaken by the Ministry for Primary Industries (MPI).

Attendance: Councillor Ward left the meeting at 9.36am.

Councillor Davy, seconded by Councillor McGurk, moved the officer recommendation.

THAT the report Submission on Proposals for Regulations under the Food Act 2014 (R4115) and its attachments (A1325172 and A1335703) be received;

AND THAT the submission in Attachment 1 of this report (A1325172) be confirmed by the Committee as the position of the Council on the proposals for regulations under the Food Act 2014.

Concern was raised that the Act could result in Council undertaking regulatory functions which it had not done previously, and this could result in further cost to the ratepayer.

Attendance: Councillor Ward returned to the meeting, and Councillor Fulton left the meeting at 9.38am.

In response to a question, Ms Bishop advised that when the Act came into force, Environment Inspections Limited would be able to continue providing services until November 2017. She said after this time, there may be new requirements for contractors.

Attendance: Councillor Fulton returned to the meeting at 9.46am.

Concern was raised that Council would be taking on an educative function if MPI did not adequately liaise with affected parties.

It was agreed that a further submission would be presented to MPI, reaffirming Council's stand that costs should be fair and reasonable.

With the approval of the mover and seconder, a third clause was added to the officer recommendation.

Resolved PR/2015/006

THAT the report Submission on Proposals for Regulations under the Food Act 2014 (R4115) and its attachments (A1325172 and A1335703) be received;

AND THAT the submission in Attachment 1 of this report (A1325172) be confirmed by the Committee as the position of the Council on the proposals for regulations under the Food Act 2014;

AND THAT the Chairperson lodge a late submission focusing on the costs of regulation and the costs of implementation.

Davy / McGurk

Carried

9. Strategy and Environment Report for 1 January 2015 to 31 March 2015

Document number R4114, agenda pages 47 - 65 refer.

Manager Planning, Matt Heale, Manager Consents and Compliance, Mandy Bishop, Manager Building, Martin Brown, Environmental Programmes Officer, Mary Curnow, and Manager Environmental Programmes, Dean Evans, presented the report.

In response to questions on waste minimisation, Ms Curnow advised that work was being done on YouTube clips, workshops and library demonstrations.

In response to a question, Mr Evans said he understood the king tide inanga spawning event had been a success.

In response to questions, Mr Heale spoke about the feedback from developers on their need for accurate flood modelling data. He added that officers were working on a practise note to provide more certainty, and more information would be provided at the upcoming Nelson Plan Hazards workshop.

In response to a question on earthquake prone buildings owned by Council, Mr Brown agreed to provide to interested councillors the number of detailed seismic assessments passed to his team for assessment.

In response to a question about resource consents for Council developments, Ms Bishop advised that commissioners with appropriate expertise were chosen to assess consents for Council.

In response to questions, Ms Curnow advised that initiatives had resulted in a 25% reduction in construction waste for building sites that had implemented different methods. She confirmed that officers worked closely with the Nelson Environment Centre.

After questions on recent changes to the Resource Management Act, it was asked that information on resulting amendments to Council processes be presented to the Committee in future reports.

In response to a question on iwi liaison, Group Manager Strategy and Environment, Clare Barton, advised that officers were working on a tender document for comment from iwi. Ms Barton agreed to provide further information on this at the following Committee meeting.

Officers undertook to include trend data on resource consents in future reports. It was confirmed that subdivision and land use consent data would be separated.

Resolved PR/2015/007

THAT the report Strategy and Environment Report for 1 January 2015 to 31 March 2015 (R4114) and its attachments (A1352532 and A1335080) be received.

Davy / Ward

Carried

Attendance: The meeting adjourned for morning tea from 10.35am to 10.47am.

ENVIRONMENT

10. Ecofest 2015

Document number R4137, agenda pages 66 - 107 refer.

Environmental Programmes Officer, Mary Curnow, and Manager Environmental Programmes, Dean Evans, presented the report.

In response to a question, Ms Curnow advised that the officer recommendation was not related to the temporary closure of the Trafalgar Centre.

In response to a question, Ms Curnow confirmed key messages would be delivered through schools, and in particular Enviroschools. It was highlighted that Council's emphasis should be on engaging the younger generation.

Councillor Copeland, seconded by Councillor Fulton, moved a motion:

THAT the report Ecofest 2015 and its attachments (A915145, A1120552, A1137528 and A1329058) be received;

AND THAT the Nelson Ecofest event is cancelled;

AND THAT budget and resources from the Nelson Ecofest event be reallocated to support the delivery of the Nelson 2060 strategy including targeted sustainability information and educational initiatives throughout the year.

There was some support for the Ecofest event to continue in a format that recognised leaders and celebrated success.

Councillor Ward, seconded by Councillor Davy, moved an amendment to the motion on the table:

THAT the report Ecofest 2015 and its attachments (A915145, A1120552, A1137528 and A1329058) be received;

AND THAT the Nelson Ecofest event become a flagship event;

AND THAT budget and resources from the Nelson Ecofest event be reallocated to support the delivery of the Nelson 2060 strategy including targeted sustainability information and educational initiatives throughout the year.

Concerns were raised that current resources could not include both an Ecofest event and targeted sustainability initiatives. It was suggested that event fatigue was also a factor to be considered.

The amendment was put and lost.

A suggestion was made that the essence of Ecofest could be incorporated into the reopening of the Trafalgar Centre, but there was no further support for this.

An additional clause regarding Council communications about the cancellation of Ecofest was proposed by Councillor Lawrey. This was accepted by the mover and seconder of the original motion.

Resolved PR/2015/008

THAT the report Ecofest 2015 and its attachments (A915145, A1120552, A1137528 and A1329058) be received;

AND THAT the Nelson Ecofest event is cancelled;

AND THAT budget and resources from the Nelson Ecofest event be reallocated to support the delivery of the Nelson 2060 strategy including targeted sustainability information and educational initiatives throughout the year;

AND THAT Council promotes through Live Nelson and letters to previous exhibitors how Council is redirecting its funds and energy.

Copeland / Fulton

Carried

There being no further business the meeting ended at 11.27am.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

REPORT R4432

Status Report - Planning and Regulatory Committee - 25 June 2015

1. Purpose of Report

- 1.1 To provide an update on the status of actions requested and pending.

2. Recommendation

THAT the Status Report Planning and Regulatory Committee 25 June 2015 (R4432) and its attachment (A1155974) be received.

Gayle Brown
Administration Adviser

Attachments

Attachment 1: Status Report - Planning and Regulatory Committee - June 2015

MEETING DATE	SUBJECT	MOTION	RESPONSIBLE OFFICER	COMMENTS
18 Feb 2014	Alteration to Resolution - Draft Local Approved Products Policy (Psychoactive Substances)	<p>Resolved PR/2014/009</p> <p><i><u>AND THAT</u> hearing of submissions to the draft Local Approved Products Policy by the Planning and Regulatory Committee be delayed until further information is available from the Ministry of Health.</i></p>	Nicky McDonald	<p>Hearings complete, deliberations to be scheduled.</p> <p>Ongoing</p>
02 April 2014	Analysis of Submissions on the draft Urban Environments Bylaw	<p>Resolved PR/2014/010</p> <p><i><u>AND THAT</u> Council increase publicity and information about the provisions of the Bylaw and its enforcement.</i></p>	Matt Heale	<p>A Communications Plan has been developed and will be implemented ahead of the 2 June effective date with articles in Live Nelson and on social media, and updating signage for alcohol ban areas.</p> <p>Publicity includes - sending information to key stakeholder groups, advertorials in the Nelson Leader and a brochure for CBD business owners (subject to the final decision on sandwich boards).</p> <p>Ongoing</p>
14 May 2015	Submission on Proposals for Regulations under the Food Act 2014	<p>Resolved PR/2015/006</p> <p><i><u>THAT</u> the report Submission on Proposals for Regulations under the Food Act 2014 (R4115) and its attachments (A1325172 and A1335703) be received;</i></p> <p><i><u>AND THAT</u> the submission in Attachment 1 of this report (A1325172) be confirmed by the Committee as the position of the</i></p>	Clare Barton	<p>Submission sent 9 June</p> <p>Completed</p>

*Council on the proposals for regulations
under the Food Act 2014;*

*AND THAT the Chairperson lodge a late
submission focusing on the costs of
regulation and the costs of
implementation.*

REPORT R4254

Submission to the Rules Reduction Taskforce

1. Purpose of Report

- 1.1 To confirm the submission prepared and submitted by staff to the Rules Reduction Taskforce on May 2015 is agreed by the Planning and Regulatory Committee.

2. Delegations

- 2.1 The Committee has the power to decide to lodge and present submissions to external bodies on policies and legislation relevant to the Committee's areas of responsibility. Submissions to the Rules Reduction Taskforce on property regulations and local rules are within the responsibilities of the Planning and Regulatory Committee.

3. Recommendation

THAT the report Submission to the Rules Reduction Taskforce (R4254) and its attachments (A1349652 and A1366848) be received;

AND THAT the submission in Attachment 1 of this report (R4254) be confirmed by the Committee as the position of the Council for submissions to the Rules Reduction Taskforce.

4. Background

- 4.1 The Rules Reduction initiative was launched by Local Government Minister Paula Bennett in October 2014. It asked people to submit examples of property regulations and local rules that don't make sense.
- 4.2 A Rules Reduction Taskforce was then appointed to consider submissions and ultimately recommend any changes. The Taskforce conducted a number of public meetings around the country from March to May 2015.
- 4.3 Final submissions to the Rules Reduction Taskforce close on 15 June 2015.

5. Discussion

Recommendation principles

- 5.1 The Council has taken this opportunity to highlight a broad range of areas of regulations that require further investigation. All recommendations involve activities occurring on property so we consider they are within the scope of the Taskforce.
- 5.2 The recommendations seek to reduce duplication, reduce complexity and ambiguity, improve efficiency, improve the effectiveness of outcomes and remove processes where the decision is obvious or has little impact on people's wellbeing.
- 5.3 Local Government New Zealand (LGNZ) has sent part of their draft submission on Resource Management Act plan making and consenting matters to Council staff nationwide for comment. Council staff will send a statement of support to the Taskforce once the LGNZ submission is finalised. Attachment 2 contains this draft submission that includes suggested additions that are highlighted.

Building Act 2004

- 5.4 Sections 71 to 74 and sections 91 to 94: there is lack of direction on specific points and the intent of these sections seems to have been lost. Both of these areas (hazards and Code of Compliance Certificates respectively) are time heavy for the Building Consent Authority and difficult for customers to deal with. More prescriptive guidance and more power under sections 91 to 94 would assist in a more efficient process.

6. Options

- 6.1 The preferred option is for the submission in Attachment 1 to be confirmed as the position of the Council.
- 6.2 Another option is to amend the submission or withdraw it entirely.
- 6.3 The preferred option better meets the purpose of local government as it provides the Taskforce with suggested changes based on our experience as a regulator to ensure regulation is efficiently and effectively achieving the purpose of the intervention.

7. Alignment with relevant Council policy

- 7.1 Nelson City Council has identified goals in the Long Term Plan and strategic visions in Nelson 2060. Regulation that does not help to add value to our community requires additional staff time and costs.
- 7.2 The reduction in administering regulation may result in decreased Council staff time and reduces costs to general ratepayers.

- 7.3 Individual costs for developers and businesses or households are reduced by removing the need to go through processes that have no appreciable added value.

8. Assessment of Significance against the Council's Significance and Engagement Policy

- 8.1 This is not a significant decision in terms of the Council's Significance and Engagement Policy.

9. Consultation

- 9.1 Staff have consulted internally to obtain the information contained in Attachment 1. Any member of the public can make a submission to the Taskforce.

10. Inclusion of Māori in the decision making process

- 10.1 There has been no consultation with Māori regarding this submission.

Mandy Bishop

Manager Consents and Compliance

Attachments

Attachment 1: A1349652 - Rules reduction taskforce recommendations

Attachment 2: A1366848 - LGNZ RMA draft rules reduction submission

RULES REDUCTION TASKFORCE RECOMMENDATIONS

Rule or statutory provision	Issue	Reason to deregulate	Proposed solution
Section 31 to 39 of the Building Act 2004	Requiring the BCA (or TA) to issue a PIM for a building that has previously been designed and documented.	Requiring the BCA (or TA) to issue a PIM after the building has been designed and documented provides no benefit to the applicant, but does add time and complexity to the process	Remove the need to issue a PIM with a building consent. Make the process voluntary for an applicant to apply for a PIM <i>before</i> the building is designed and documented and a building consent applied for.
Section 49 of the Building Act 2004	BCA required to issue consent if building code would be met. This creates situation where BC is granted subject to sec 37. This (often) requires applicant to formally amend BC application and therefore incur further costs to satisfy RMA '91.	Reduce time and cost to BC applicant. Reduce administrative overhead to BCA.	Remove need to issue BC if (only) building code is satisfied. Enable BCA to refuse to grant until such time as RMA '91 is satisfied.
Sections 91 to 94 of the Building Act 2004	Code Compliance Certificates have to be applied for once work is completed by owners. <ul style="list-style-type: none">There is no legislative mechanism to make owners get to a point where they can be	Not to deregulate but to place a time limit on when a Code Compliance Certificate can be applied for and how long they can be on hold if they are not	Any building consents which are over 6 years old without an application made should be indefinitely closed out. Building Act 1991 (give until 2017) After this date advise no CCC will be

Rule or statutory provision	Issue	Reason to deregulate	Proposed solution
	<p>issued by the BCA.</p> <ul style="list-style-type: none"> Owners can fail to provide information and as such the BCA cannot be satisfied on reasonable grounds to issue so these go on hold and no enforcement to lapse if no response. Owners in the past who did not get Code Compliance Certificate but require it several years after to sell their property. 	completed by owners.	<p>provided.</p> <p>Building Act 2004 (give until 2017) for any Consents granted between 2004 to 01 January 2011 to get CCC and then advise no CCC will be provided.</p>
Section 71 to 74	New buildings which are non habitable and minor (i.e sheds, garages, Car ports, small stores and small workshops) on residential sections can cause a property to receive a S73 notification on the title.	The affect on these minor buildings by hazards are lower risk, the building Code allows water in to these buildings under E1. Should these minor buildings mean other properties, which are not subject to hazard, on the section wind up with a S73 notification on their	Remove requirement for Small new buildings Car ports m, Sheds workshop (IA) type buildings

Rule or statutory provision	Issue	Reason to deregulate	Proposed solution
		title and issues with insurers and future purchasers.	
NZ Gazette No 49	Item 2 (c). ..except where the effect is minor.	This results in very small jobs going to DRU and they advise do we really want them to review...	Specify minor works (give list of inclusions) so this is more clear. This would save time and be more efficient for Fire Services Design unit and BCAs for customers
Health (Hairdressers) Regulations 1980	This activity has fewer health risks compared to unregulated activities such as tattoo and sunbed services.	Remove the regulation – unnecessary costs to industry and regulators	Repeal the Health (Hairdressers) Regulations 1980
Clause 11, Amusement Device Regulations 1978	Redundant for Local Government and fees do not cover the cost of the visit	Remove the duplication of agency responsibility	Place greater responsibility on the supplier of the service and Worksafe NZ
Fencing of Swimming Pools Act 1987	Should not need to fence a spa with a lockable lid. Also open to interpretation whether Councils are obligated to carry out a review/inspection	Having a hearing to exempt is costly to applicant and regulator Removes unnecessary cost for owner and Council for limited gain	Implement amendment to the regulation Inspect when a new installation then have another trigger mechanism to re-inspect
RMA Plans	Inconsistent definitions and rules	Have nation-wide rules	National template, definitions and

Rule or statutory provision	Issue	Reason to deregulate	Proposed solution
	nationally for bulk and location of buildings and election signs	and definitions that make it clearer and easier to comply	rules for bulk and location of buildings that protect adjoining properties and streetscape only – remove rules regarding matters only affecting the site internally. Rules for national election signs should be expanded to encompass local body elections also.
Sale and Supply of Alcohol Act 2012 (same principles can also apply to the Food Act)	Complex processes that on their own have little impact on the drinking culture	Costly to applicant and regulator without directly producing less harm	Simplify to more of a monitoring role for higher risk situations than producing licences and certificates
Freedom Camping Act 2011	Too permissive, difficult for Council's to control adverse impacts on nearby residents and community assets	Act is too permissive for one group while not protecting community investments, the environment or amenity of residents	Give Local Authorities the ability to easily ban the activity from particular locations
Health Act 1956	Camping-Grounds Regulations 1985 s2 Interpretation Definition for temporary living place under these regulations only	Long term occupants are choosing to live in camp grounds, legalising this	Allow long term residents in camping grounds with the owner/operator to decide any terms/conditions

Rule or statutory provision	Issue	Reason to deregulate	Proposed solution
	provides for periods of time not exceeding 50 days in any continuous term of occupancy. Long term residents exceed this.	will not create problems	provided that any building is safe and sanitary under the Building Act.

LGNZ draft submission – Rules Reduction Taskforce: submission 4 May 2015**Resource management/planning**

The following discussion focuses on the resource management framework. New Zealand needs a resource management system that is agile, reduces churn, cost and time. We appreciate that a RM Amendment Bill is likely to be forthcoming and the matters identified below have been identified by the local government sector as the priorities with regard to plan making; resource consenting and compliance and enforcement within the current resource management framework.

Plan making

The ability to provide certainty in plans more quickly is essential for business, for communities and for all stakeholders. The process should take months, not the years it currently does. In the case of the Resource Management Act plans and plan changes can take from one to seven years and sometimes longer to be approved. Plans may become operative in part, pending appeals to the Environment Court (and beyond). Local Government Act processes on the other hand can deliver long term plans, annual plans and bylaws covering a wide range of local authority regulatory and service delivery functions in a matter of months.

Plans are irrelevant if they are not timely. Our planning processes can't keep up with the reality of changes in the environment in which they are being placed. If we can't get plans and plan changes through the system to meet a faster changing world then these plan making processes themselves become counterproductive and part of the problem, producing adverse outcomes. Plan agility (or the lack of it) is a very serious problem and needs to be fixed. We suggest the process needs to be brought within the timeframes of almost every other decision-making process of central and local government.

The process of plan-making involves the affected community, where private or public access or use rights to resources are remade and with use of collaborative processes to yield a collective set of community-supported solutions to any issue, not only in relation to freshwater. These processes, the evaluation requirements under section 32, and the testing at hearing of the issues and plan proposals, all support the proposition that as council policy-making capabilities are maturing there is a weakening case for the Environment Court's de novo hearing.

We consider that removing the Environment Court from de novo or merits-based hearing in the plan-making process is the most important change needed. The opportunity for judicial review that the local authority went beyond its legal powers when making a decision, arguably provides adequate safeguards for the public.

The removal of this power would save significant costs for plan-making, and it serves the principles of local democratic accountability and the need for legal justiciability. Currently, there are difficulties with the Court's resolution of disputes over intangible value judgements, particularly in the domain of public resource values, but also in dealing with tradeoffs over aesthetic effects of exercising property rights, such as disputes over amenity value and landscape. The concern has been that plan quality and justification may be compromised by or with local council decision-making, but it is time to allow full substantive decisions to rest with communities through their councils.

There may be a case for a limited scope of review by the Court as an evidential rehearing of the first plan decision, in some circumstances.

Removing plan-related merit appeal rights to the Environment Court would need consideration of:

- a. Removal of further submission process – to address how parties affected by submitter requests can become involved if they have not submitted;
- b. Function of mediation, especially before decisions are made on any proposal;
- c. Use of expert witnesses, as these are often not engaged until Environment Court proceedings;
- d. Accreditation and experience of hearing panels; and
- e. Consequently, how good quality plan decisions are made – rather than just faster decisions.

Regional Coastal Plan approval role of Minister of Conservation

We question the value of the legal requirement for the approval by the Minister of Conservation for regional coastal plans. Since the Marine & Coastal Areas (Takutai Moana) Act 2011 the status of the Crown and the Minister of Conservation over all coastal marine areas has changed. Regional councils report limited or no amendments requested by the Minister for coastal plans. There are also

significant delays to operative status by the need to have the Minister rather than the regional council itself approve these plans. The Minister can submit at notification, and generally participate in plan-making to represent conservation (rather than landowner) interests in the coastal marine area.

Fast-track plan amendments to non-executive plan provisions

The provisions of regional and district plans now falls into one of two types – mandatory or optional content. We consider that for optional content, councils should have much greater freedom to amend such provisions without having to follow all Schedule 1 process. These provisions include issues statements; method statements (other than rules); policy or rule explanations; anticipated results; effectiveness monitoring indicators; and introductory, scene setting text for which it would be efficient to simply update or amend the text content in an agile manner without inviting contests over these sorts of plan provisions, where there are no effects on resource use rights created by such amendments. We think that some extension to the current Clause 16(2) and 20A provisions can be simply made, with careful definition of the limits of the effects of such amendments.

Simplification of plan amendments following national environmental standards

The RMA currently limits the ability to amend a plan to make it consistent with a national environmental standard (NES). Sections 43B and 44A are worded to allow amendment of “rules” which conflict with any NES, but any amendments to objectives, policies or other plan provisions which ‘conflict’ with the same NES still need to go through a Schedule 1 plan change. The result without a change to the plan is that rules no longer in conflict, but the plan’s objectives and policies become disconnected.

Overlap between the Resource Management Act, Hazardous Substances and New Organisms Act, and Heritage New Zealand Pouhere Taonga Act

We see that there is the potential for duplication of regulation under the RMA and under both the HSNO Act and the HNZPT Act. The latter pieces of legislation contain specific regulatory regimes for hazardous substances and archaeological sites and there is the potential for councils to duplicate those regimes through land use rules. The functions of councils could be altered to remove this potential while still providing individual councils the discretion to regulate land use activities in these areas if there is a local need.

Solutions:

1. Remove the ability to appeal RMA plan and policy decisions to the Environment Court; appeals only allowed on points of law, **except where any evidential rehearing of a council plan decision is warranted.**
2. Remove the further submissions process from RMA plan and policy development requirements **but after consideration of standing for parties affected by submitter requests.**
3. **Remove the requirement for regional coastal plans to be approved by the Minister of Conservation.**
4. Enable changes to plans through a fast-track process if new versions of standards/models are introduced **or where amendments to non-executive provisions are to be made.**
5. **Enable a simplified plan amendment process to retune objectives and policies affected by a NES requirement to amend rules to achieve consistency with the NES.**
6. **Amend the functions in ss30 and 31 to reduce the risk of duplication of regulation between the RMA and both the HSNO Act and the HNZPT Act.**

National direction

The Minister has signalled an increased focus on providing greater national direction to local authorities. A Plan Template is an important part of this central direction. We are interested in the scope of the Plan Template and are keen to explore this. Transitional arrangements (timing and process to give effect to the template) will be critical.

The forward agenda for forthcoming National Policy Statements and National Environmental Standards should be set with local government. Setting the schedule for these as a partnership between central and local government will achieve the greatest results. This will ensure the instruments are workable and meet the priorities for local government.

Solutions:

1. Local government should help set the priorities for national direction: National Policy Statements, National Environmental Standards and the scope of any Plan Template.
2. The arrangements for the transition to a Plan Template should minimise the need for local authorities to initiate changes to their plans (minimising cost and uncertainty).

Private plan changes

Private plan changes can be a useful mechanism for enabling the private sector to respond to development opportunities; however they can clog up the planning system and put councils into a reactive position, rather than a proactive one. We support councils having the ability to reject private plan changes in specific circumstances.

This would contribute to a reduction of: costs to all parties associated with plan-making; delays and uncertainties of outcome; complexity of administration at the consenting stage. Re-litigation of issues that have recently been through a plan-making process would be avoided and councils can be more proactive in plan-making, as their resources are not diverted to plan changes on topics that have recently been through a plan-making process. Councils would be able to focus on taking full plan reviews through the plan-making process without having to divert resources from changes to or reviews of operative plans onto private plan change requests.

We consider that the grounds for rejecting private plan change requests should be extended to include when a plan change or review on the same or similar c has either been dealt with in the last five years or has been released for consultation under cl 3 Schedule 1.

Solutions:

Provide local authorities with the ability to reject requests for a private plan change where:

- o the topic or land subject to the plan change has been through the Schedule 1 process of the RMA within the past five years; and

- o a full plan review or relevant plan change on the same subject-matter is being undertaken through the Schedule 1 process.

Combined plans for unitary authorities

For some time unitary authorities have considered that the requirement to have a Regional Policy Statement (RPS) is redundant for unitary authorities. Because the territory of a unitary authority covers a single district that is the same as the region, the over-arching RPS is not necessary. As the RMA stands, for unitary authorities, unnecessary duplication of regional policy statement provisions and district provisions is required. It is necessary to have a mechanism to identify within the combined plan, those provisions that have the status of a RPS provision, however, as these are “protected” against requests for private plan changes. This status is necessary as it enables a council to manage its urban growth. [not the only reason]

Solution:

Remove the requirement for unitary authorities to have a separate Regional Policy Statement.

Legal effect of rules sections 86A-86G RMA

Sections 86A-86G determine when proposed rules have legal effect. These provisions are unduly complex and difficult for councils to administer, and the distinctions for those with early and those with delayed legal effect are arbitrary. In addition, the link between policies and rules is severed with these provisions. There is little point in having a new policy with no effective rules, e.g hazard policies. Where rules deregulate, these statutory rules prevent them having effect weight from notification. The drafting of these rules means that time and money is spent interpreting the section and there is a high risk of interpreting the section wrongly. It is illogical to treat rules and policies differently – they are drafted as a package and should be treated as such.

This unsatisfactory situation is especially important for integrated unitary plans that contain regional, regional coastal and district plan rules. With these provisions in the RMA, unitary rules have effect at different times and for integrated rules addressing both S30 and S31 functions it gets even more complex. The provisions have created significant implications for rule drafting and the communication of the status of rules to members of the community. There are quite unnecessary transaction costs in gaining Court orders to give rules early legal effect.

Solution:

Both rules and policies should have legal effect at notification or at council decision-making. A return to the pre 2009 amendment (where all polices and rules had legal effect at notification) is the referable alternative.

Resource consenting

Notification determinations

Notification decisions require too much focus under the RMA. From the perspective of both applicants and interested parties, much turns on the decision (e.g. costs, timeframes, certainty and control of

outcome, rights of input). Through applications for judicial review, notification decisions are a source of litigation. Although the actual number of applications for judicial review is very small, the potential threat of litigation can drive complex, repetitive and (relative to the actual effects of many proposals) often excessive reporting for all applications at the s95 stage. Notification determinations require officers to undertake effects assessments at the s95 stage that overlap with the substantive assessment. The issue is therefore, not the decisions themselves, but the time, effort and cost of making notification decisions and how this might be simplified. Consideration needs to be given to achieving greater certainty about when an application should be notified (or not), providing greater certainty for applicants and reducing the time spent on deciding on notification on a case by case basis, and documenting that decision.

Solutions:

1. Remove discretion relating to notification from consent authorities by specifying **in rules** who notice would be served on.
2. RMA require plans to state whether an activity is to be notified, limited notified or non-notified.
3. Amend the RMA to enable plans to state that an activity can be limited notified.
4. Specify activities for which no consent is required.

Substantive decisions

Currently, Part 2 of the RMA is considered at both the plan making and consent stages. Arguably this is duplicative, and making decisions on resource consents subject to Part 2 in s104 may be seen to weaken the focus on plans. Primary emphasis should be given to the preparation of clear, directive policy, taking into account Part 2, as part of the plan process.

Plans should continue to be prepared subject to Part 2. However, considerations at the s104 consenting stage (for controlled, limited discretionary and also potentially discretionary activities) could be limited to those plans, and any relevant NPSs and NESs. This change would reduce duplication of effort at plan-making and resource consent stages, saving time, effort and money.

Solution:

Remove the requirement to consider Part 2 matters at the consenting stage.

Fast track consents

Consent authorities have 20 working days to process non-notified applications for resource consent. There is no statutory encouragement to process those straightforward applications that can be processed more quickly. Identifying suitable activities that generate *minor* effects cannot easily be prescribed in law given the need to take into account risk and the specifics of an application and the receiving environment. The discretion to identify which applications should be subject to a fast-track process should rest with a council.

Solutions:

1. Require consent authorities to develop and publish policies and procedures for fast tracking minor consents (with a target of 10 working days).
2. Make clear in law that these applications are processed without recourse to notification.
3. Develop tools to support implementation of fast track processes e.g exempting applicants from full Assessments of Environmental Effects and exempting consent authorities from the need to provide an assessment of eh proposal against the objectives and policies of the plan.

Compliance and enforcement under the RMA

There is a network of compliance and enforcement officers across the regional and unitary councils who meet regularly to discuss common issues and best practice. There are legislative matters concerning compliance and enforcement that have long caused difficulties for those charged with exercising their functions under the RMA; inevitably where there is a difficulty or complexity there are unnecessary costs for parties involved. They include:

- o provide for cost recovery for monitoring activities that do not require consent;
- o allow the Environment Court to issue an enforcement order to change or cancel a resource consent as a result of ongoing or repeated non-compliance;
- o remove the need for a police officer to be present to execute a search warrant;
- o remove the need for exhibits to be retained in the custody of a police officer;
- o make it unlawful to provide insurance against RMA fines, in a similar manner to Health and Safety legislation;
- o increase infringement fees, and introduce higher infringement fees for corporate offenders;
- o amend the provisions regarding the duty to give information;
- o enable local authorities to remove unauthorised structures where ownership is unable to be determined;
- o increase the penalties for someone who commits an offence under section 338(3) – the current maximum is too low to be an effective deterrent or for Councils to incur an expense in prosecuting; and
- o reduce the maximum penalty of imprisonment for an individual to 12 months but increase the maximum financial penalty for an individual to \$600,000.

These recommendations are very detailed and are included as Appendix A.



REPORT R4332

Sandwich Boards

1. Purpose of Report

- 1.1 To provide information to aid the Planning and Regulatory Committee to make a decision on an approach to sandwich boards in Nelson as part of the Urban Environments Bylaw.

2. Delegations

- 2.1 On 11 December 2014 the Council resolved that the Planning and Regulatory Committee deliberate and make decisions on submissions on the Urban Environment Bylaw, and recommend an amended bylaw to the Council.
- 2.2 The Planning and Regulatory Committee has powers to recommend final decisions on special consultative procedures falling within its areas of responsibility.

3. Recommendation

THAT the report Sandwich Boards (R4332) and its attachments (A1372336, A1372341, and A1369029) be received;

AND THAT the Committee review its recommended bylaw provisions regarding sandwich boards in Nelson.

Recommendation to Council

THAT the Bylaw provisions for Sandwich Boards, as detailed in report R4332, include either:

Option A – Status Quo; or

Option B – Status quo plus controls on flashing, illuminated signs; or

Option C – All sandwich boards on the kerb plus controls on flashing, illuminated signs; or

Option D – All sandwich boards against shop frontages plus controls on flashing, illuminated signs;

AND THAT this approach to sandwich boards be adopted by Council.

4. Background

- 4.1 Sandwich boards were regulated in the Trading in Public Places Bylaw 2007. This bylaw generally allowed one sandwich board per business, which was required to be beside the shop frontage for ground floor businesses and beside the kerb for upstairs businesses.
- 4.2 The Trading in Public Places Bylaw 2007 was one of the seven bylaws consolidated within the Urban Environments Bylaw 2015. The sandwich board provisions were reviewed during the development of the Urban Environments Bylaw.
- 4.3 Council officers consulted with business owners, the general public, organisations representing specific sectors (including people who are blind or partially sighted) as well as other Council officers. A summary of Council decisions, submissions, officer reports and Planning and Regulatory Committee decision is provided in Attachment 1.
- 4.4 A summary of other advice on sandwich boards is provided in Attachment 2.

5. Consultation

- 5.1 The Committee has considered a broad range of views on the sandwich board issue, received during pre-consultation discussions and as part of formal consultation. In summary, businesses and Commerce Nelson have not expressed significant concerns about the placement of sandwich boards. The People's Panel responses were 81% in support for the existing provisions, and the Blind Foundation New Zealand states that obstacles should be avoided where possible, but (if they are permitted) recommends placing sandwich boards on the kerb. The Nelson Branch of Blind Citizens New Zealand submission requested the Council to work towards removal of all sandwich boards, and suggested not changing the location of sandwich boards in the interim.
- 5.2 Changes that are within the scope of the options included in the Urban Environments Bylaw Statement of Proposal (see Attachment 3) can be made without further consultation.
- 5.3 Any decisions which were not included in the Statement of Proposal (such as prohibition of all sandwich boards) would require further consultation. A special consultative procedure would be required, as this would be a significant change to the current bylaw provisions.

6. Discussion

7. Council Decision 30 April 2015

- 7.1 Council considered the amended Urban Environments Bylaw on 30 April 2015. It resolved:

THAT the amended draft Urban Environments Bylaw (excepting provisions 5.14-5.16 relating to sandwich boards), reflecting the Planning and Regulatory Committee's decisions on submissions on 2 April 2015, be adopted, taking effect from 2 June 2015;

THAT sections 5.14-5.16 of the amended draft Urban Environments Bylaw relating to sandwich boards be referred back to the Planning and Regulatory Committee for further consideration

- 7.2 The Council requested the Planning and Regulatory Committee to reconsider the recommended decision related to sandwich boards, to further consider the feedback from submitters, and to weigh up the costs and benefits associated with its decision on sandwich boards.

8. Sandwich Board Provisions

- 8.1 Following legal advice, the provisions in the existing Trading in Public Places Bylaw have been included in the adopted Urban Environments Bylaw, which took effect on 2 June 2015. That means the previous provisions in the Trading in Public Places Bylaw 2007 will continue to apply unless Council decides to make changes to the Bylaw.
- 8.2 Further amendments which are within the scope of what was recently consulted on can be made without further consultation. More significant changes will require either:
- Further tailored consultation (for changes at the lower end of the scale), or
 - A further special consultative procedure in accordance with section 156 of the Local Government Act 2002, where members of the public might be surprised that changes of this nature might be made.

9. Options

- 9.1 The Statement of Proposal notes that the reasons Council manages sandwich boards on footpaths is to maintain public health and safety. Managing the location of sandwich boards ensures that footpaths can be safely navigated by pedestrians. The reason given for controlling sandwich boards that have flashing illumination is to avoid potential nuisance. Options for managing sandwich boards are outlined below.
- 9.2 Option A – Status quo. Retain the same approach as in the Trading in Public Places Bylaw 2007. Downstairs shops have sandwich boards

against the shop frontage, upstairs shops have sandwich boards on the kerb.

- 9.3 Option B – Retain the status quo and add a provision controlling flashing, illuminated signs.
- 9.4 Option C – Require all sandwich boards to be on the kerbside and add a provision controlling flashing, illuminated signs.
- 9.5 Option D – Require all sandwich boards to be against shop frontages and add a provision controlling flashing, illuminated signs.
- 9.6 The costs, risks and benefits of these four options are summarised in the following table.

Options	Costs and Risks	Benefits
Option A: Status quo.	<p>Potential for lack of consistency and orderliness, due to the mix of sandwich boards at the kerb and on shop frontages.</p> <p>Potential safety issues, as raised by some submitters.</p> <p>No controls on flashing, illuminated signs, potentially causing a nuisance.</p>	<p>No change required to the bylaw.</p> <p>No costs to publicise a change in approach.</p>
Option B: Status quo plus controls on flashing, illuminated signs.	<p>Potential for lack of consistency and orderliness, due to the mix of sandwich boards at the kerb and on shop frontages.</p> <p>Potential safety issues, as raised by some submitters.</p> <p>Minor change required to bylaw with minor costs to publicise and enforce this change in approach.</p>	<p>Controls flashing, illuminated sandwich boards, avoiding potential nuisance.</p>
Option C: All sandwich boards on the kerb plus controls on flashing, illuminated signs.	<p>Potential safety issues, as raised by submitters.</p> <p>Risk of increased damage to vehicles from sandwich boards.</p> <p>Cost of change: \$3000 for brochure plus officer time to visit businesses.</p>	<p>All sandwich boards in one place.</p> <p>Clearer pathway.</p> <p>Easier to enforce than a mix of shop-side and kerbside signs.</p> <p>Opportunity to introduce provision related to flashing, illuminated sandwich boards, avoiding potential</p>

Options	Costs and Risks	Benefits
		nuisance.
Option D: All sandwich boards against shop frontages plus controls on flashing, illuminated signs.	Potential safety issues, as raised by submitters. Cost of change: \$3000 for brochure plus officer time to visit businesses.	All sandwich boards in one place. Clearer pathway. Easier to enforce. Opportunity to reintroduce provision related to flashing, illuminated sandwich boards, avoiding potential nuisance.

- 9.7 All options will have similar implications in terms of resource consent requirements as signage other than sandwich boards is managed in the Nelson Resource Management Plan.
- 9.8 The least expensive option for households and businesses is Option A, and it involves the least disruption for businesses. However, it does not address all of the concerns raised by the submitters.
- 9.9 Sandwich boards are a matter for control by local government and the sandwich board bylaw provisions only apply in the Nelson area.
- 9.10 After weighing up these four options, and reflecting on the range of views expressed during consultation on this subject and the concerns outlined by the Council on 30 April 2015, the Committee can make its recommendation to the Council regarding the bylaw provisions for sandwich boards.

10. Alignment with relevant Council policy

The Nelson Resource Management Plan specifically excludes sandwich boards from its signs provisions, enabling them to be addressed through a bylaw instead. This avoids the costs associated with resource consents, recognising that sandwich boards are portable, with minor environmental effects. 10.2 Options C and D both entail costs. In particular, Options C and D will require \$3000 for a brochure plus officer time for visiting businesses.

- 10.3 Considering how sandwich boards impact on the accessibility of the inner city for people who are partially sighted, blind or reliant on wheelchairs or mobility scooters, as well as considering the needs of inner city businesses to be profitable, is well aligned with Goal 9 of the Nelson 2060 Strategy: "Everyone in our community has their essential needs met".

11. Assessment of Significance against the Council's Significance and Engagement Policy

- 11.1 The following matters are relevant when determining whether this is a significant decision:
- Whether the decisions is reversible and the likely impact on future generations;
 - The impact on the community, how many people are affected and by how much.
- 11.2 The decision is reversible. Businesses which currently use sandwich boards to attract customers, as well as people who are partially sighted, blind, or reliant on wheelchairs or mobility scooters, and people who have children in prams, are the most affected by this decision. Placement of sandwich boards has a small, mainly aesthetic impact on the remainder of the community.
- 11.3 The decision of whether to place sandwich boards beside shop frontages or on the kerb is of low to moderate significance.

12. Inclusion of Māori in the decision making process

- 12.1 Iwi were invited to provide feedback during the pre-consultation stage of the bylaw development, and all Maori had the opportunity to make a submission on the draft Urban Environments Bylaw.

13. Conclusion

- 13.1 A summary of the information considered during the Urban Environments Bylaw development process has been provided to assist the Committee to weigh up the costs, risks and benefits of a number of options related to sandwich boards.

Matt Heale
Manager Planning

Attachments

- Attachment 1: A1369029 - Summary of advice and decisions ahead of April 2015 decision
- Attachment 2: A1372341 - Information related to sandwich boards
- Attachment 3: A1372336 - Sections of the Draft Bylaw and Statement of Proposal relevant to sandwich boards

Attachment 1 – Summary of Advice and Decisions ahead of April 2015 Decision

Council Decision to Notify the Draft Bylaw

- 1.1 At the Council meeting (held on 28 November and continued on 11 December) to consider the draft Urban Environments Bylaw, the Council voted to propose that all sandwich boards be required to be on the kerb. The relevant sections of the Draft Bylaw and the Statement of Proposal, reflecting this decision, are shown in Attachment 1 to this report.
- 1.2 In response to concerns about sandwich boards hitting cars on windy days, a provision was added that "sandwich boards must be placed in a way which does not obstruct car doors, and must be of sufficient weight to remain in position in light winds."

Submissions on the Statement of Proposal

- 1.3 The Council received 18 written submissions on the Statement of Proposal (including the draft Bylaw), of which four related to the proposed sandwich board provisions.
 - *The Youth Council requested that all sandwich boards be placed on the kerb, for safety and aesthetic reasons.*
 - *Blind Citizens New Zealand (Nelson Branch) requested the Council to set up a working group to resolve issues regarding sandwich boards, and advised they would like the Council to work towards not having any sandwich boards on the streets. The submission included: "In the meantime Blind Citizens (New Zealand) Nelson Branch would advocate for the sandwich boards and flags to remain on the store side of the pedestrian pathways". The submission also raised issues of recurring non-compliance following enforcement actions.*
 - *Alison Moore requested all sandwich boards be placed against shop frontages, to make better use of pavement space, improve safety and avoid damage to cars.*
 - *Steve Cotter requested that sandwich boards be placed within 100mm of the kerb (rather than the proposed 600mm) and be spaced to avoid car doors.*
- 1.4 At the hearing of submitters on 12 March 2015, Brian Say and Amanda Stevens from the Nelson Branch of Blind Citizens New Zealand pointed out that pedestrian-friendly environments

work well economically, demographically and for health reasons.

- 1.5 The Minutes for the 12 March hearing record that:

"Mr Say suggested that a small working group be established to include Council and Blind Citizens New Zealand to move towards the elimination of sandwich boards and discuss other path related issues"
- 1.6 The Committee asked Brian Say and Amanda Stevens where they would prefer sandwich boards to be placed, if they did have to stay. Ms Stevens said her preference would be for sandwich boards to stay where they were as movement would require additional adjustment for the visually impaired.

Officer Report – Information related to Sandwich Boards

- 1.7 The report 'Analysis of Submissions on the Draft Urban Environments Bylaw' (document A1329982) provided information in response to questions about sandwich boards raised by the Planning and Regulatory Committee. This information was provided to support the deliberations process, and is shown in full in Attachment 2 to this report.
- 1.8 In summary, councils around New Zealand take a wide range of approaches to sandwich boards including: requiring a permit to display a sandwich board, requiring all sandwich boards to be on the kerb or the shop frontage, and no limits on numbers and/or placement of sandwich boards provided a 2m pedestrian clear way is maintained. (See Attachment 3 to this report for more detail about other councils' approaches.)
- 1.9 In the past Nelson City Council has enforced its sandwich board bylaw provisions by seizing non-complying boards and charging \$20 for their return, which is provided for under the Local Government Act 2002. (Instant fines are not an option under this Act).
- 1.10 A review of the footpath widths on high pedestrian count streets within the CBD shows that the footpaths on Trafalgar (100%), Bridge (95%) and Hardy Streets (more than 95%), are in almost all cases wide enough to accommodate a 2m pedestrian area and 600mm for sandwich boards.
- 1.11 There are a number of issues on narrower footpaths such as on the western end of Bridge Street, New Street, Church Street, Selwyn Place, in some laneways into the squares, and in some

areas where leases have been granted for activities to occur on the footpath.

Officer Report – Recommendation

- 1.12 The 'Analysis of Submissions on the Draft Urban Environments Bylaw' report also included the following recommendation (Option D): "Retain the approach in Nelson's existing Trading in Public Places Bylaw which requires shops on the ground floor to place their sandwich board adjacent to their shop frontage, and upstairs shops to place their sandwich board adjacent to the kerb."
- 1.13 The reasons for this recommendation were: "The range of views expressed by submitters, and the range of approaches taken by councils, suggests there is no ideal solution to sandwich boards. "The vast majority of sandwich boards are located directly outside businesses rather than at the kerb (eg 93% on Trafalgar Street and 88% on Bridge Street). Altering the location to the kerb would require a significant change for businesses."
- 1.14 The report noted the Nelson Resource Management Plan rules cover most types of signage. However, sandwich boards are generally exempt from those rules and are instead controlled through a bylaw.
- 1.15 The report also stated: "There is a need to better coordinate management of structures on footpaths and it is not always possible to accommodate sandwich boards and allow for pedestrian access of 2.0m or more, particularly on narrower footpaths and laneways as outlined above."

Planning and Regulatory Committee Decision

- 1.16 Following the consideration of submissions the Planning and Regulatory Committee voted in favour of requiring all sandwich boards to be placed within 600mm of the kerb.
- 1.17 Discussion at the 2 April 2015 meeting noted that the reason for requiring all sandwich boards to be on the kerb was to ensure all pedestrian obstructions were located in the same general vicinity.

Attachment 2 – Information related to Sandwich Boards

From the 2 April report to the Planning and Regulatory Committee – Analysis of submissions on the draft Urban Environments Bylaw (Document A1539825).

Item 5

- 1.1 Clarification on what was included in the Statement of Proposal related to sandwich boards, and whether a further consultation process would be required if Council decided to not allow sandwich boards.
- 1.2 The Council's preferred option in the Statement of Proposal was: to continue to allow one sandwich board per premises in a Designated Commercial Area and to require all sandwich boards to be placed within 600mm of the kerb.
- 1.3 The full list of options considered is shown on page 15 of the Statement of Proposal. This included the option of requiring a permit to have a sandwich board, but it did not include the option of prohibiting all sandwich boards. Therefore further consultation would be required if Council wanted to not allow sandwich boards at all.

Item 6

- 1.4 A comparison of the approach to sandwich boards taken by other councils of a similar size to Nelson.
- 1.5 Councils take a wide range of approaches to sandwich boards, including:
 - requiring a permit to have this type of sign on the street;
 - requiring sandwich boards to all be on the kerb or all on the street frontage;
 - no limits on numbers or placement provided a clear pedestrian way is maintained.

Item 7

- 1.6 If the Council decides to change the current approach to sandwich boards, what is the likely cost of this change, in terms of time spent informing businesses and ensuring compliance?
- 1.7 The Manager Environmental Inspections has advised that increasing the level of enforcement, or enforcing a changed bylaw, can be done within current resources. This would involve a process of: education, warnings and enforcement.
- 1.8 The Manager Environmental Inspections has indicated that in the late 1990's they ran regular 'blitzes' on sandwich boards where warnings

were issued followed by seizure of non-compliant signs, charging \$20 for their return.

Item 8

- 1.9 Are there areas of our streets where there isn't space for both a sandwich board (600mm) plus two metres of clear width for pedestrian use?
- 1.10 A review of the footpath widths on high pedestrian count streets within the CBD shows that the footpaths on Trafalgar (100%), Bridge (95%) and Hardy Streets (more than 95%), are in almost all cases wide enough to accommodate a 2m pedestrian area and 600mm for sandwich boards. There are a number of issues on narrower footpaths such as on the western end of Bridge Street, New Street, Church Street, Selwyn Place, in some laneways into the squares, and in some areas where leases have been granted for activities to occur on the footpath.

Item 9

- 1.11 What penalties apply if a business doesn't comply with the sandwich board provisions?
- 1.12 The Local Government Act sets out the penalties which apply for breaches of a bylaw. Sections 167 and 168 enable the Council or an authorised officer to seize and impound property involved in a bylaw offence, if someone doesn't stop committing the offence after receiving a verbal or written warning.
- 1.13 The Manager Environmental Inspections has advised that seizure of sandwich boards is an effective enforcement tool.
- 1.14 Under section 242 of the Local Government Act, any person who breaches a bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000. However, summary conviction requires the Council to take a person to Court, so it is highly unlikely that breaches of sandwich board provisions would result in a court hearing.
- 1.15 Instant fines cannot be imposed for non compliance with the sandwich board provisions, because this is not provided for as an infringement offence in legislation or in a Regulation made by the Governor General, in accordance with section 259 of the Local Government Act.

Item 10

- 1.16 What is the Council's current approach to publicising and enforcing the bylaw provisions related to sandwich boards?
- 1.17 Where complaints are received, the current approach is to visit the non compliant business, explain the rules and request compliance. This is usually the way people find out about the bylaw (rather than through publicity).

- 1.18 Environmental Inspections Limited (EIL) took over the role of enforcement of sandwich boards in October 2013. Since that time, enforcement has been in response to complaints, and there have not been many complaints. This follows the general complaints-driven approach to bylaw enforcement.

Item 11

- 1.19 More information about the NZ Standard – Design for Access and Mobility - Buildings and Associated Facilities (NZS 4121:2001).
- 1.20 A summary of the standard is attached at A1334438.

Attachment 3 - Sections of the Draft Bylaw and Statement of Proposal Relevant to Sandwich Boards

Draft Urban Environments Bylaw (Document A1281105)

Sandwich Boards on Footpaths

- 5.14 No person shall display or cause to be displayed on the footpath adjacent to any retail or other business premises any sandwich board which does not relate directly to the business or promote or display the products or services specific to the business carried on within such premises;
 - 5.14.1 AND no person in respect of any business premise within a Designated Commercial Area shall display or cause to be displayed more than one such sandwich board;
 - 5.14.2 Provided that where any such business has frontage to more than one street or public place one sandwich board may be displayed at each frontage;
 - 5.14.3 AND no person shall display or continue to display on any footpath any sandwich board which due to its design or location on the footpath constitutes a hazard for pedestrians or which reduces the width of the footpath available to pedestrians to less than two metres;
 - 5.14.4 AND no person shall display or continue to display on any footpath any sandwich board which has flashing illumination.
- 5.15 Any sandwich board displayed shall be located immediately adjacent to the business to which it relates and shall be sited so as to extend no further onto the footpath than 600mm from the kerb outside of the business to which it relates.
- 5.16 Sandwich boards must be placed in a way which ensures they do not obstruct car doors, and must be of sufficient weight to remain in position in light winds.

Statement of Proposal (Document A1281082)

Topic	Options	Proposed approach	Reasons
Sandwich boards on footpaths (change proposed)	<ul style="list-style-type: none">• Status quo: limited to one sandwich board per business, which must not extend more than 600mm onto the footpath from the shop frontage. Upstairs businesses allowed sandwich boards adjacent to the kerb. There is a maximum height of 2.2m but no size limit for sandwich boards;• Do not allow illuminated sandwich boards to be displayed;• Apply the limit of one sandwich board per shop frontage to all shops, not just those in a Designated Commercial Area;• Require all sandwich boards to be adjacent to the kerb;• Require all sandwich boards to be adjacent to a shop frontage;• Permit required to have a sandwich board.• Do not limit dairies to one sandwich board;• Separate out sandwich boards and flags and set limits on the size to 1m² for sandwich boards and a maximum height of 2.2m height for flags.	<p>Continue to allow one sandwich board per premises in a Designated Commercial Area, but add that no person shall display or continue to display on any footpath any sandwich board has flashing illumination.</p> <p>Require all sandwich boards to be placed within 600mm of the kerb; to be placed in a way which ensures they do not obstruct car doors; and to be of sufficient weight to remain in position in light winds.</p>	<p>Council manages sandwich boards on footpaths to maintain public health and safety. Managing the design and location of sandwich boards ensures that footpaths can be safely navigated by pedestrians.</p> <p>The reason for controlling sandwich boards that have flashing illumination is to avoid potential nuisance.</p>

REPORT R4260

Election signs - current practice and issues

1. Purpose of Report

- 1.1 To consider the issues associated with rules on election signs.

2. Delegations

- 2.1 The Planning and Regulatory Committee has the responsibility to consider matters relating to resource management. The Committee has the power to recommend to Council any alterations necessary to the Nelson Resource Management Plan.

3. Recommendation

THAT the report Election signs - current practice and issues (R4260) be received.

Recommendation to Council

THAT election sign rules in the Nelson Resource Management Plan be considered for change as part of the Nelson Plan review.

4. Background

- 4.1 The Nelson Resource Management Plan includes rules for election signs that are not consistent with the Electoral (Advertisements of a Specified Kind) Regulations 2005.
- 4.2 The national regulations govern the signs for a registered party or a constituency candidate in central government elections and are not specifically for local body elections. The impact however, of both types of signs on the environment is similar and temporary.
- 4.3 The following table illustrates the differences between the national and local regulations:

Sign feature	NRMP rule	Electoral Regulations
Maximum number	10 per candidate	No maximum
Maximum area	0.75 square metres	3.0 square metres
Maximum height	2 metres	No maximum
Letter size and gap between lines	Local or collector roads 150mm with 100mm gap between lines Main roads 200mm with 100mm gap	For roads controlled by NZTA 120mm where less than 70km/h and 160mm in height where 70km/h or more. 50mm gap between lines
Duration	2 months prior to election to day before the election	2 months prior to polling day to day before polling day
Location	Not on or over legal road reserve but can be on state highway with written permission	Public place or private property
Erected or dismantled time	7am to 7pm	No requirement
Miscellaneous	No reflective material, no illumination, not similar to traffic signs and no moving parts.	

5. Discussion

- 5.1 There are administration and enforcement issues with election signs. The Electoral (Advertisements of a Specified Kind) Regulations 2005 do not override the provisions of the Electoral Act 1993 but do override the provisions of any other enactment or bylaw, or any other instrument, that is inconsistent with those regulations (section 4(d)).
- 5.2 Staff receive many enquiries about local and central government election signs as candidates are unclear which rules prevail. There are also a number of calls informing staff when signs are not compliant, mainly from other candidates.
- 5.3 The current practice is for staff to refer to the regulations that cover signage for central government elections and from a landowner perspective permit one sign per candidate at Miyazu and Bishopdale.

- 5.4 Staff identify areas signs can go at these two locations to avoid the fibre optic cables at Bishopdale and ensure signs do not impact on the safe operation of the state highway at Miyazu.

6. Options

- 6.1 The preferred option is to consider any amendment of local election sign rules during the Nelson Plan review and one of the options that will be considered is making rules consistent with the national regulations. This would improve consistency and clarity for staff and candidates, improve efficiency and better reflects the current practice in administering election sign regulations. The Council as landowner will continue to restrict the location of signs on public land to avoid hazards.
- 6.2 There is the option of doing nothing but given this is an issue it would seem sensible to include as part of the Nelson Plan Review process. An earlier stand alone Plan Change is a further option however, staff advice is this is an expensive process just for one Plan matter and would delay staff being able to get on with the whole review process.

7. Alignment with relevant Council policy

- 7.1 Nelson City Council has identified goals in the Long Term Plan and strategic visions in Nelson 2060. The need for appropriate and targeted regulation is important and can be addressed through the Nelson Plan review.

8. Assessment of Significance against the Council's Significance and Engagement Policy

- 8.1 This is not a significant decision in terms of the Council's Significance and Engagement Policy.

9. Consultation

- 9.1 Staff have consulted internally, no external consultation has occurred but will through the Nelson Plan review process.

10. Inclusion of Māori in the decision making process

- 10.1 There has been no consultation with Māori regarding this report.

Mandy Bishop
Manager Consents and Compliance

Attachments

Nil



REPORT R4140

Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

1. Purpose of Report

- 1.1 To adopt the alterations to the Parking and Vehicle Control Bylaw (2011), No. 207, resulting from minor safety improvements, roading improvements carried out as part of the 2014/15 capital works programme and from the completion of new subdivisions.

2. Delegations

- 2.1 Any decision to accept amendments to the Parking and Vehicle Control Bylaw and the Parking Policy falls within the delegated authority of the Planning and Regulatory Committee.

3. Recommendation

THAT the report Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules (R4140) and its attachments (A1349284, A1349105, A1349156, A1350309, A1350307, A1359621) be received;

AND THAT the following alterations to the Schedules of Bylaw No 207, Parking and Vehicle Control (2011) be approved:

Schedule 4: Special Parking Areas;

Schedule 9: No Stopping;

Schedule 14: Give Way Signs.

4. Background

- 4.1 The Parking and Traffic Control Bylaw 2011 allows for the Committee, by resolution, to add or delete items to the Schedules. To ensure that the Bylaw is enforceable it is important to ensure that the Schedules are updated on a regular basis. The bylaw requires updating since the last update in October 2014.

5. Discussion

5.1 Schedule 4 – Special Parking Areas

5.1.1 Vanguard Street.

Following the resurfacing and re-mark of Vanguard Street last year, on-street car parking spaces have been provided at this location where they did not previously exist. This has presented an opportunity to improve safety on the shared pathway where short term customers of the lunch bar at 87 Vanguard Street parked. It is proposed to make the 2 car parks outside the lunch bar P5 time restricted, (Attachment 1.)

5.1.2 Washington Valley Road.

As a response to a request from business operator at the location it is proposed to introduce a time limited (7am – 8am) loading bay at 4 Washington Valley Road. This is proposed on safety grounds to provide a safe area for large semi trailers to unload materials. The time limit ensures daytime parking is retained and busy commuter times avoided. (Attachment 2)

5.2 Schedule 9 – No Stopping

5.2.1 Neale Avenue.

As a response to a petition from residents of Acorn Way, and subsequent investigation it is proposed to add yellow no stopping lines across the right of way entrance at Acorn Way to improve visibility for exiting vehicles. (Attachment 3)

5.2.2 3 Ridges Estate Subdivision.

The newly completed road off Coster Street (Olivias Way) requires the installation of yellow 'no stopping' lines within the cul-de-sac (Attachment 4).

5.2.3 Springlea Subdivision.

This newly completed road at 399 Suffolk Rd North requires the installation of yellow 'no stopping' lines within the cul-de-sac (Attachment 5)

5.2.4 Annesbrook Drive

As a result of resurfacing and remarking of road lanes and a review of road markings officers recommend an extension of no stopping lines near the corner of Annesbrook Drive and Quarantine Road. (Attachment 6)

5.3 Schedule 14 – Give Way signs

As part of the 3 Ridges subdivision the newly completed road requires the installation of "Give Way" signage painted limit lines at the intersection with The Ridgeway. (Attachment 5)

6. Options

- 6.1 There are limited alternative options for the items presented in this report as the majority are simply procedural updates to the bylaw.

7. Alignment with relevant Council policy

- 7.1 This report is directly aligned to the requirements of the Parking Policy, the Parking and Vehicle Control Bylaw and with Council's strategic direction through the Regional Land Transport Strategy.

8. Assessment of Significance against the Council's Significance and Engagement Policy

- 8.1 The recommendations outlined in this report are not considered significant in terms of the Council's Significance and Engagement Policy.

9. Consultation

- 9.1 Directly affected residents and businesses where required have been consulted on the proposed changes.

10. Inclusion of Māori in the decision making process

- 10.1 Māori have not been consulted.

11. Conclusion

- 11.1 Minor alterations and additions have been made to Schedules 4, p and 14 of the bylaw to allow for parking and safety improvements.

Margaret Parfitt

Team Leader Roding and Solid Waste

Attachments

Attachment 1: A1349284 Proposed P5 Vanguard Street

Attachment 2: A1349105 Proposed loading Zone Washington Valley Road

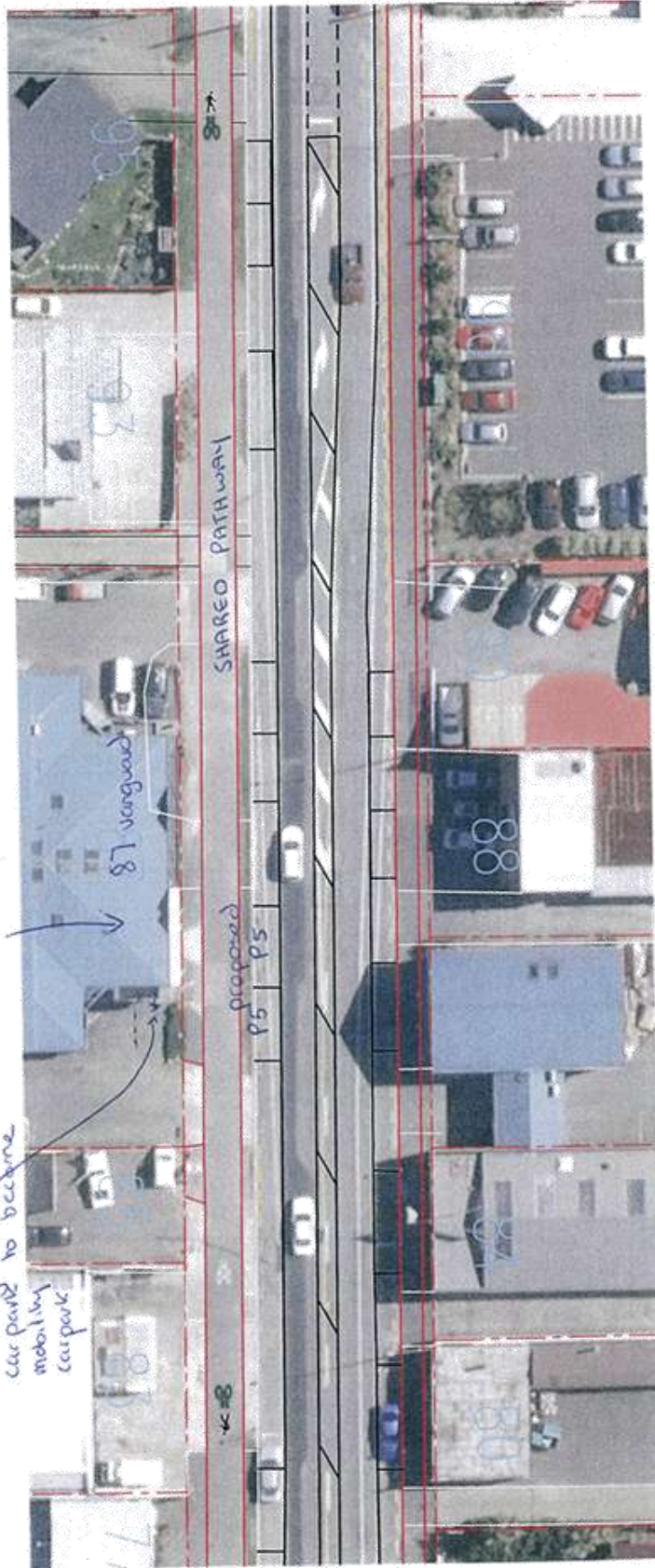
Attachment 3: A1349156 Proposed No Stopping Neale Avenue

Attachment 4: A1350309 3 Ridges Subdivision

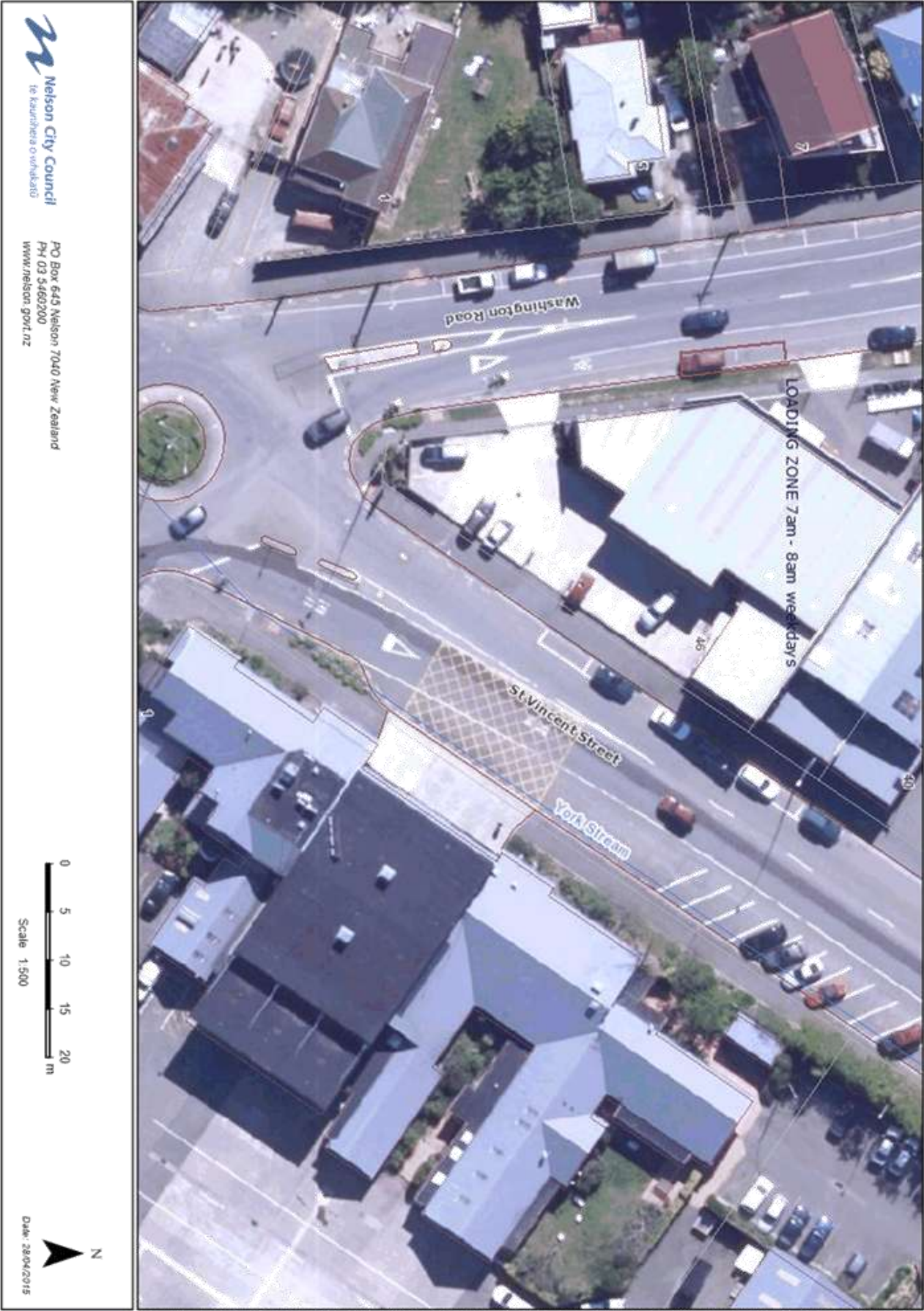
Attachment 5: A1350307 Springlea Subdivision

Attachment 6: A1359621 - Proposed extension of No Stopping Annesbrook Drive

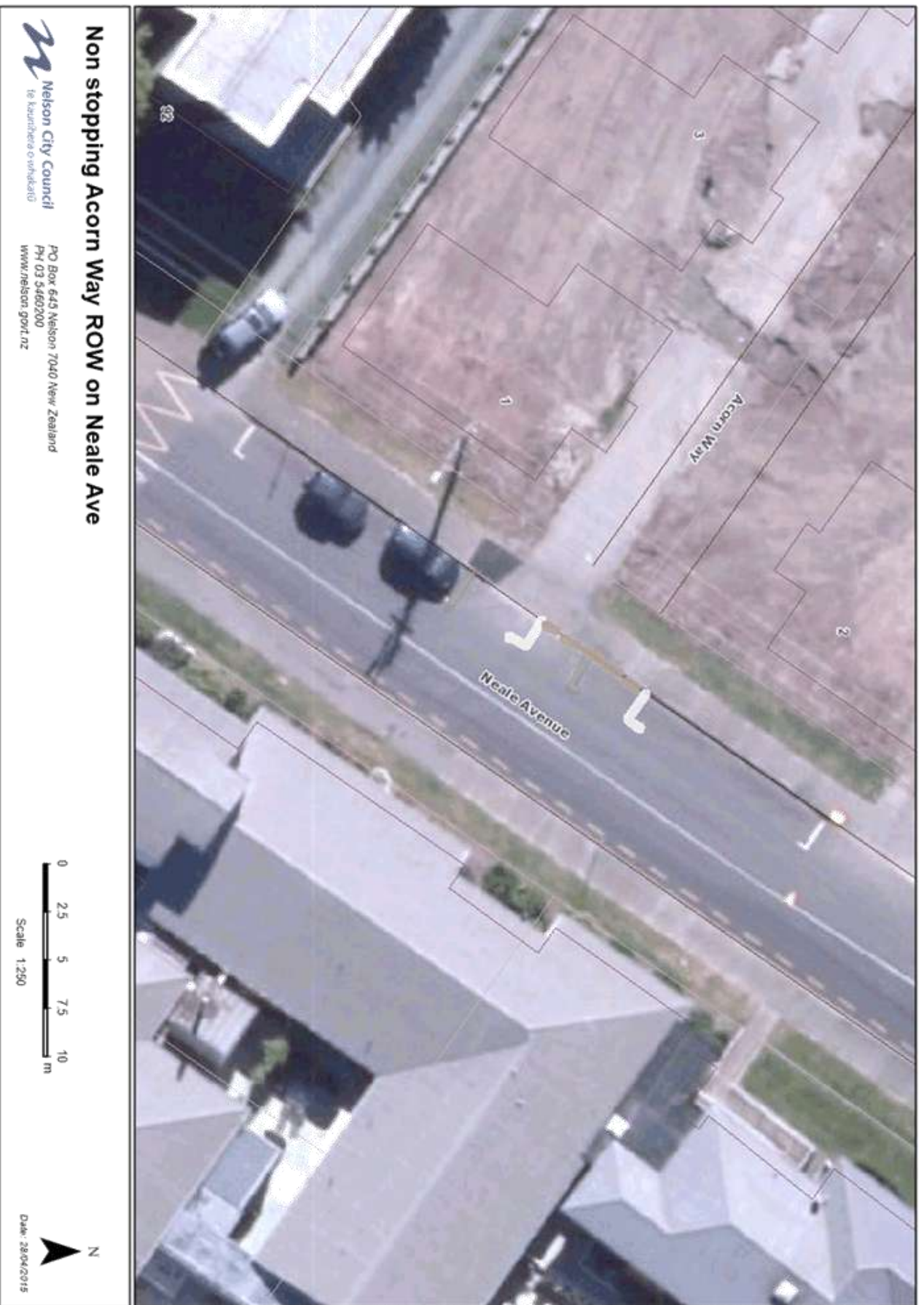
(7102) 8burgum now move south Black Vanguard Street



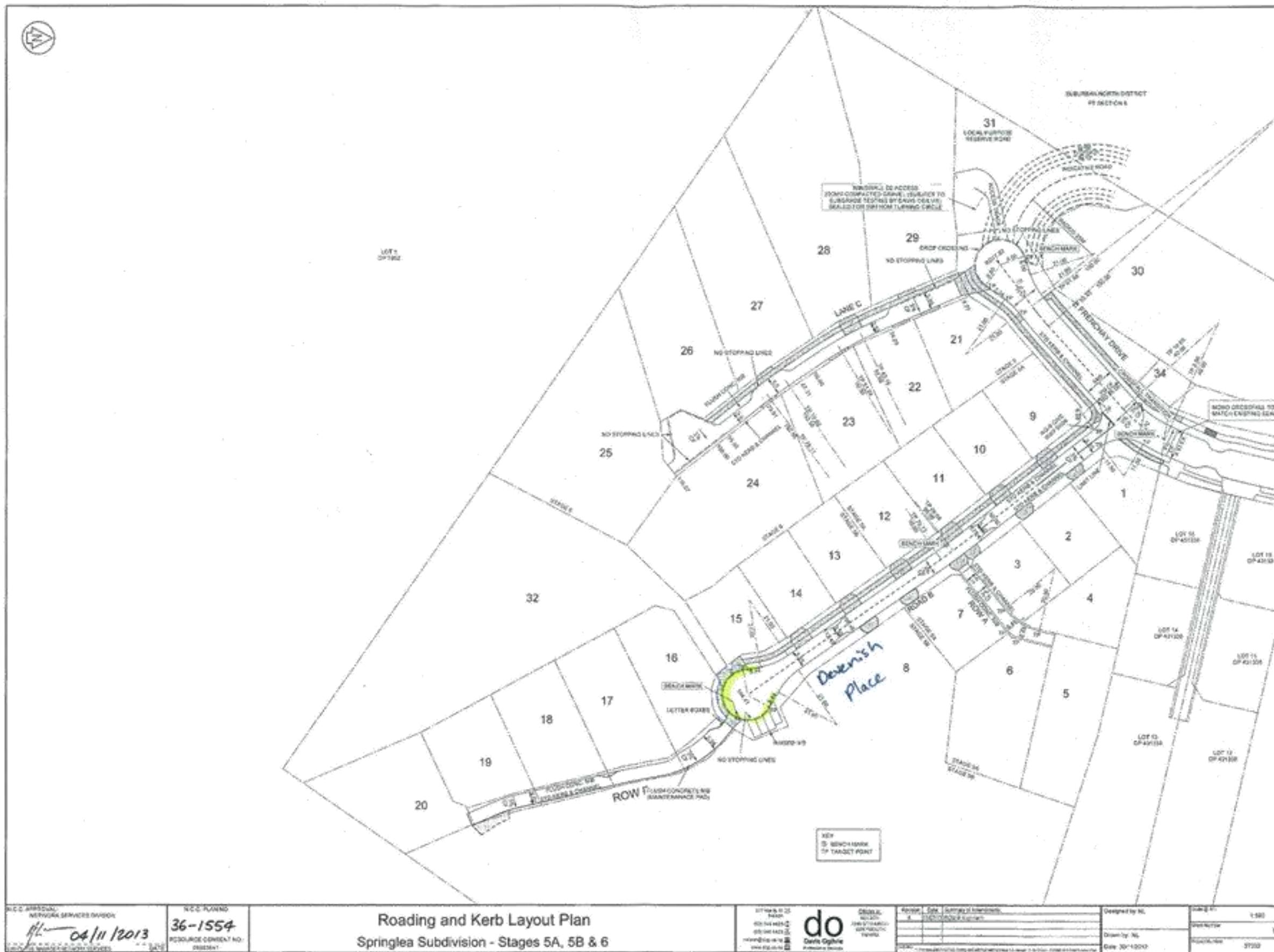
Attachment 1 Vanguard Street P5

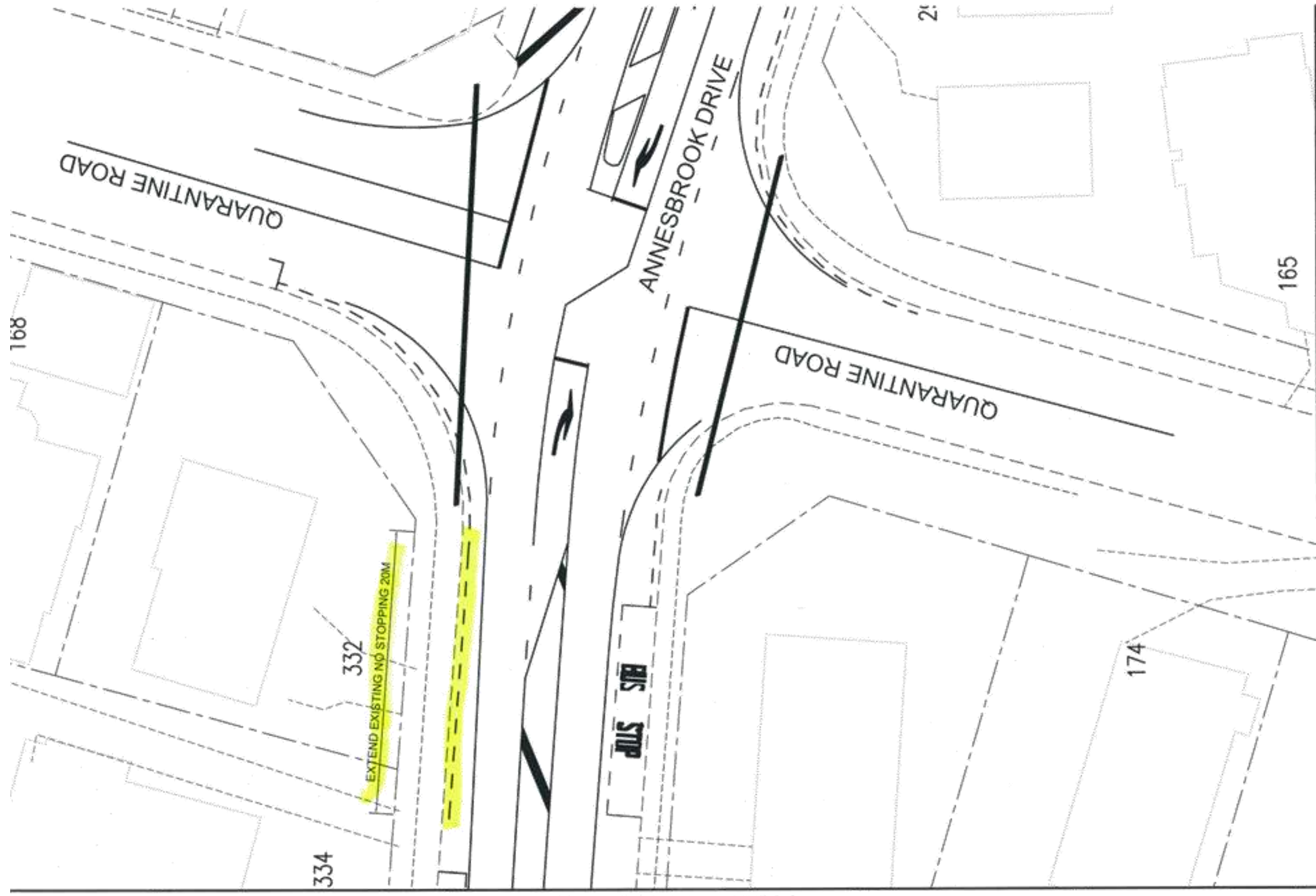


11. Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules - Attachment 3 - A1349156 Proposed No Stopping Neale Avenue



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NEW NO STOPPING ANNESBROOK DRIVE AT
QUARANTINE ROAD INTERSECTION

SCALE 1:250



REPORT R4372

Use of Glyphosate

1. Purpose of Report

- 1.1 To advise on the use of glyphosate based herbicides in Council weed pest control operations.

2. Delegations

- 2.1 The Planning and Regulatory Committee is delegated authority to perform all functions, powers and duties relating to environmental matters, and public health and safety.

3. Recommendation

THAT the report Use of Glyphosate (R4372) be received;

AND THAT Council officers continue to monitor the use of glyphosate; take steps to mitigate any known adverse effects; and work to identify effective and safer alternatives.

4. Background

- 4.1 At the Planning and Regulatory Committee on 2 April 2015, concerns were raised during the public forum on the use of glyphosate. In particular they asked the Council to avoid glyphosate use in urban areas by Council contractors; to push for more regulation nationwide; and to ask government regulators to test proprietary brands for toxicity.

5. Discussion

Council consents for agrichemical discharge

- 5.1 Council use of agrichemicals, including glyphosate, for the control of pest vegetation is covered by two resource consents; RM135024 and RM095162. Consent RM135024 expires on 17 November 2019 and covers the discharge of agrichemicals onto land via land based and aerial application on Council administered parks and reserves. Consent RM095162 also expires on 17 November 2019 and covers the discharge of herbicides to road reserve for pest plant control. Nelmac and Kaitiaki

carry out the majority of the Council's weed control work, with all contractors working within the constraints of these two consents.

Glyphosate

- 5.2 Glyphosate is a herbicide that is inactivated when it comes into contact with soils as it absorbs into soil particles and any unbound glyphosate is rapidly degraded by microbial activity to release carbon dioxide. Because of its absorption in soil, glyphosate is not easily leached and is unlikely to contaminate both ground or surface water. Residues absorbed to suspended particles are precipitated into bottom sediments where they can persist until degraded microbially with a half-life that ranges from 12 days to 10 weeks. Although all formulations which use glyphosate are listed as eco-toxic (mostly as a result of the surfactant), certain formulations and products are currently permitted for use in and near waterways within New Zealand. Because of the herbicides low toxicity, it is considered that inputs from normal land-based uses are highly unlikely to generate concentrations that might be considered harmful.

Conditions of use

- 5.3 When using glyphosate in an area between the water's edge to a 5 metre margin from the water's edge, the contractor must use a knapsack sprayer only.
- 5.4 If a contractor is operating in the zone between 5 metres and 10 metres out from the water they can also use a handgun and boom sprayer rather than just a knapsack sprayer.
- 5.5 Standard restrictions are observed by contractors – spray mist is directed away from water, spraying is avoided when children are likely to be around (e.g. during public and school holidays, concentration/mix rates recommended by the manufacturer are always to be adhered to, spraying plants in flower is avoided (protects against honey contamination), spraying is only carried out in still conditions (wind speed lower than 15kms/hr); and warning signs are used. All contractors are Growsafe qualified.
- 5.6 Only products with fish friendly surfactants are used near waterways, such as Roundup Biactive.
- 5.7 Under RM135024, from September 2013 to 30 June 2014, 311.33 litres of glyphosate were used.

- 5.8 Under RM095162 the following amounts of glyphosate were used for roadside vegetation spraying:
- 13.8 litres from 11 February 2014 to 24 May 2014;
 - 20.9 litres from 23 June 2014 to 5 August 2014; and
 - 28.4 litres from 9 January 2015 to 18 February 2015.
- 5.9 Annual monitoring of the consent conditions is required and is undertaken.
- 5.10 Testing of stream sediments for agricultural chemical residues in the Maitai River in 2012 by Cawthron Institute showed that accumulation of herbicides is not occurring at ecologically significant levels.

Public Health

- 5.11 The Council manages 11,120 hectares of parks and reserves. The majority is held in the Brook, Roding and Maitai Conservation Reserves, which together total just over 10,000ha including 8,000ha of water supply catchment. These areas are rich in native species and ecosystems. Council's policy is to use the least toxic chemical available to achieve weed control. To ensure there are no adverse effects on the City's water supply, the Council is limited in the amount and type of spraying that can take place within these areas. Within the reserves only spraying by knapsack may occur within a 500m radius of water supply intake points and a 30m band around the perimeter of the Maitai Dam.
- 5.12 The discharge of agrichemicals under RM135024 is only permitted onto Council administered land. As these are areas of high public use, signs are placed on each main access point to any spray area to alert the public. Any vehicles associated with the spraying are also required to display signs (front and back). Given the proposed measures, it is reasonable to expect that anyone attempting to enter this area will be aware of the discharge and will be able to take precautionary measures or avoid the area.
- 5.13 With regard to potentially affected landowners adjacent to spray areas, Council holds a list of "No Spray Areas" for the chemical control of vegetation. This is where landowners have indicated they do not want any spraying on their property frontages or near their boundaries. Each year the Council is required to place a notice in the Nelson Mail and Leader newspapers to inform members of the public that they may register their property boundary as a "No-Spray Area". In these areas no spraying will be allowed within defined limits of the listed property boundary. The distance from the boundary depends on the means of application (i.e. aerial spraying - 300 metres; knapsack - 5 metres, hand gun and boom sprayer - 10 metres; and air blast sprayer 30 metres). In all areas the consent holder is responsible for ensuring that there is no spray drift beyond the boundary of any area being sprayed. When wind speeds exceed 15 kilometres per hour spraying will not be permitted and drift control measures shall be instigated at lower wind speeds as

required under Section 5.3.4 and in Appendix G of NZS 8409:2004, Management of Agrichemicals.

- 5.14 Aerial spraying only occurs within Conservation and Landscape reserves where forestry is to be retired, and also in areas where it is hard to undertake land based spraying. The purpose of aerial spraying is to remove small areas of isolated environmental weeds with difficult or unsafe access. These areas are not located near residential properties, and public access to the areas will be temporarily closed during any aerial operation. Consent conditions limit aerial spraying to certain areas.

6. Options

- 6.1 Where it is practically and financially achievable alternative methods to chemical spraying are used. Other options include: the use of mulch as a weed suppressant, hand removal of weeds, organic sprays (such as coconut oil spray in playground areas) and the use of disease-resistant plants.

Option 1: Coconut oil

- 6.2 Coconut oil 'burns' the leaves of the weed but is not taken back in to the root system of the plant so is limited in its effectiveness.

Option 2: Steam weeding

- 6.3 Steam weeders were trialled by the Council around 15 years ago but are no longer being used. The results were unsatisfactory and the machines were difficult to use, particularly in the conservation and esplanade and foreshore reserve areas.

Option 3: Hand weeding

- 6.4 Esplanade reserve areas provide particularly favourable habitats for many introduced weed species. Some of these are particularly troublesome, and can negatively change the ecology of the riparian margin. Weeds such as convolvulus, blackberry, gorse, broom, Tradescantia, ivy, periwinkle, apple mint (to name just a few) are difficult to control. The alternative control measure is hand weeding. However, grubbing out weeds is time consuming, and can break up rhizomes and stolons which produce more plants. Stems of weeds such as Tradescantia and aluminium plant produce root systems from very small pieces, so effective control involves systematic removal of every small piece.
- 6.5 Deep rooted weed species (e.g. blackberry) or weeds with extensive root systems (e.g. convolvulus) generally cannot be eliminated by any other means than specific herbicide treatment. Use of glyphosate is the most cost effective method of controlling many invasive weed species.

7. Alignment with relevant Council policy

- 7.1 The use of agrichemicals for the purpose of weed pest control within Council administered parks and reserves is considered to be consistent with the relevant objectives and policies contained within the Nelson Resource Management Plan.
- 7.2 The Draft Parks and Reserves Asset Management Plan guides Council for the next 10 years in its provision and management of parks and reserves to provide open space that meets the needs of the community. The Plan sets the framework for how Nelson's parks and reserves will be managed and maintained. Agrichemical control of pest weeds across these areas is an integral part of this maintenance program.

8. Assessment of Significance against the Council's Significance and Engagement Policy

- 8.1 This is not a significant decision for Council in terms of the Council's Significance and Engagement Policy.

9. Consultation

- 9.1 No specific consultation has taken place.

10. Inclusion of Māori in the decision making process

- 10.1 No specific consultation has taken place with Māori.

11. Conclusion

- 11.1 Council relies on the use of agrichemicals to effectively control weed pests and protect the biodiversity of natural ecosystems within the city. Strict precautions are taken and alternatives used wherever practical. It is prudent for the Council to continue to monitor ongoing use, and take steps to mitigate any known adverse effects, and to explore the development of safe and effective alternatives.

Richard Frizzell
Environmental Programmes Officer

Attachments

Nil



REPORT R4261

Land Development Manual Review

1. Purpose of Report

- 1.1 This report proposes to establish a joint Project Steering Group with Tasman District Council to guide the Land Development Manual review.

2. Delegations

- 2.1 The Planning and Regulatory Committee has the delegations for reviewing and developing amendments to the Land Development Manual where necessary and recommending those to Council.

3. Recommendation

THAT the report Land Development Manual Review (R4261) and its attachments (A1365598) be received;

AND THAT the Committee nominate Councillors

..... and to be members of the Land Development Manual Steering Group.

AND THAT the attached draft Terms of Reference are adopted by Council for finalisation at the first Steering Group meeting after which they will be confirmed by the Mayor and the Chair of Planning and Regulatory.

AND THAT those nominated Councillors provide regular reports back to Council on progress with the Land Development Manual alignment and review.

AND THAT where possible both Tasman District Council and Nelson City Council use the same Hearing Commissioners to hear and make recommendations on submissions.

Recommendation to Council

THAT a draft aligned Land Development Manual be brought back to Council in December 2015.

4. Background

- 4.1 In the Resource Management Act Amendments of 2005 (RMAAA2005) Part 3 'Incorporation of documents by reference in plans and proposed plans' was added to the First Schedule. This section provides for the reference of external documents such as the Land Development Manual in the Plan (where they are referenced in any rule, assessment criteria or method) and states that once incorporated by reference in a Plan they have legal effect as part of the Plan.
- 4.2 The transitional provisions of the RMAA05 in section 131(10) also deemed that all documents currently referenced in operative and proposed plans are now an externally referenced document by virtue of the reference in the Plan prior to the Amendment Act.
- 4.3 The purpose of the incorporation by reference amendments to the Act were to ensure that as a matter of natural justice, standards and other documents that Plans rely on to determine compliance have a robust public participation process prior to any changes being made.
- 4.4 The NCC Land Development Manual 2010 went through the externally referenced document requirements of Part 3 of the First Schedule in 2010, and was deemed an operative part of the Plan in 3 December 2010. All future reviews of the LDM or any other standard that the Plan relies on are required to go through the First Schedule process by virtue of the RMAAA2005.
- 4.5 As part of the public consultation and stakeholder engagement process for the LDM in 2009 to 210 stakeholders recommended to Council that an aligned LDM with NCC and TDC should be pursued. The Planning and Regulatory Committee resolved on 12 March 2015 in report A1317664 (Attachment 1) to progress the joint Land Development Manual (LDM) with Tasman District Council and align it with the notification of the Nelson Plan.
- 4.6 Over the last year officers from both councils have been working on a joint set of standards. This has enabled five chapters (out of twelve) of each set of standards to be agreed in principle.
- 4.7 The balance of sections require discussion and negotiation before they can be aligned, and it may be that there will be some variations in standards recognising topographical/regional differences such as rainfall and soil types.
- 4.8 Chapters that are likely to require direction before they can be aligned include the transport and stormwater sections, along with some technical details of other sections such as Council's response to sea level rise in

setting minimum ground and floor levels. The remaining chapters will be brought to Planning and Regulatory Committee as they are aligned as either an item itself or as part of quarterly reporting in August and December 2015.

5. Discussion

Alignment Process

- 5.1 Officers have formed a working group with Tasman District Council Officers and have begun project planning to meet notification of the proposed NCC/TDC Land Development Manual in mid 2016 to align with the Nelson Plan timeframe.
- 5.2 Over the next six months officers of both Councils will meet to consider drafts of the final remaining chapters for alignment with the aim of having the completed first draft for consultation with stakeholders by December 2015.
- 5.3 Tasman District Council does not intend to notify their plan changes to the Tasman Resource Management Plan (TRMP) to externally reference the Land Development Manual until early 2017. TDC's notification timeframe does not prevent Nelson City Council from meeting its notification timeframe; it does however mean that we will be unable to have a joint hearing. This might result in misalignment between decisions however this can potentially be mitigated by using the same Hearing Commissioners.

Land Development Manual Project Steering Group

- 5.4 Together officers from Nelson City Council and Tasman District Council seek that a Land Development Manual Project Steering Group is set up to help progress the final draft NCC and TDC Land Development Manual.
- 5.5 It is proposed that the Steering Group be made up of two Councillors from each of Nelson City Council and Tasman District Council, one developers representative, and one construction industry representative. Nominations have been sought and received for representatives of the New Zealand Institute of Surveyors (NZIS) and the Contractors Federation. A draft terms of reference for the Steering Group is provided in Attachment 1.
- 5.6 The purpose of the Project Steering Group is to act as a single point of reference for officers of both Tasman District and Nelson City Councils to seek consensus on draft standards for areas where alignment is not simple and requires governance and industry input and guidance.
- 5.7 The Project Steering Group has no formal decision making powers, but will be responsible for reporting progress back to the respective Councils. A draft of the LDM and the results of stakeholder engagement will be brought back to Council before being released for public consultation as part of the Clause 35 First Schedule process under the RMA 1991.

- 5.8 Given that across Council input is required from both TDC and NCC the Project Steering Group appears to be the most efficient model for guiding the drafting of the alignment of the Land Development Manual for both Councils, particularly given the Nelson Plan notification of mid 2016.

6. Options

- 6.1 Options for the development of an aligned Land Development Manual between Nelson City Council and Tasman District Council include the following:

6.2 Officer Level Alignment and Drafting

- 6.3 The officer level working group between Nelson City Council and Tasman District Council could proceed to develop a draft aligned LDM for consultation. There are however a number of issues where the two Councils currently take a different approach which would need to be resolved in the alignment process. The two councils' approach to transportation is one example. It is considered that some governance and industry support is needed to provide guidance in the alignment process should there be issues officers are unable to resolve.

6.4 Steering Group Led Alignment and Drafting

- 6.5 This option involves a Steering Group of two councillors from each of Nelson City Council and Tasman District Council, along with one developer's representative and one construction industry representative.
- 6.6 The purpose of the Steering Group would be to provide governance oversight on behalf of Nelson City Council, Tasman District Council and the development community to result in a common Land Development Manual for Nelson and Tasman. The Steering Group can provide guidance and direction for officers during the process of alignment, and particularly where there might be a difference of approach that needs to be resolved.
- 6.7 It is anticipated that the Steering Group representation would be unpaid and would meet at a frequency that the Steering Group determines. The draft Terms of Reference can be finalised at the first meeting of the Steering Group.

6.8 Planning and Regulatory Committee

- 6.9 This option involves the whole of the Planning and Regulatory Committee providing guidance on the direction and alignment of the LDM. Formal reporting of progress and issues to the Committee would make it difficult to meet the Nelson Plan deadlines and difficult to achieve the required alignment between NCC and TDC. Similar meetings would need to be held with TDC's Infrastructure Committee. There is a risk that both Committees could provide different direction as they are unable to consider the different views together. The two different Council Committee structures and timeframes are unlikely to enable consensus on issues and direction to be gained by officers.

- 6.10 This option is not considered an efficient use of time, is cumbersome and is unlikely to result in the required aligned governance direction being provided for officers in drafting the LDM.

7. Alignment with relevant Council policy

- 7.1 The preparation of joint engineering standards for Nelson/Tasman fits with the Nelson 2060 goals of achieving more integrated planning across councils and the regional community. It is also a method to achieve resolution of the resource management issue in the Nelson Resource Management Plan that recognises Council's role in addressing cross boundary issues.
- 7.2 The resourcing of the review is to be jointly funded by both councils and will involve staff resourcing as business as usual, as well as allocation of funds for notification, submissions and hearing processes as part of the Nelson Plan budget.

8. Assessment of Significance against the Council's Significance and Engagement Policy

- 8.1 This report does not seek any decision that is significant in terms of the Council's Significance and Engagement Policy.

9. Consultation

- 9.1 The aligned land development manual will be consulted on with stakeholders as a draft, and then through the formal Resource Management Act process for externally referencing a document cl.35 First Schedule RMA 1991. This provides for formal submissions, further submissions and a hearing and decision making process.

10. Inclusion of Māori in the decision making process

- 10.1 Maori have not been consulted to date on the alignment of the Land Development Manual. Iwi have been consulted in relation to the development of Whakamahere Whakatu – Nelson Plan, and as part of that consultation Iwi identified that an integrated and Te Tau Ihu view should be taken to resource management. This project is representative of such an approach.

11. Conclusion

This report proposes to establish a joint Project Steering Group with Tasman District Council to guide the Land Development Manual review. The Project Steering Group is proposed to be made up of three Councillors from each of Tasman District Council and Nelson City Council along with one developers representative, and one construction industry representative. This is considered to be the most efficient and effective means of aligning the remaining chapters of the Land Development Manual between the two Councils that will enable officers to meet the mid 2016 notification for the Nelson Plan.

Lisa Gibellini
Senior Planning Adviser

Attachments

Attachment 1: A1365598 - Land Development Manual Steering Group Draft
Terms of Reference

NCC/TDC Land Development Manual

Steering Group

Terms of Reference

1. Purpose

To guide the review and alignment of the Land Development Manual between Nelson City Council and Tasman District Council.

To provide regular reports back to the respective Councils on progress with the review.

2. Membership

Membership will comprise two elected members from each Council, one construction industry representative, and one representative of New Zealand Institute of Surveyors, as follows:

- NCC Councillorand
- TDC Councillor.....and
- NZIS Representative : Paul Newton
- Contractors Federation: Steffan Eden

3. Quorum

Quorum for the Steering Group is set at three members and must include an elected member from each Council.

4. Areas of Responsibility

- To review the scope and structure of the aligned Land Development Manual
- To provide direction how the chapters of the LDM can be aligned, where there are conflicts or significant differences in approaches between the Councils
- To review informally any policy proposals that are required in respective resource management plans to give effect to the alignment of the LDM prior to the first schedule process
- To resolve any conflicting approaches between the Council's to ensure an aligned LDM is achieved wherever possible
- To seek industry feedback on the aligned standards
- To inform both Councils on progress made on the LDM alignment through an update in the Planning and Regulatory (NCC) or Infrastructure (TDC) Chairperson's report at least 3 monthly.

5. Powers to decide

None.

6. Powers to recommend

None.

7. Role of the Steering Group

- To request, receive and consider any information relevant to the alignment of the LDM
- To guide the officers of NCC and TDC in the creation of a draft LDM
- To encourage community and sector group engagement, including Steering Group attendance at stakeholder workshops.
- To consider public comments on the draft aligned LDM and provide direction on options to address them
- To keep each organisation informed of progress
- To present the findings to respective organisations being represented on the Steering Group and receive feedback for inclusion in the process

8. Role of the Chair

- To confirm agenda with staff prior to Steering Group meetings
- To chair meetings according to the agreed agenda and to assist the Steering Group to reach consensus on issues and options
- To act as spokesperson for the Steering Group

9. Role of staff

Staff of NCC and TDC provide technical expertise, project management and administrative support to the Steering Group. Their role is to:

- Provide advice and reports to enable full consideration of the alignment issues and options before the Steering Group
- Providing advice to the Steering Group on legal and statutory issues and obligations
- Lead technical discussions on options under consideration
- Manage project resources (budget and staff time)
- Manage project issues, risks, changes and advise the Steering Group Chair of issues as they arise
- Provide staff reports to Council at decision making points

- Organising and managing engagement with key stakeholders and the wider community
- Keeping Steering Group members briefed on key communications with key stakeholders and the public;
- Prepare and distribute agendas for Steering Group meetings
- Maintain records of process used, options considered, key decisions made by the Steering Group and reasons for decisions, so that the decision making process can be clearly understood.

10. Project background

Development industry professionals have requested that NCC and TDC use one set of engineering standards for works on Council assets and the development of new assets to vest in Council. Over the last year officers from both councils have been working on a joint set of engineering standards. This has enabled five chapters (out of twelve) of each set of standards to be agreed in principle.

The balance of sections require discussion, negotiation and direction before they can be aligned. It may be that there will be some variations in standards recognising topographical/regional differences such as rainfall and soil types, however the intent is align the document wherever possible.

Chapters that are likely to require Steering Group direction before they can be aligned include the transport and stormwater sections, along with some technical details of other sections such as Council's public to private infrastructure policies, and response to sea level rise in setting minimum ground and floor levels.

11. Meetings

Staff will prepare a schedule of meetings in consultation with the Chair of the Steering Group.

Members will not be paid nor reimbursed travel costs.

12. Conflicts of Interest

Conflicts of interest should be declared at the start of Steering Group Meetings.

13. Reporting

- Notes of Steering Group meetings will be taken
- A report with a recommendation will be prepared by staff on behalf of the Steering Group summarising the options considered and the reasons supporting the recommended option

- Updates via relevant portfolio status reports where no Steering Group meetings have taken place
- If the Steering Group has not met for a period of six months it will be considered disbanded.



REPORT R4134

Dogs off the leash on Monaco Reserve

1. Purpose of Report

- 1.1 To recommend a response to the petition requesting that dogs be allowed off the lead at Monaco Reserve (refer to map in Attachment 1) that was presented to the 23 October 2014 Planning and Regulatory Committee meeting.

2. Delegations

- 2.1 The Planning and Regulatory Committee has powers to recommend final decisions on bylaws and potential special consultative procedures falling within its areas of responsibility.

3. Recommendation

THAT the report *Dogs off the leash on Monaco Reserve (R4134)* and its attachments (A1374151, A1261310 and A1374167) be received;

AND THAT the Planning and Regulatory Committee makes a recommendation to Council about whether the Dog Control Bylaw is amended in relation to Monaco Reserve.

Recommendation to Council

THAT the Council determines that an amendment to the Dog Control Bylaw for Monaco Reserve is considered as part of the review of the Dog Control Bylaw in 2018.

AND THAT a response is provided to the petitioners.

4. Background

- 4.1 A petition was presented to the Planning and Regulatory Committee meeting of 23 October 2014 by Mrs Chris Keay and Mrs Lois Morgan requesting that dogs are allowed to run on the Monaco Reserve without a lead (see Attachment 2). There were 66 supporting signatures with the majority of petitioners being local to the Monaco area although people from as far away as Richmond, Stoke and Tahunanui also signed it.

5. Discussion

The Dog Control Bylaw 2013

- 5.1 The Nelson City Council has a Dog Control Bylaw 2013 (the Bylaw) made under the Dog Control Act 1996. The Bylaw was made following a special consultative procedure (SCP) and was confirmed at the ordinary meeting of the Council on 19 February 2013.
- 5.2 Council consulted on the Dog Control Bylaw using a special consultative procedure in February 2012. Following submissions, hearings and deliberations, Council determined that the changes recommended to the Bylaw required further consultation. In July 2012, Council put out an amended Dog Control Bylaw and Statement of Proposal for consultation. Submissions closed on 27 August 2012, and a hearing was held on 24 September 2012. The Council met to consider submissions on 6 November 2012. On 19 February 2013, the Council resolved that the Dog Control Policy and the Dog Control Bylaw be adopted. The Bylaw had legal effect from 25 February 2013.
- 5.3 The Dog Control Bylaw sets out provisions specifying where dogs are prohibited and permitted. Schedule One of the Bylaw lists areas that dogs are prohibited from, Schedule Two lists areas where dogs are permitted but must be kept on a lead (including Monaco Reserve) and Schedule Three lists neighbourhood parks in which dogs may be off lead.
- 5.4 Dogs are required to be on the lead at Monaco Reserve. Dogs are not permitted in the playground. Dogs must also be on the lead at Foster Reserve, the reserve at the end of Monaco Peninsula. The footpaths and foreshore at Monaco Reserve are areas where dogs are permitted to be off lead.
- 5.5 A local authority must review a bylaw no later than 5 years after the date on which the bylaw was made. The Dog Control Bylaw is scheduled to be reviewed in 2018.

The Dog Control Policy

- 5.6 The Dog Control Policy was developed under the Dog Control Act at the same time as the Bylaw and sets out the Council position on dogs. Section 2.3 of the Dog Control Policy states that "*Neighbourhood parks are generally relatively small and are commonly used by children. To avoid risks to children, dogs should be on a lead in these areas. There*

are some exceptions to this, where neighbourhood parks are larger and there are no children's playgrounds within them. Examples are Grampian Oaks Reserve and Andrews Farm Reserve."

Petition

- 5.7 The petition presented to the 23 October Planning and Regulatory Committee submits that Monaco Reserve should be an area where dogs are able to be off the lead. In effect, the petition requests that Monaco Reserve be removed from Schedule Two of the Bylaw (areas where dogs must be on the lead), and added to Schedule Three of the Bylaw (areas where dogs are permitted to be off the lead).
- 5.8 The petition is supported by 66 signatures on behalf of locals and visitors to the Monaco Reserve and requests the change to allow people to 'freely run their dogs' in the Reserve. The submission acknowledges the playground in the Reserve and says "this is one of the attractions which brings families, children and their dogs to the area".
- 5.9 Officers met with those that wrote the petition on Friday 8 May 2015. The petitioners emphasised that they want dogs to be allowed off the lead in Monaco Reserve. They explained that the park is widely used by families and that the area is a nice place for walks. The group said that they have not seen or heard of any issues with dogs in the reserve. They do not want dogs in the playground, but do not think that a fence around the playground is necessary. The group explained that they did not submit on the Bylaw when it was developed as they were not aware of it.

Officer Views

- 5.10 Animal Control Officers patrol the Monaco area and have issued verbal warnings to dog owners for not having their dog on a lead. They noted one case where an infringement fine was issued to a person for having their dog off the lead in the area. In this case the dog went into the playground area and the owner had been previously warned.
- 5.11 Officers in the Parks and Reserves team say that Monaco Reserve could be suitable for being a dog park, although additional signage would be required to ensure that people are aware that dogs are not permitted in the playground area.
- 5.12 Although there is a playground in the Monaco Reserve, there is also playground equipment in a number of other neighbourhood parks that dogs are allowed to be off the lead in including Wolfe Reserve, Poplar Reserve, Fairfield Park and Hanby Park. Officers consider that allowing Monaco Reserve to be a park where dogs are allowed off the lead would not be inconsistent with the rest of the Bylaw but that further consultation would be required before any change could be made. Further consultation would ensure that the views of all park and playground users are considered.

- 5.13 Staff are concerned that making Monaco Reserve an off lead park as a result of a petition would set a precedent for other parks and reserves that the community would like changed in the Dog Control Bylaw. The Bylaw was consulted on when it was first developed and a comprehensive review of the Bylaw will be carried out in 2018 which will take into account all requests by the public for change as well as information on the effectiveness and appropriateness of the Bylaw. Initiating a change to the Bylaw now raises precedent issues in relation to other reserves; diverts staff resource away from programmed work and would require consultation with all reserve users including users of the playground.

Legal considerations

- 5.14 Under the LGA, the Council must review the Dog Control Bylaw within five years of first making it. In reviewing the Dog Control Bylaw, the Council is required to consider whether the Bylaw meets section 155 of the Local Government Act and must determine whether the bylaw is the most appropriate way of addressing the perceived problem by determining whether the proposed bylaw is the most appropriate form of bylaw and whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990.
- 5.15 A review of the Bylaw is scheduled to be completed in 2018. Part of the review will involve a city-wide review of the parks and reserves in the city to evaluate whether any changes are required to the Bylaw and schedules to the Bylaw.
- 5.16 To make Monaco Reserve an off lead dog park, The Dog Control Bylaw must be amended. The Bylaw is made under the LGA. Section 156(1)(a)(i) and (ii) of the LGA require that a Special Consultative Procedure (SCP) be used when amending a Bylaw if the change is a matter of significant interest to the public of Nelson in general, or if the changes are likely to significantly impact the wider public. Using Council's Significance and Engagement Policy as a guide, it would appear that the matter would be of less significance (refer attachment 3). If s156(1)(a) does not apply, consultation must be carried out in a manner that gives effect to the requirements of section 82 of the LGA.
- 5.17 Section 82 requires consultation with people who will or may be affected by, or have an interest in the proposed change to the bylaw. An assessment has to be made as to who those persons may be and consultation must be undertaken with those persons. Council must determine the best way to undertake this consultation
- 5.18 A SCP is required when the Dog Control Bylaw is reviewed in 2018. It will also be required if significant changes are proposed to the Bylaw at any other time. Council staff consider that due to the wide range of people using Monaco Reserve, a further consultation process would be required should any changes be made to this Bylaw.

6. Options

- 6.1 Staff consider that the following options are available to the Council:
- 6.2 Option A: Propose an amendment to the Dog Control Bylaw to move Monaco Reserve from Schedule Two of the Dog Control Bylaw to Schedule Three of the Dog Control Bylaw (parks in which dogs may be off the lead). This is the option that the petition requests and would require further consultation before any changes can be made.
- 6.3 Option B: Do not propose a change to the Dog Control Bylaw now, but consider Monaco Reserve for addition to Schedule Three of the Bylaw when the Bylaw is reviewed in 2018. This option is the status quo.

Options	Costs and Risks	Benefits
Option A: Propose an amendment to the Bylaw for Monaco Reserve	<p>There may be members of the community that do not want a change to this park.</p> <p>There is an unbudgeted cost of consultation and amendments to the Bylaw.</p> <p>Staff resource would need to be redirected from other work (e.g. the Nelson Plan).</p> <p>There is a playground in the reserve.</p> <p>There is a risk that proposing a change to one park may lead to other groups wanting changes to parks in other areas.</p> <p>The Bylaw would still need to be reviewed in 2018.</p> <p>This would only look at changes to Monaco Reserve.</p>	<p>The 66 people signing the petition requested this change.</p> <p>There would be further consultation before any changes could be made.</p>
Option B: Review the Bylaw in 2018 (Status Quo)	<p>This would not meet the need of those that submitted the petition immediately.</p>	<p>No change required to the Bylaw currently.</p> <p>No costs to publicise a change in approach.</p> <p>The review is planned for and budgeted for 2018 currently.</p> <p>The review could be comprehensive.</p> <p>Further consultation would be carried out</p>

Options	Costs and Risks	Benefits
		<p>before any changes are proposed.</p> <p>A wide range of views would be considered before changes are made.</p> <p>Critical staff resources remain focussed on current work programme.</p>

7. Alignment with relevant Council policy

- 7.1 The Bylaw is scheduled for review in 2018. Staff resources and budget reflect this.
- 7.2 The Dog Control Policy states that dogs should be on a lead in neighbourhood parks, however it also notes exceptions to this rule where the parks are larger and without playgrounds in them. There are currently other parks with playgrounds in the Dog Control Bylaw where dogs are allowed off the lead. Allowing Monaco Reserve to be an 'off lead' park would not be inconsistent with this policy.
- 7.3 An early review of the Bylaw would require resources to be redirected from other projects and funds to be brought forward from 2018. Budget would be required for consultation and signage.
- 7.4 Further consultation would be required for any change to the current Bylaw. Further consultation meets goal two of Nelson 2060 *we are all able to be involved in decisions*. The Dog Control Bylaw assists in meeting goal nine of Nelson 2060 *everyone in our community has their essential needs met* by creating public places and facilities that meet the needs of young and old.

8. Assessment of Significance against the Council's Significance and Engagement Policy

- 8.1 This is not a significant decision in terms of the Council's Significance Policy.

9. Consultation

- 9.1 Consultation following a special consultative procedure was carried out before the Bylaw was introduced in 2013.
- 9.2 Staff met with those people that submitted the petition on 8 May 2015 to confirm their views.
- 9.3 If any changes are proposed to the Bylaw, further consultation will be required of interested parties.

10. Inclusion of Māori in the decision making process

- 10.1 Any consultation carried out in the future will be consistent with section 81 of the LGA 2002.

11. Conclusion

- 11.1 Nelson has a Dog Control Bylaw. There has been a request to change the position the Council takes in this Bylaw on dogs at Monaco Reserve. The Bylaw is not scheduled for review until 2018. Council needs to determine whether amendments to the Dog Control Bylaw for Monaco Reserve should be consulted on now, or delayed until 2018 when the Bylaw is due for review. It is the preference of Officers to delay until 2018 for the following reasons:

- The views of the wider community including those using the playground have not been sought. It is considered that additional consultation should be used to obtain a wider view.
- It would set a potential precedent for other reserves. The issue should be considered as part of a comprehensive review in 2018.
- There are other areas in Monaco where dogs can be off lead and therefore there are interim provisions until the Bylaw is reviewed in 2018.
- Initiating the change to the schedules in the Bylaw now would create a resourcing issue for staff requiring them to be diverted from other programmed work.

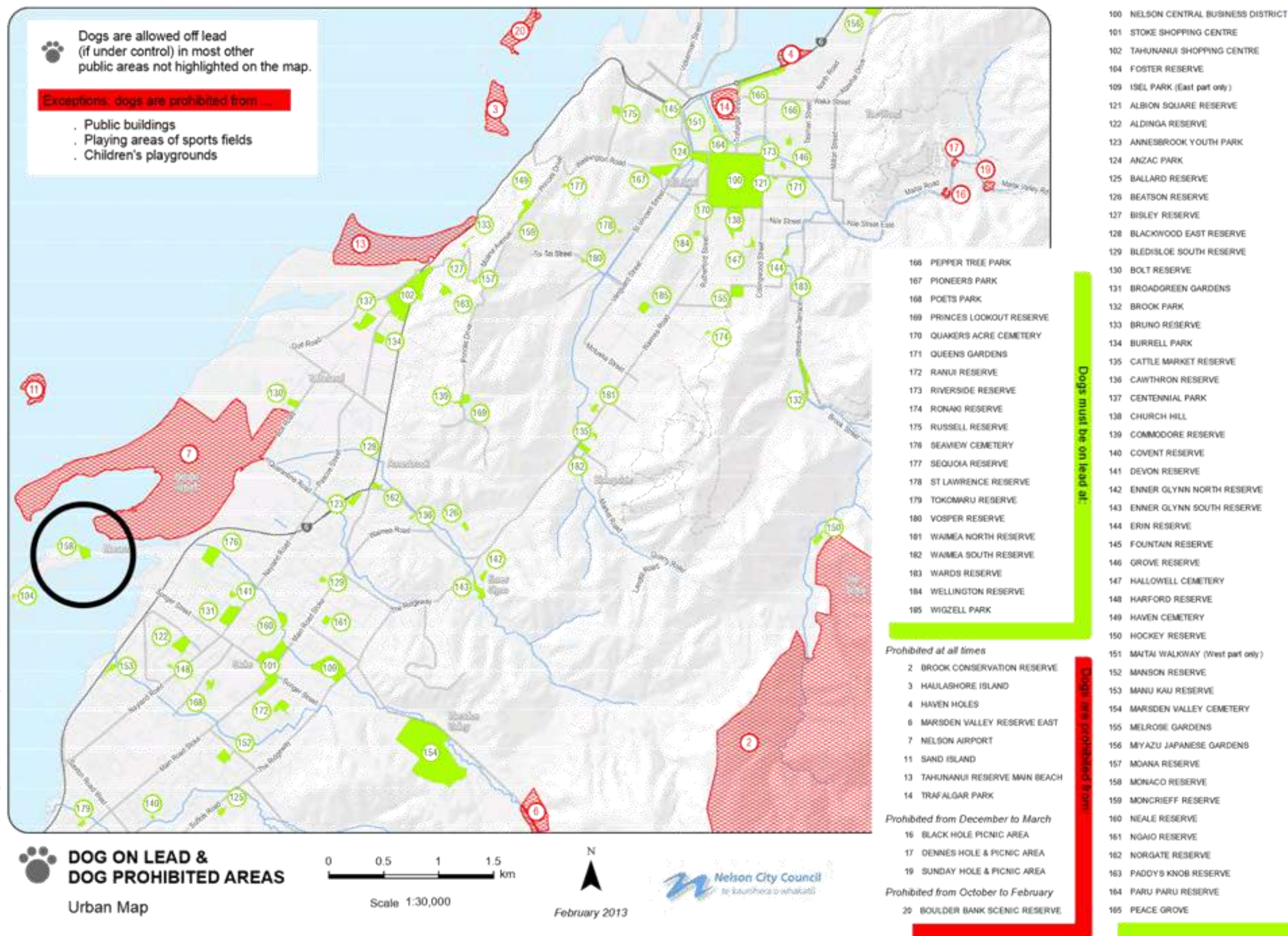
Matt Heale

Manager Planning

Attachments

- Attachment 1: A1374151 - Map of Monaco Reserve and other Dog on Lead and Dog Prohibited areas
- Attachment 2: A1261310 - Petition to Dog Control Bylaw
- Attachment 3: A1374167 - Schedule One of Nelson City Council Significance and Engagement Policy

The map is an approximate representation only and must not be used to determine the location or size of items shown, or to identify legal boundaries. To the extent permitted by law, the Nelson City Council, their employees, agents and contractors will not be liable for any costs, damages or loss suffered as a result of the data or plan, and no warranty of any kind is given as to the accuracy or completeness of the information represented by the GIS data. While reasonable use is permitted and encouraged, all data is copyright reserved by Nelson City Council. Copyright information derived from the Land Information New Zealand. CROWN COPYRIGHT RESERVED. 888. Original map size A3. Draft Map. File Ref: 1233558



RECEIVED

23 SEP 2014

NELSON CITY COUNCIL
Customer Service

103 MARION ST,

MONACO,

NELSON,

24.9.2014

NELSON CITY COUNCIL

Dear Sir, Ma'am,

The enclosed is a petition from the residents of Monaco and the surrounding area regarding the dogs not being allowed off the leads on the Reserve it is such a shame as people bring their dogs down to play with their balls and ball throwers which need a good large area for their exercise, this one is perfect.

People bring their dogs to play as well as their children, also there are three or four disabled young men who love to bring their dogs to play with them also, it is so safe also.

As for my self I have lived down here for twenty six years and at the age of eighty five,

2

I now have to use a walker, can only walk short distances so the reserve is ideal, as I do not have a dog, my self, my neighbour who has a very busy life, lets me take her dogs with me, otherwise the poor dog would spend hours by its self, I cannot possibly have her on a lead as she loves to play with the other dogs, she would pull me over, I am also the trash lady that picks up the rubbish the young ones leave up there in the evenings, before the chain goes across.

I heard on the radio this morning that the Hamilton Council are opening up more family areas for people with dogs as they know how much dogs are part of the family.

We all do so hope you take a look at this, and we will have some thing quite soon.

Yours faithfully
Betty Wether

PETITION FOR DOGS TO BE ALLOWED TO BE RUN ON THE MONACO RESERVE

We wish to submit this petition to the Nelson City Council on behalf of locals and visitors to the Monaco Reserve to allow them to freely run their dogs. We acknowledge there is a children's playground on site but this is one of the attractions which brings families, children and their dogs to the area. We appreciate your attention to this matter and hope for a positive reply for all concerned.

Sharon Kent 82 Aldinga Ave Stoke
 Chrissy Martin 15 Ashbury Street Stoke
 Carl O'Donoghue 45 Devon St Stoke
 Betty Watkins 10 B Martin St Monaco
 Margaret Globbs 6 Sterling Way Stoke 5471404 *Chiff*
 Rob Ink 6 Sterling Way Stoke 5471404 *Paul*
 Myra Friend 73 Martin Street Monaco 0211044493
 M. Beag 266 Seaview Rd
 Cameron Beal 34a Point Road *CP*
 Josh Beal 34a Point Road Josh
 Leah Woodford 94 Champion Rd Richmond 8440088
 Lois Gilmore 96 Martin St Monaco *LPJ* 5473847
 Paul Walling 28 Martin St Monaco *Paul* 5471072
 Ali Maskell 28 Martin St Monaco *Ali* 0210580226
 A. McLaren - 32 Martin St. Monaco *A. McLaren* 548.7872
 Ricki Carey 36 Martin St *R Carey* 5475325
 Lorraine Polack 117 The Ridgeway Stoke
 Mark Smith 31 Woodstock Pl Stoke
 Mrs Betty Watkins
 10B Martin Street, Monaco
 Ph 5479020

G Lyster 62 Point Rd Monaco 5476743
 Harvey Morgan 99 Point Rd Monaco 5477734
 Lois Morgan 99 Point Rd Monaco 5477734
 Lindsay Robertson 54 Aldinga Ave Stalce 5479378
 John Robertson 54 Aldinga Ave Stalce 5479375
 Kay Clavett No 1 FELLS PLACE 5478920
 Barry Murrells 23 Martin Street 5476279
 Sandra Woodgate 24 Martin Street 538-0114
 Rosemary Musters 65 Martin St. Monaco. 5473932
 Rosanne Fumim 65 Martin St. Monaco 5473932
 Craig Fraser 51A Martin St Monaco 5476915
 Brian Peel 67 Point Rd. Monaco. 5477306
 Rosie Ross 67 Point Rd Monaco 5477306
 Nan Morwick 18 Martin 5477091
 Jo Kera 59A Martin St Monaco 5381133
 CAROL CURTIS 53 MARTIN ST MONACO 547 6746
 Graeme Sindair 55 MARTIN ST 5477815
 Bryan Kera 67 MARK ST MONACO 5477530
 Russell Holden 69 Martin St 548 4072
 Anita Franicevic 104 Point Road. 548 4446
 Steve Parkins 104 Point Road 021 484473
 Barry Frost 105 POINT ROAD 027 284 7611
 Rosie Gage 81 Martin Street, Monaco. 5474379
 Chrissie Keay 41 Martin St, Monaco 5479225
 Robyne Coleman 21b Roto St Tahanea 546 464
 Neil Nailly 6B Ngapua Road 5450149

Camryn Hayes	9 Martin St. Monaco	Camryn Hayes	5474397.
Peter Milambo	9 Houtt Crescent		547-9407
Val Milambo	"	"	"
Lesley Phoenix	72 Point Rd Monaco		548 8386
Nigel Phoenix	72 Point Rd Monaco		548 8386
Toni Barrett	30 martin St monaco		5475325
Allan Bartlett	38A martin St		5473073
Annette Balderson	19 Exeter street side		5479135
Jane Emy	21 Martin St.		546 8845.
Lenia Nepo	30B Martin St		538 0249
Wendel Young	5 JUBILEE WAY.		021979573.
Leah Morilleau	23 Martin St		03 5476299
Willy Rae.	1/48 Senger St		03 5475538
John Rae	1/48 Senger St		03 5475538
Tony Barwood	16 Kipling Cks		54-72152
Mary Greenland	38 B Martin St		5470133.
Sue Crowe	40 Maire St Tahuna		548-6606
Ray Crowe	40 MAIRE ST		5486600
Lisa Dyet	4 Karamiko Ave		0212161275
Pat Coleman	10A MARTIN ST		0272444130
Golden Coleman	10A MARTIN ST MONACO.		0272444130
Murray Campbell	65 Point Rd		02102843423.

Significance and Engagement Policy

Schedule One: Assessing Significance Against Criteria

Criteria	Higher Significance	Lesser Significance
Change in levels, or delivery, of service provided by Council.	There is a major and/or long term change to services.	There is a medium to low level of change to services.
Level of financial impact.	There is a major and long term financial impact.	There is a medium to low level of impact.
Impact on the community.	The decision would have a major impact on sections or all of the community.	The impact on the community is medium to low.
Decision involves a "strategic asset" as listed in this policy.	The decision involves the sale or transfer of more than 20% of a strategic asset.	The decision does not impact on the Council's ownership of the asset.
Impact on Council debt or level of rates.	The impact is major and/or long term on either debt levels or rates.	The impact is of a medium to low level
Reversibility of decision.	The decision is irreversible and would impact negatively on future generations to a high degree.	The decision is not irreversible, or if it were, the impact on future generations would not be high.
Building on previous decisions.	The matter is considered to be significant by other criteria, and has not been previously consulted with the community.	The decision or action is consequential to, or promotes, a decision or action already taken by Council or the views of the community on this matter are already known.
Historic interest.	There is a history of the matter generating wide and intense public interest and a reasonable expectation that this will again be so.	There is no history of the matter generating widespread interest.

REPORT R4136

Plan Change 18 Nelson South Operative Date

1. Purpose of Report

- 1.1 To recommend that Council approves Plan Change 18 – Nelson South as operative pursuant to Clause 20(1) of the First Schedule of the Resource Management Act 1991 (RMA).

2. Delegations

- 2.1 As outlined in section 6.3.3 of the Delegations Register 2014 Council has delegated to the Planning and Regulatory Committee the power to recommend to Council any alterations necessary to the Nelson Resource Management Plan. Council has the power under the RMA to make these alterations operative.

3. Recommendation

THAT the report Plan Change 18 Nelson South Operative Date (R4136) and its attachments (A1352380 and A1340607) be received.

Recommendation to Council

THAT Council resolves to make Plan Change 18 – Nelson South operative on 17 August 2015, pursuant to Clause 20(1) of the First Schedule of the Resource Management Act 1991.

4. Discussion

- 4.1 Plan Change 18 – Nelson South rezoned rural land adjoining the boundary with Tasman District Council. The area affected by Plan Change 18 is bounded by Champion Road, Hill Street North and Saxton Field. Although having a rural zoning, the area has been the subject of increasing residential development over a number of years and the rezoning was intended to recognise (in part) this increasing development trend. Some of the land was rezoned Rural-High Density Small Holdings Area, and some Residential. In conjunction with the rezoning, the Council also considered it appropriate to address servicing issues and esplanade requirements for Saxton Creek.

- 4.2 The Plan Change was notified on 28 August 2010. Submissions closed on 1 November 2010 and 14 submissions were received. A summary of the decisions requested was notified on 11 December 2010 and closed on 17 January 2011. Twenty-nine further submissions were received.
- 4.3 Council resolved to engage a hearing panel chaired by an Independent Commissioner and assisted by Councillors, to hear and make decisions on submissions. Council delegated decision making powers to a Hearing Panel consisting of Independent Commissioner Camilla Owen (Chair) and Councillors Miccio, Boswijk, Fulton and Ward. The hearing was held on 31 October 2011.
- 4.4 The decision was notified on 30 June 2012 and four appeals were received as follows:
- Appeal to the Services Overlay and esplanade requirements affecting 3A to 3D Hill Street.
 - Appeal to the esplanade requirements affecting 25 Hill Street.
 - Appeal to the esplanade requirements affecting 1 Hill Street (Lot 2 DP 14458).
 - Appeal to the esplanade requirements affecting 187 Champion Road (Lot 1 DP 14618).
- 4.5 As a result of Court assisted mediation, there was agreement in the changes made to the esplanade requirements that are included in table 6.2 of Appendix 6 of the NRMP (Attachment 1). These requirements are sufficient to contain a 1:100 flood event and also incorporate a walkway/cycleway along the true left bank of the creek.

5. Options

- 5.1 The Plan Change has been developed under the provisions of the First Schedule of the RMA. Options for the content of the Plan Change have been considered through the Section 32 evaluation process under the RMA. The Plan Change provisions within the decision are currently 'treated as operative' under Section 86F of the RMA.

6. Alignment with relevant Council policy

- 6.1 This plan change achieves the objectives of Council's RMA planning documents.
- 6.2 The plan change also supports the vision themes and goals of Nelson 2060. In particular, *Goal Three: Our natural environment – air, land, rivers and sea – is protected and healthy* is supported by the esplanade reserve requirement of the plan change which provides public access, recreation, ecological values, and hazard mitigation which enhances the natural environment. *Goal Nine: Everyone in our community has their essential needs met* is provided for through this plan change as the

rezoning of land assists to meet the future housing needs of the community.

- 6.3 There are no identified impacts on Council's Long Term Plan or Annual Plan.
- 6.4 The recommendation and subsequent decision, is consistent with the previous Council decisions in developing this Plan Change.
- 6.5 There are no additional, or unbudgeted, costs associated with this recommendation and subsequent decision.

7. Assessment of Significance against the Council's Significance and Engagement Policy

- 7.1 This is not a significant decision in terms of Council's Significance Policy.

8. Consultation

- 8.1 The Plan Change has been subject to the First Schedule RMA consultation processes. Those people and agencies with an interest in the Plan Change have been consulted with and have had the opportunity to make submissions.
- 8.2 To make the Plan Change operative, Council will notify the operative date in the Nelson Mail and send copies to the parties identified in Clause 20, First Schedule of the RMA.

9. Inclusion of Māori in the decision making process

- 9.1 Iwi have been consulted on this Plan Change as required under the First Schedule of the Resource Management Act 1991.

Matt Heale
Manager Planning

Attachments

Attachment 1: A1352380 - Order of Consent - Plan Change 18

Attachment 2: A1340607 - Plan Change 18 Nelson South - Council seal page

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of appeals under clause 14 of the First
Schedule to the Act

BETWEEN M-L LOWE, NA & PJ McFADDEN,
and PS FRY (as the trustees of the
McFadden Family Trust)
Appellants
(ENV-2012-WLG-000083))

PJ & AJ HAMILTON & C HARDIMAN
Appellants
(ENV-2012-WLG-000084))

J RAINE
Appellant
(ENV-2012-WLG-000085)

RG GRIFFIN CHILDREN'S TRUST
Appellant
(ENV-2012-WLG-000087)

AND NELSON CITY COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge BP Dwyer sitting alone pursuant to section 279 of the Act.

IN CHAMBERS

CONSENT ORDER

Introduction

[1] The Court has read and considered the appeals and the parties' draft consent order received 30 March 2015.



[2] Wahanga 2011 Ltd and A Scott have given notice of an intention to become a party under section 274 to the 083 appeal by the trustees of the McFadden Family Trust. The appellants in the 084 appeal are also parties to the 083 appeal and the 085 appeal. The appellants in the 083 and 085 appeals are parties to the 084 appeal. The 083, 084 and 085 appellants are parties to the 087 appeal. All appellants and parties have signed the memorandum setting out the relief sought.

[3] The Court is making this order under section 279(1)(b) of the Act, such an order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for the present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order; and
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Act, including in particular Part 2.

Order

[4] The Court orders, by consent, that:

- (i) The esplanade requirements for Saxton Creek to be included in Table 6.2 of Appendix 6 to the Nelson Resource Management Plan shall be as follows:

River	Reach	Values	Esplanade requirements
Saxton Creek	From south eastern boundary of Saxton Creek Recreation Reserve to Champion Road	Conservation Access Hazard mitigation Recreation	[New provision] As shown on the Saxton Creek Survey Plans dated 11 March 2015 included in this appendix except: <ul style="list-style-type: none"> • in the case of the property formerly legally described as Lots 120 and 121 DP 429225, which has a subdivision approval (RM065150V3) then as set out in that resource consent and its supporting plans. • in the case of the approved subdivision of



			Lot 2 DP 447598 as shown on the scheme plan for RM125264 (Plan A).
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(ii) The Saxton Creek Survey Plans dated February 2015 to be included in Appendix 6 to the NRMP are attached to this consent order.

[5] The appeals are allowed to the extent set out in this consent order and are otherwise withdrawn.

[6] There is no order as to costs.

DATED at Wellington this 30th day of April 2015


 B P Dwyer
 Environment Judge



