



Minutes of a meeting of the Hearings Panel - Other
Held in Ruma Marama, Civic House, 110 Trafalgar Street, Nelson
On Thursday 5 September 2019, commencing at 8.30a.m.

Present: Councillor P Matheson (Chairperson), Councillor K Fulton, and Councillor S Walker

In Attendance: Governance Adviser (E-J Ruthven)

1. Apologies

There were no apologies.

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

The Chair explained that two public forum presentations had been confirmed, following the distribution of the agenda.

4.1 Alvin Schroder - Proposed Naming of an accessway in Washington Valley

Alvin Schroder explained that Appo Hocton was his great-grandfather. He provided the Panel with information about Mr Hocton's life and activities in the Washington Valley area, and in the development of Nelson city. He stated his support for the proposed naming of a walkway in Washington Valley as 'Appo Hocton Way', noting that some of the properties owned by Mr Hocton backed onto the walkway.

4.2 Diana Clark - Proposed Naming of an accessway in Washington Valley

Ms Clark explained she was the great-granddaughter of Appo Hocton. She also spoke in support of the proposal to name the walkway 'Appo Hocton Way'.

Ms Clark tabled documents detailing the history of Mr Hocton's life and activities in the Nelson Tasman area (A2257792 and A2260497). She noted that Mr Hocton was the first Chinese settler in New Zealand, and the first Chinese person to gain New Zealand citizenship. She added a request that information plaques about Mr Hocton be added along the walkway, and suggested that his full Chinese name also be included on the walkway sign.

Attachments

- 1 A2257792 - Diana Clark - public forum - tabled document
- 2 A2260497 - Diana Clark - public forum - tabled document

5. Proposed Naming of an Accessway in Washington Valley

Document number R9520, agenda pages 7 - 26 refer.

Graduate Transport Planner, Callum Inns, presented the report.

In response to questions, Mr Inns explained that Appo Hocton's family had agreed to pay for the walkway signs to be installed. He confirmed that consideration could be given to including Mr Hocton's full Chinese name on the sign and an interpretation panel being installed.

Resolved HEA/2019/016

That the Hearings Panel - Other

1. ***Receives the report Proposed Naming of an Accessway in Washington Valley (R9520) and its attachments (A2011057, A306318, A1959653 and A2026077); and***
2. ***Approves the name "Appo Hocton Way" for the accessway through unformed road reserve and accessway connecting Pioneer Crescent to Valley Heights Road.***

Walker/Fulton

Carried

5. Application for change of street name suffix

Document number R10379, agenda pages 27 - 32 refer.

Manager Consents and Compliance, Mandy Bishop, and Consents Administrator, Lynda Greer, presented the report.

In response to a question, Ms Bishop explained that building consents had been issued for properties in the street, however no houses had been completed. She said there was potential for the street to be extended slightly, but it would always remain a cul-de-sac.

Resolved HEA/2019/017

That the Hearings Panel - Other

- 1. Receives the report Application for change of street name suffix of Huntaway Ridge (R10379) and its attachments (A2233032 and A2235719); and***
- 2. Approves the suffix "Close" with the road being named "Huntaway Close".***

Matheson/Walker

Carried

6. Temporary Road Closures - The Nelson Arts Festival, Mask Parade, Santa Parade, Christmas Carols, New Year's Eve Countdown, Buskers Festival, Trafalgar Street Market Day and the Nelson Long Lunch.

Document number R10182, agenda pages 33 - 51 refer.

Roading Network Coordinator, Melissa Ramsay, presented the report.

In response to questions regarding the proposed road closures for the Masked Parade, Ms Ramsay explained that traffic controllers would be available to assist the movement of traffic, and signage placed in Montgomery Square to indicate the closure times.

In response to questions regarding the proposed road closures for the Santa Parade, Ms Ramsay confirmed that the new event organiser had been advised that residents' carparks must be reserved in Hathaway Carpark. She added that traffic controllers could let Hathaway Terrace residents in and out, however only where it was safe to do so.

In response to questions regarding the proposed road closures for New Year's Eve and the Buskers Festival, Ms Ramsay confirmed that no request had been made at this stage to close the Hardy Street/Trafalgar Street intersection. She said that if this was required, a request to do so would be brought to a further Hearings Panel - Other meeting.

Resolved HEA/2019/018

That the Hearings Panel - Other

- 1. Receives the report Temporary Road Closures - The Nelson Arts Festival, Mask Parade, Santa Parade, Christmas Carols, New Year's Eve Countdown, Buskers Festival, Trafalgar Street Market Day and the Nelson Long Lunch. (R10182) and its attachments (A2197302, A2022870, A2066642, A2088912, A2088959, A2079322, A2237523, A2234652 and A2227645); and***

2. Approves the following temporary road closures (as per report R10182):

- 16 to 29 Oct 2019, Nelson Arts Festival (A2197302);
- 18 to 19 Oct 2019, Mask Parade (A2022870);
- 1 Dec 2019, Santa Parade (A2066642);
- 31 Dec 2019 to 1 Jan 2020, New Year's Eve (A2088959);
- 24 Dec 2019, Christmas Carols (A208812);
- 30 Jan to 2 Feb 2020, Buskers Festival 2020 (A2234652);
- 1 Feb 2020, Trafalgar Street Market Day 2020 (A2234652);
- 3 Feb 2020, Nelson Long Lunch (A2227645).

Matheson/Fulton

Carried

7. Temporary Road Closure - Bay Dreams 2020

Document number R10440, agenda pages 52 - 59 refer.

Roading Network Coordinator, Melissa Ramsay, presented the report.

In response to questions, Ms Ramsay explained a meeting had been held with Wakatu Square businesses to gauge concerns, with small points of feedback received. She added that no feedback had been received by Council from Hathaway Terrace residents, however Bay Dreams was also consulting directly with residents.

In response to a further question, Ms Ramsay noted the only significant change from last year's road closures was to include closing Halifax Street from 8pm to assist with attendees exiting Trafalgar Park, and that this had been included at the Police's request.

Resolved HEA/2019/019

That the Hearings Panel - Other

- 1. Receives the report Temporary Road Closure - Bay Dreams 2020 (R10440) and its attachments (A2079322 and A2219959); and**
- 2. Approves the temporary road closure application for Bay Dreams 2020 from 2 to 5 January 2020, amended as follows:**

a. 9.00am Thursday 2 January until 10.00pm Sunday 5 January:

- Hathaway Carpark

b. 9.00am Friday 3 January until 3.00pm Sunday 5 January:

- Paru Paru Road (from bollards North of the Salvation Army Family Store)

c. 9.00am Saturday 4 January until 1.00am Sunday 5 January:

- Trafalgar Street (Halifax Street to SH6)
- Wainui Street
- Elliot Street
- Hathaway Terrace
- Grove Street (Trafalgar Street to Collingwood Street)

d. 5:30pm Saturday 4 January until 1.00am Sunday 5 January:

- Achilles Ave
- Wakatu Lane

e. 8.00pm Saturday 4 January – 1.00am Sunday 5 January

- Halifax Street (Rutherford Street to Collingwood Street)
- Trafalgar Street (Halifax Street to Bridge Street)

Fulton/Walker

Carried

The meeting adjourned from 9.11a.m. to 9.16a.m.

8. Objection to Classification of three dogs as menacing - Adam Schwass - Dogs' names: Chip, Storm and Meg.

Document number R10438, agenda pages 60 - 91 refer.

Environmental Inspections Limited team Leader – Regulatory, Brian Wood, presented the report. He introduced the parties involved in the matter being objector Adam Schwass, his father Don Schwass,

complainants Bevan and Rachel Somervell, and Dog Control Officer, Bill Gaze. The Panel heard from each of the parties in turn.

Rachel Somervell explained that she had been on a run on the day of the incident, and that she had passed Teddy, along with four additional pet goats, at their 'roost site' in the middle of the Somervell 30-acre property approximately 10 minutes prior to the attack.

Ms Somervell explained that Teddy had been a family pet from approximately one week old, had been bottle raised, and was not intimidated by, or likely to run from, dogs. She explained that fencing and gates around the property provided a visual indication of private property and acted as a deterrent for people to come onto the property, rather than being necessary for keeping stock on the property.

In response to questions, Ms Somervell stated that Teddy would not have left the property prior to the attack. She said that Teddy's temperament meant he was unlikely to flee from dogs, whereas the other four pet goats would have done so. She acknowledged there were feral goats in the area, but that they had never had an issue with dogs hunting goats in the nine years they had had goats on the property. She added that her neighbour's hunting dogs would pass the goats on an almost daily basis.

Bevan Somervell explained the geography of the property, noting that the property backed onto a forestry block. He explained that a gate had been installed along the ridge track to stop people entering the property, and to keep pet ponies on the property. He noted that a steep, but formed, zig-zag track lead from the gate down towards the house.

Mr Somervell explained the events as recorded in his affidavit, attached to the report. In response to questions, Mr Somervell emphasised the time delay of five to ten minutes between the attack taking place and Adam Schwass arriving on the scene. He confirmed that he did not hear anyone calling for the dogs, and that the fenceline along the ridgeway gave a clear visual indication of private property.

In response to questions, Mr Wood and Mr Gaze explained that the Dog Control Act requirements of having a dog 'under control' applied equally to hunting dogs, although in practice many hunting dogs ranged far from their owners while hunting.

Adam Schwass explained the events as recorded in his statement, attached to the report. He said that his dogs had shown interest in what he had believed to be a pig, and had given chase. During the chase, and while still outside of the Somervell property, he had also seen some goats running. He explained his dogs had GPS collars on, so he was able to track where they had gone, but did not call them as he thought they were giving chase to a pig. He followed the GPS tracking and eventually saw the dogs in the pen, along with Mr Somervell. He told the friends who he was hunting with to return back to their vehicle, and went down to meet Mr Somervell on his own.

In response to questions, Mr Schwass noted that he understood his dogs were on private property once he passed the fencing on the ridgeway. He said he did not call his dogs back at this point, as the noise of a quad bike and the distance the dogs were from him meant they were unlikely to hear him call. In response to further questions he acknowledged that the goats he saw on the hunting block could have been a different group of goats to those his dogs encountered on the Somervell property. He added that, up until the point that he saw the dogs in the Somervell property, he thought they had been chasing a pig. In response to further questions, he confirmed that he was planning further training with his dogs to avoid this kind of situation arising again in the future.

Don Schwass, Adam's father, answered questions regarding hunting with dogs. He said that most hunting dogs would range up to one kilometre from hunters, and voice calls would be lost after approximately 150m in forestry land. He said that Adam's dog team were trained to be 'holders', and that he had been taught from a young age that, should anything go wrong, he was to remove his gun and take full responsibility. He added that this was the first time Adam had been on this hunting block, although his friends had been there previously.

Mr Wood stated the facts of the case and the reasoning for the dogs being classified as menacing. In response to questions, explained the consequences of dogs being classified as menacing. He said that menacing dogs faced no restriction on their home property, but must be muzzled when in a public place. For hunting dogs, this would mean they would only be able to hunt when on private blocks of land. He said they would also need to be de-sexed, although Council may waive this requirement for an older dog, should a vet certificate be produced noting that the dog was unlikely to survive the operation.

The Panel moved into public excluded session to deliberate on the matter.

Resolved HEA/2019/020

Exclusion of the Public

That the Hearings Panel – Other

- 1. Excludes the public from the following parts of the proceedings of this meeting.***
- 2. 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:***

| <u>Matheson/Fulton</u> | | <u>Carried</u> | |
|------------------------|--|---|--|
| 9 | Objection to Classification of three dogs as menacing – Adam Schwass – Dogs’ names: Chip, Storm and Meg | <p>Section 48(1)(d)</p> <p>That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in any proceedings to which this paragraph applies.</p> | <p>Section 48(2)</p> <p>Paragraph (d) of subsection (1) applies to</p> <p>(a) Any proceedings before a local authority where -</p> <p>(i) A right of appeal lies to any Court or tribunal against the final decision of the local authority in those proceedings</p> |

The meeting went into public excluded session at 10.30a.m. and resumed in public session at 11.08a.m.

The Chairperson thanked all parties for attending the hearing, and for their respectful conduct towards each other.

He explained that the Panel had noted Mr Schwass’ maturity and positive attitude, including his commitment towards training his dogs further. They further noted that he had been issued an infringement notice under the Dog Control Act, and had offered to pay Teddy’s vet bills.

Notwithstanding these factors, the Panel agreed to uphold the classification of the dogs as menacing, and encouraged Mr Schwass to:

- Complete all further training of his dogs as soon as possible;
- Apply to Council’s Dog Control Officers in 12 months’ time to have the menacing dogs classification re-assessed; and
- To offer Mr and Mrs Somervell compensation for the loss of Teddy, or alternatively, to make a donation to an appropriate charity of Mr and Mrs Somervell’s choice.

The Panel confirmed to Mr Schwass that he would need to abide by all other requirements of classification of his dogs as menacing, including having the dogs de-sexed (or providing an appropriate vets’ certificate in the case of his 10-year old dog).

Resolved HEA/2019/021

That the Hearings Panel - Other

1. **Receives the report: Objection to Classification of three dogs as menacing - Adam Schwass - Dogs' names: Chip, Storm and Meg. (R10438) and its attachments (A2134555, A2230249, A2236087, A2230257, A2217554, A2236473); and**
2. **Dismisses the objection of Adam Schwass; and**
3. **Upholds the classification of the Dogs - Chip, Storm and Meg as menacing.**

Walker/Fulton

Carried

There being no further business the meeting ended at 11.17am.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date