



**Notice of the ordinary meeting of the  
Environment Committee  
*Kōmiti Taiao***

Date:	Thursday 28 November 2019
Time:	10.00a.m.
Location:	Council Chamber, Civic House 110 Trafalgar Street Nelson

## **Agenda**

### ***Rārangi take***

<b>Chair</b>	Cr Kate Fulton
<b>Deputy Chair</b>	Cr Brian McGurk
<b>Members</b>	Her Worship the Mayor Rachel Reese Cr Yvonne Bowater Cr Trudie Brand Cr Mel Courtney Cr Judene Edgar Cr Matt Lawrey Cr Gaile Noonan Cr Rohan O'Neill-Stevens Cr Pete Rainey Cr Rachel Sanson Cr Tim Skinner Glenice Paine

**Pat Dougherty  
Chief Executive**

Quorum: 7

Nelson City Council Disclaimer

Please note that the contents of these Council and Committee Agendas have yet to be considered by Council and officer recommendations may be altered or changed by the Council in the process of making the formal Council decision.

## ***Environment Committee - Delegations***

### **Areas of Responsibility:**

- Building control matters, including earthquake-prone buildings and the fencing of swimming pools
- Bylaws, within the areas of responsibility
- Council and/or Community projects or initiatives for enhanced environmental outcomes
- Environmental regulatory matters including (but not limited to) animals and dogs, amusement devices, alcohol licensing (except where delegated to the Alcohol Regulatory and Licensing Authority), food premises, gambling and public health
- Regulatory enforcement and monitoring
- Maritime and Harbour Safety and Control
- Pollution control
- Hazardous substances and contaminated land
- Environmental science matters including (but not limited to) air quality, water quality, water quantity, land management, biodiversity, biosecurity (marine, freshwater and terrestrial), and coastal and marine science
- Environmental programmes including (but not limited to) warmer, healthier homes, energy efficiency, environmental education, and eco-building advice
- Science monitoring and reporting
- Climate change resilience overview (adaptation and mitigation)
- The Regional Policy Statement, District and Regional Plans, including the Nelson Plan
- Other planning documents or policies, including (but not limited to) the Land Development Manual
- Policies and strategies related to resource management matters
- Policies and strategies related to compliance, monitoring and enforcement

### **Delegations:**

The committee has all of the responsibilities, powers, functions and duties of Council in relation to governance matters within its areas of responsibility, except where they have been retained by Council, or have been referred to other committees, subcommittees or subordinate decision-making bodies.

The exercise of Council's responsibilities, powers, functions and duties in relation to governance matters includes (but is not limited to):

- Monitoring Council's performance for the committee's areas of responsibility, including legislative responsibilities and compliance requirements
- Developing, approving, monitoring and reviewing policies and plans, including activity management plans
- Reviewing and determining whether a bylaw or amendment, revocation or replacement of a bylaw is appropriate
- Undertaking community engagement, including all steps relating to Special Consultative Procedures or other formal consultation processes
- Approving submissions to external bodies or organisations, and on legislation and regulatory proposals

### **Powers to Recommend to Council:**

In the following situations the committee may consider matters within the areas of responsibility but make recommendations to Council only (in accordance with sections 5.1.3 - 5.1.5 of the Delegations Register):

- Matters that, under the Local Government Act 2002, the operation of law or other legislation, Council is unable to delegate
- The purchase or disposal of land or property relating to the areas of responsibility, other than in accordance with the Long Term Plan or Annual Plan
- Unbudgeted expenditure relating to the areas of responsibility, not included in the Long Term Plan or Annual Plan
- Approval of notification of any statutory resource management plan, including the Nelson Plan or any Plan Changes
- Decisions regarding significant assets

**1. Apologies**

Nil

**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 Claire Williams - Reducing plastic bags for dog waste

4.2 Simon Mardon - Delaware Bay Access

4.3 Waimea Inlet Coordination Group - Brief Summary Update on Action Plan

4.4 Ngāti Tama - Delaware Bay Access

4.5 Huria Matenga Trust - Delaware Bay Access

**5. Chairperson's Report****8**

Document number R13601

Recommendation

***That the Environment Committee******1. Receives the report Chairperson's Report (R13601); and******2. Appoints Elected Members to a liaison role as follows:***

Organisation/Group	Liaison
Nelson Biodiversity Forum	Brian McGurk Kate Fulton Rachel Sanson

**6. Brook Waimarama Sanctuary Trust annual update 9 - 30**

Document number R10245

Note: Ru Collin, Chief Executive of the Brook Waimarama Sanctuary, will be in attendance and give a presentation.

Recommendation

***That the Environment Committee***

- 1. Receives the Report Brook Waimarama Sanctuary Trust annual update (R10245) and its attachment (A2286565).***

**7. Delaware Bay Estuary - Vehicle Access 31 - 44**

Document number R10204

Recommendation

***That the Environment Committee:***

- 1. Receives the report Delaware Bay Estuary - Vehicle Access (R10204) and its attachments (A1174267 and A2285396); and***
- 2. Confirms whether an application for resource consent to enable vehicle access over a defined route at Delaware Bay is progressed, then confirms the process for the additional required budget for either the resource consent or enforcement.***

**8. Review of the Dog Control Policy and Bylaw 45 - 161**

Document number R12538

Recommendation

***That the Environment Committee***

- 1. Receives the report Review of the Dog Control Policy and Bylaw (R12538) and its attachments (A2298783, A2145324, A2145327, A2298620, A2145304, A2145310 and A2122940); and***



2. **Determines that the Bylaw should continue, with amendments, and that the Policy is amended to reflect those amendments; and**
3. **Agrees that a Bylaw (and updated Policy) is the most appropriate way of addressing the perceived problems with the current Policy and Bylaw; and**
4. **Agrees the proposed amendments to the Dog Control Bylaw 2013 (221) are the most appropriate form of Bylaw and do not give rise to any implications under the New Zealand Bill of Rights Act 1990; and**
5. **Agrees a summary of the Statement of Proposal Amendments to the Dog Control Policy and Dog Control Bylaw 2013 is necessary to enable public understanding of the proposal; and**
6. **Adopts the Statement of Proposal (A2145304) and the Summary of the Statement of Proposal (A2145310); and**
7. **Approves commencement of the Special Consultation Procedure, with the consultation period to run from 27 January to 28 February 2020; and**
8. **Notes that a separate report will be prepared in 2020 to review fees and charges in light of Policy and Bylaw changes; and**
9. **Approves the approach set out in the Communications Plan (A2298620) and agrees:**
  - (a) **the plan includes sufficient steps to ensure the Statement of Proposal will be reasonably accessible to the public and will be publicised in a manner appropriate to its purpose and significance; and**
  - (b) **the plan will result in the Statement of Proposal being as widely publicised as is reasonably practicable as a basis for consultation.**

**9. Plan Change 27 Approval 162 - 166**

Document number R9694

Recommendation

***That the Environment Committee***

***Receives the report Plan Change 27 Approval (R9694).***

Recommendation to Council

***That the Council***

***Approves Plan Change 27 to become operative.***

**10. Biosecurity Annual Review 167 - 175**

Document number R12562

Recommendation

***That the Environment Committee***

***1. Receives the report Biosecurity Annual Review (R12562) and its attachments (A2288852 and A2262413); and***

***2. Approves the Operational Plan for the Tasman-Nelson Regional Pest Management Plan 2019/20 (A2262413), specifically as it relates to Nelson City Council's area.***

**11. Omnibus of Submissions to National Policy Statement and Environmental Standard Proposals 176 - 221**

Document number R12542

Recommendation

***That the Environment Committee***

***1. Receives the report Omnibus of Submissions to National Policy Statement and Environmental Standard Proposals (R12542) and its attachments (A2280520, A2275062, A2277745, A2270025); and***

2. ***Approves retrospectively the attached Nelson City Council submissions on the proposed National Policy Statement Urban Development (A2280520 and A2280523); the Freshwater Proposals (A2277745); and the New Zealand Biodiversity Strategy (A2270025).***

**12. Environmental Management Group - Quarterly Report - 1 July-30 September 2019 222 - 253**

Document number R12534

Recommendation

***The Environment Committee***

1. ***Receives the report Environmental Management Group - Quarterly Report - 1 July-30 September 2019 (R12534) and its attachments (A2281289, A2044411 and A2288730); and***
2. ***Approves the establishment of a Governance Liaison Group for the Nelson Plan to include the Chair and Deputy Chair of the Environment Committee; and***
3. ***Approves amending the indicative timeline for the Draft Nelson Plan to provide a Council briefing ahead of release of the Draft in December 2019 with community engagement to run from February to May 2020.***

**Note:**

- **Lunch will be provided.**
- **Youth Councillors Hailey Potts and Nico Frizzell will be in attendance at this meeting.**

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## **Chairperson's Report**

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### **1. Purpose of Report**

- 1.1 To appoint elected members to liaison roles.

### **2. Recommendation**

***That the Environment Committee***

***1. Receives the report Chairperson's Report (R13601); and***

***2. Appoints Elected Members to a liaison role as follows:***

<b>Organisation/Group</b>	<b>Liaison</b>
<b>Nelson Biodiversity Forum</b>	Brian McGurk Kate Fulton Rachel Sanson

### **2. Background**

- 2.1 At its meeting on 14 November 2019, Council delegated responsibility the appropriate Committees of Council, to determine Councillor Liaison appointments to external organisations and groups that are within the committees' areas of responsibility, for this triennium.
- 2.2 The Environment Committee has responsibility for the following appointments:
- 2.2.1 Nelson Biodiversity Forum

**Author: Kate Fulton, Chairperson**

### **Attachments**

Nil

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## **Brook Waimarama Sanctuary Trust annual update**

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### **1. Purpose of Report**

- 1.1 The purpose of this report is to present an update from the Brook Waimarama Sanctuary Trust (BWST) including its Annual Report 2018/19.

### **2. Recommendation**

***That the Environment Committee***

- 1. Receives the Report Brook Waimarama Sanctuary Trust annual update (R10245) and its attachment (A2286565).***

### **2. Background**

- 2.1 The Brook Waimarama Sanctuary is a community initiative to create a pest-free wildlife sanctuary in the upper Brook Valley. The project was launched in 2004 with construction of a visitor centre being completed in 2007, a 14.4km predator proof fence being completed in 2016 and a pest eradication operation undertaken in 2017. Nelson City Council (NCC) has supported the project with funding of \$1,036,000 towards the fence construction, annual operational funding and by leasing NCC-owned land to BWST for the Sanctuary.
- 2.2 The operational funding is managed through an operational services contract with the Brook Waimarama Sanctuary delivering operational services which includes fence maintenance, track maintenance and salaries for sanctuary employees and contractors. The contract cost was \$250,000 in 2018/19, \$152,400 in 2019/20, and an expectation of \$150,000 plus CPI in 2020/21. Each year's allocation is subject to approval through the Annual Plan process.
- 2.3 The BWST applied for a NCC Environmental Grant in August 2019 for \$20,000 funding for tracking tunnel cards as part of their predator monitoring inside the fence, but their application was unsuccessful due to the application being considered as business as usual. The Trust is

## Item 6: Brook Waimarama Sanctuary Trust annual update

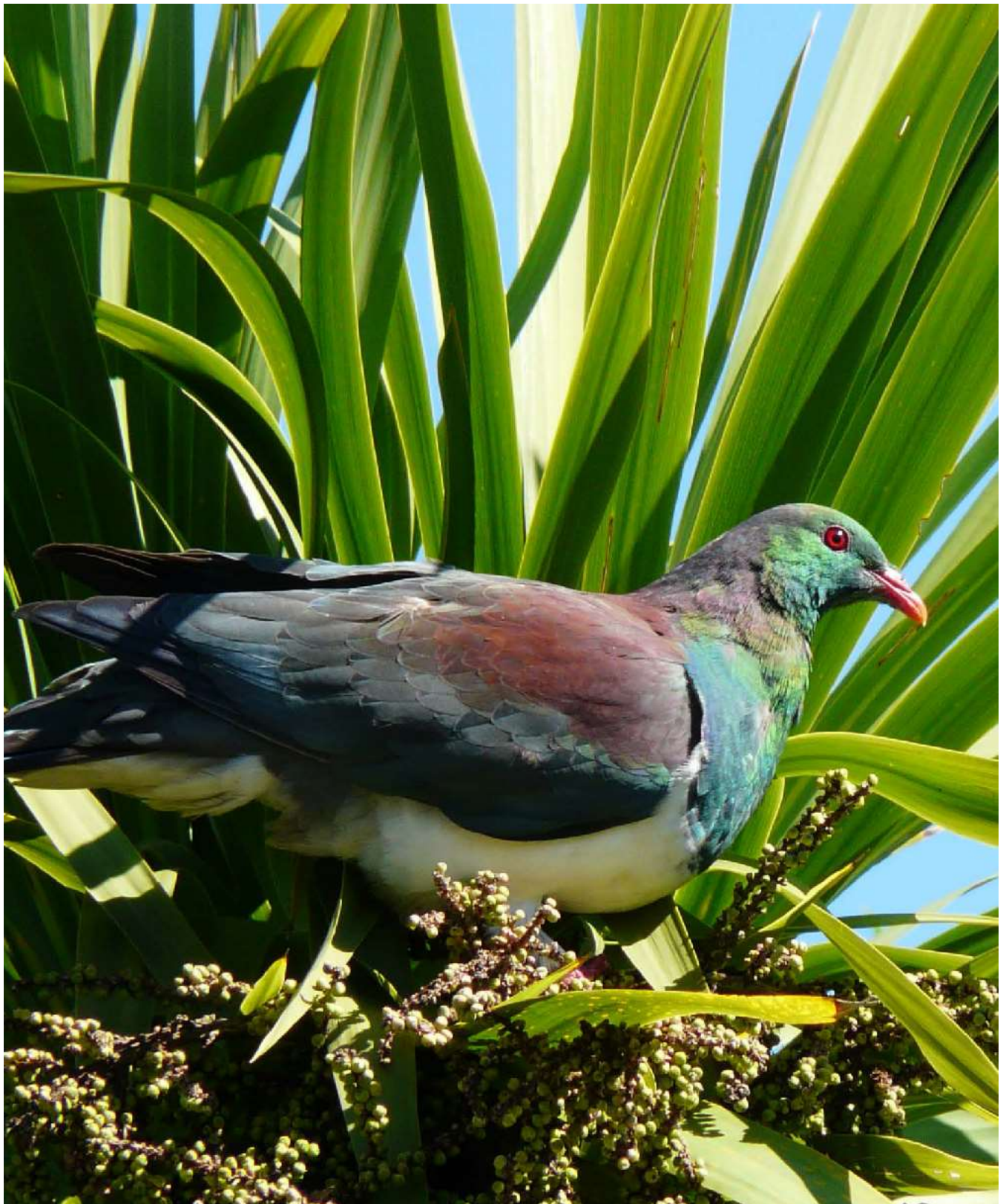
proposing to make a further application for a different proposal in the next funding round.

- 2.4 There is a Memorandum of Understanding between BWST and NCC with the aim of achieving a working partnership to maintain, enhance and promote the sanctuary.
- 2.5 The Brook Waimarama Sanctuary Trust Annual Report for 2018/19 is attached (A2286565). The report includes an auditor's report with a qualified opinion.
- 2.6 Ru Collin, Chief Executive of the Brook Waimarama Sanctuary, will present the committee with an update on the activities of the Sanctuary. There are no immediate decisions to be made by Council.

**Author:** Rosie Bartlett, Manager Parks and Facilities

### **Attachments**

Attachment 1: Brook Waimarama Sanctuary Trust Annual Report 2018/19 (A2286565) [↓](#)



ANNUAL AGM REPORT | 2018/19

A2286565



## OVERVIEW

The highlights of late 2018 and first part of 2019 revolved around planning for the future; setting a course for the Sanctuary. Now that the perimeter fence was completed and pests within the Sanctuary eradicated we were ready for the next development phase. Planning and discussions began from August 2018 with a fresh strategic agenda set for the Sanctuary by Christmas of 2018.

The Board of Trustees took bold decisions to change in anticipation of future demands and, over the early months of 2019, committed to a series of actions that ultimately saw several key features change at Board level:



- The desire to reduce the size of the Board coincided with several long-standing Trustees retiring
- A new chair in Chris Hawkes took over from Dave Butler who had been chair since the Trust was formed 15 years ago
- Discussion with Iwi concluded with more representation planned for around the Board table
- Assessment of the Board's skill set resulted in actively looking for new Trustees to fill any gaps

- Within the Board structure the committees were realigned, and advisors sought to wrap around the committees, allowing for more people, particularly specialists, to make a contribution to benefit the Sanctuary and its overall operation.

The year was one of significant change and it is fitting to acknowledge here the retiring Trustees:

**Dave Butler** - *15 years as Chair* – continuing on the Eco-system Restoration Committee

**Derek Shaw** - *15 years as a Trustee*

**Karen Driver** – *more than five years as a Trustee* – continuing on the Eco-system Restoration Committee

**Mike Elson-Brown** - *nearly four years as a Trustee* – continuing on the Fund-raising Committee

**Ru Collin** - *two years as a Trustee* – stood down to take on the role of the Sanctuary's Chief Executive (and a few days after the 30 June)

**Sharon McGuire** - *3.5 years as a Trustee* (second time serving)

We also saw the Trust's General Manager of seven years, Hudson Dodd, move on.

And we also acknowledge the appointment of Debbie Armatage as a Trustee, in March.



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## CHAIRMAN'S REPORT - CHRIS HAWKES



*Chris Hawkes, Chair, Trustee*

The latter part of the financial year witnessed a philosophic change in the makeup and approach of the Trustee Board members, due in part to the fact that five Trustees stepped down although four remained actively involved.

This report would not be complete without paying tribute to outgoing Chair, Dave Butler who had held the chair position since the Trust's inception in 2004. Dave's visionary concept of a Sanctuary (along with wife Donna) gave rise to what we have today – a viable safe haven for our natural species.

We now have a fully fenced Sanctuary of some 700ha, with walking tracks and bridges, signage and a staffed visitor centre. The physical demands this entails via a comprehensive and constant programme of terrain repairs, fence maintenance and predator monitoring is in place. And we are prepared - from administration and procedural activity to actual site preparation - for the reintroduction of endangered or lost native creatures.

The retiring Trustees, along with the current incumbent Trustees, have completed what can only be described as an outstanding, sterling degree of work to achieve this point in our Sanctuary's story.

Reaching the next phase of this community-led conservation initiative finds us greatly looking forward to welcoming back to the region (and the mainland of New Zealand) the rarest of our five kiwi species - the little brown South Island Rowi, the Tieke (saddleback), and all going well another very rare native bird, the Kakariki (orange fronted parakeet).

This activity will confirm the Brook Waimarama Sanctuary at a higher profile level not only in terms of its own biodiversity objectives but also in its ability to give profile to the Nelson-Tasman region and indeed New Zealand. To have the call of a kiwi not heard in the region for nearly 100 years will surely be a momentous occasion from any perspective.

I must also acknowledge that none of the above would ever have been achieved if not for the unselfish dedication of the many volunteers along with our staff who have done, and still do, the often physical and at times taxing work.

Last and certainly not least, all this could not have happened without the ongoing financial support the Sanctuary receives from key funders, major contributors, the region's business community, and supporters, be they groups or individuals.

On behalf of our native wildlife, a big THANK YOU. You all can stand rightly tall and proud of the achievements to date.

“ We now have a fully fenced Sanctuary of some 700ha, with walking tracks and bridges... ”



## THE FUTURE: SHORT AND LONG TERM

As we reviewed the current and probable future operations of the Trust, it was apparent that the Sanctuary had reached its initial plateau of establishing itself and creating an environment that could provide a safe re-introduction environment along with an appropriate habitat for native birds and reptiles for the top of the South Island.

In the wake of the general manager moving on at the end of 2018, Trustees shouldered the day to day operations until sufficient funding was secured to appoint a Chief Executive to coordinate the activities of the Trust committees lead the small staff and implement the objectives of the Board.

Ru Collin was appointed to this position, having previously been on the Board as an active Trustee for some two years.

Ru came to us with commercial experience, good communication and practical skills along with a detailed knowledge of the culture, systems and the day to day operations of the Sanctuary.

Key focus areas were identified as upgrading the business and operating systems; driving the fund-raising activity which is so essential to the ongoing intentions of the Sanctuary; increasing communication with the various levels to stakeholder from key business partners to the general public; and additional marketing activity to give better exposure of the Sanctuary to locals and visitors to the region, including a website upgrade (pending a grant application).

In the short period of May/June Ru implemented many initiatives in three foundation areas of business systems, fund-raising, and marketing and communications.



## EDUCATION

A cornerstone activity of the Sanctuary is ongoing education of our young (and perhaps not so young) people on the value in establishing, maintaining and enhancing the biodiversity of the environment.

Educating people about the Sanctuary, our threatened fauna and flora, and the impact of pest mammals helps to create an engaged and supportive next generation who will carry this work forward and avert the current biodiversity crisis.

Education directly assists the Trust in its community engagement and fund-raising, through school pupils relating their positive experiences at the site to their parents and parents accompanying them on their visits. Donors also see tangible benefits for people arising from our work.

We are hopeful of gaining funding to employ a teacher for this important role. Unfortunately, since 2017 there was insufficient resources to continue at the desired level of activity, although a temporary new tour host was taken on for May/June to support school visits and hosted over 220 school children in that time. We very much want school tours of the Sanctuary to continue as part of the landscape and planning is underway to make far greater use of the outdoor classroom that was developed with support from Ngati Kuia Trust, local businesses and donors.

We hope to soon have accessible information to all parts of the community who want to learn more about conservation, our halo effect and the aims of the Sanctuary.



■ ■ We hope to soon have accessible information in all parts of the community who want to learn more about conservation ■ ■





## HEALTH AND SAFETY

With so many moving parts, the terrain, and the outdoor nature of most activity, emphasis is placed on H&S by the Board across all Sanctuary activity.

With (hopefully) larger visitor numbers in response to the re-introductions of various species, it is essential all visitors, staff, volunteers and contractors are aware of care and safety requirements and procedures.

The H&S Committee meets regularly to review all aspects of this important area and reports back to the Board.

## STRUCTURE

Outside the core staff of five, five committees meet regularly, and these have gained additional strength with the introduction of new people, capable and proven in their own professional or business occupations. Each committee has its own criteria and goals but all merge to meet the objectives of the Trust. The committees are:

- Eco-system Restoration
- Fund-raising
- Marketing, Communication and Visitor Experience
- Operations Committee with Health, Safety and Wellbeing Committee
- Finance, Audit and Risk

These committees – made up of voluntary members - are essentially the drivers of the Sanctuary for the Trustees and we are so thankful for the very capable people who give their time to this important work.

The Trustees' intention is to continue developing a closer working and cultural relationship with IWI, DOC and our key financial supporters.

A requirement for better communication was identified across all parts of the organisation to enhance understanding and support of the Sanctuary and a marketing and communications pathway was established in April in line with our strategic agenda.

For the 19/20 summer we will start evolving the visitor experience to a higher level with the completion of the bridge across the main dam near the visitor centre, along with opening of new tracks, better signage and maps and, of course, the re-introduction of native species.

## LOOKING AHEAD

With the imminent introduction of three native birds the coming year is shaping up to be a watershed year for the Sanctuary

The Board of Trustees is putting in place a solid foundation to ensure the introduced birds will be safe and flourish in their new environment.

The Trustees are under no illusions that the ensuing year will be testing but at the same time will provide a springboard for the permanent establishment of the Sanctuary's wellbeing and future value in our community.



## TREASURER REPORT - MAURICE WOODHOUSE



Maurice Woodhouse, Trustee, Treasurer

The financial year has been one of consolidation with the majority of expenditure involved in maintaining the biosecurity of the sanctuary. The only other major expense involved remediating the Dun mountain walkway. Total income was down \$187,840 to 658,821. By far the greatest decline was in grant income, and business sponsorships, while membership and donations increased. It however must be noted that donations included Koha/ donations paid by visitors to the sanctuary centre in lieu of entry fees, of \$91,608.

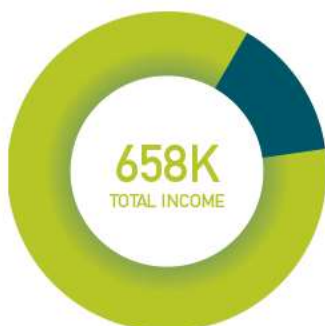
Total expenses of \$656,066 was also down by \$119,733, most of this was due to reduced operational expenses in an attempt to become cost neutral. This was assisted by considerably lower legal fees, however the cost of the reinstatement of the Dun mountain walkway added \$135,245 to the overall total expenditure incurred. The net result before depreciation was a cash profit of \$2,754.

In summary it has become evident that to just maintain the sanctuary, the costs come close to \$500,000 per annum which doesn't include invaluable support from its many volunteers, without whom the costs would be closer to \$1m per annum.

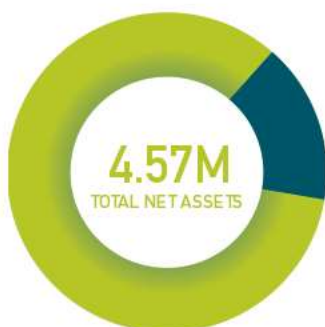
Depreciation while a non-cash expense needs to be acknowledged and appropriately provided for, going forward.

Total net assets declined slightly from \$4,792,576 to \$4,571,539. Liquidity remains tight with current assets of \$265,252 and current liabilities of \$233,941 as at balance date.

In summary this has been a challenging year and going forward fundraising will remain a high priority for the trust, until significant income from visitors can be achieved. Likewise the support of regulatory bodies and government agencies is essential for the trust to reach its potential.



PREVIOUS YEAR \$846,661



PREVIOUS YEAR \$4,792,576



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## SOME HIGHLIGHTS OF THE 2018/19 YEAR

Key Accomplishments since 2018.

- **July 2018** visitor experience/tourism strategy delivered
- Delivered BWS Visitor Experience Strategy
- **Late 2018** development of sponsor prospects and pitch material.
- Launched Brook Business Club 3- year annual renewal membership
- **Early 2019** Broadened Visitor Experience committee to include specialists in Marketing and Communication
- **27 December – 06 January 2019** Visitor Centre manned by volunteers 7 days a week with Koha donation entry.
- **Feb 2019** Business systems review completed
- Brief for new website underway
- Fully integrated CRM system identified
- VE/Communication committee strengthened which will see expertise to develop and complete a formal Marketing and Communication Plan
- Website high priority and initiated
- Business Systems required - high priority as some serious tools needed
- Visitor entry Koha/donation commenced mid July 2018
- Brook Business Club (BBC) launched with > 55 businesses signed up. Our target is 120 businesses by 30 June 2019 thus providing \$60k of income renewable every year for three years.
- Sponsors total target 12 companies
- Donor's activity – Formation of a group called Bridge the Gap whose sole focus is donor cultivation and introductions. Pitch material includes Give the Gift of Nature and a professional PPT/video presentation.
- Other initiatives such as corporate attraction packages; events relationships and a sanctuary 'giving strategy' promulgated.



*Ru Collin, Chief Executive*

### CHIEF EXECUTIVE'S NOTES - RU COLLIN

To 30th June 2019

This role was created in recognition that the incoming chair identified and sought additional funds to cover. Appointed in May, this report is brief as only in the role for 2 months. The priorities in starting the role were these;

1

**Address  
business and  
operating  
systems issues**

2

**Tell our story**

3

**Species  
introductions**

4

**Fundraising**

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## Entity Information

### The Brook (Waimarama) Sanctuary Trust For the year ended 30 June 2019

**Legal Name of Entity:**

The Brook (Waimarama) Sanctuary Trust

**Other Name of Entity**

Brook Sanctuary

**Type of Entity and Legal Basis**

Registered Charity

**Registration Number:**

CC32934

**Contact details**

**Physical Address:** 651 Brook Street, The Brook, Nelson, 7010

**Postal Address:** PO Box 744, Nelson, 7040

**Phone/Fax:** 03 546 2422 - City Office 03 539 4920 Visitor Centre

**Email/Website:** [www.brooksanctuary.org](http://www.brooksanctuary.org) / [info@brooksanctuary.org](mailto:info@brooksanctuary.org)

**Trustees**

Chris Hawkes – Chair

Maurice Woodhouse – Treasurer

Christine Hemi

Peter Jamieson

Paul Russell

Deborah Armatage

Dave Butler

Sharon McGuire

Ru Collin – resigned 20/5/19

Derek Shaw – resigned 15/4/19

Karen Driver – resigned 15/4/19

Mike Elson-Brown – resigned 15/4/19

**Entity's Purpose or Mission:**

**Vision:** To be New Zealand's richest conservation environment for visitors, education and research.

**Mission Statement:** The Brook (Waimarama) Sanctuary is a community-led organisation creating a pest free ecosystem in a mature beech forest. The purposes of the Trust are as follows: To restore, to as natural state as possible, a functioning ecosystem in the Brook Catchment, Nelson ("the sanctuary") with a corridor to the city; to control or eliminate pests from the fenced area of the sanctuary; to create an educational resource; to create positive visitor experiences; to develop employment and training opportunities; to introduce lost species back into the sanctuary; and generally to do or perform such acts, matters or things as may be incidental or conducive to the attainment of any or the foregoing objects.



## Entity Information

**Entity Structure:**

The Board of Trustees is comprised of no less than five (5) trustees and no more than fifteen (15) trustees. The current number of the board is eight (8) with Chris Hawkes as the elected Chairperson and Maurice Woodhouse as the elected Treasurer."

Trustees hold office for a term not exceeding three (3) years from the date of appointment and thereafter are eligible for reappointment for a further term(s). There is a current staff (as of 30 June 2019) of 4.6 FTEs made up of Chief Executive; Operations Manager; Field Operations Coordinator, Ecosystem Ranger, Office Manager. Employees report to the Chief Executive and Operations Manager. The Chief Executive, Operations Manager and Office Manager provide written monthly reports to the Board. Five committees comprised of Trustees, staff and volunteers report directly to the Board. The committees are as follows: Health & Safety; Ecosystem; Finance, Risk, Audit & HR; Fundraising, Operations; and Marketing, Communications & Visitor Experience. Committee Chairs also submit committee reports to the Board.

**Main Sources of the Entity's Cash and Resources:**

Central Government grants (including Department of Conservation and Lottery Grants Board) towards both operational activities of the Trust and capital projects. Grant awards from other entities such as the Rata Foundation and Jasmine Charitable Trust further support operational activities. Income is also received through a membership programme, donations from both individuals and organisations, corporate sponsorships, and bequests.

**Main Methods Used by the Entity to Raise Funds:**

Grant applications to local and central government, local government and other funding bodies such as gaming trusts, community trusts and other foundations offering grants towards conservation, recreation, culture and education; facilities development; plant; community partnership and involvement. Fundraising campaigns for specific projects targeted locally but also reaching nationally and internationally. The Trust also engages membership campaigns and bequest campaigns. Revenue is generated by the Trust through events, guided tours and educational programmes.

**Entity's Reliance on Volunteers and Donated Goods or Services:**

The Trust has an active base of volunteers of around 250 which work in a variety of areas including invasive plant control, pest monitoring and removal, Visitor Centre staffing, trap making, track development, facilities development and maintenance, public engagement and administration. Volunteers are a valuable and key part of the project, many of whom have a long history and connection to the Sanctuary. Total donated volunteer hours per year: ~ 18,600+. Donated Goods and Services are welcomed by the Trust and encouraged as part of ongoing community and business partnerships to deliver the goals and purpose of the Trust. Donations, both in cash and in kind, are tracked in a constituent relationship management database.

**Bankers**

ASB  
Cnr Trafalgar & Hardy Streets  
Nelson

BNZ  
226 Trafalgar Street  
Nelson

**Auditors:**

NMA Nelson Marlborough Audit Limited

**Chartered Accountant**

RWCA Limited  
Level 3, 7 Alma St, Buxton Square, Nelson 7010

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## Approval of Performance Report

### The Brook (Waimarama) Sanctuary Trust For the year ended 30 June 2019

The Trustees are pleased to present the approved performance report including the historical financial statements of The Brook (Waimarama) Sanctuary Trust for year ended 30 June 2019.

APPROVED

For and on behalf of the Trustees

Chris Hawkes – Chair

Maurice Woodhouse - Treasurer



## Statement of Cash Flows

### The Brook (Waimarama) Sanctuary Trust For the year ended 30 June 2019

	2019	2018
<b>Cash Flows</b>		
<b>Cash Flows from Operating Activities</b>		
<b>Cash was received from:</b>		
Donations, fundraising and other similar receipts	706,081	820,691
Fees, subscriptions and other receipts from members	34,131	5,750
Insurance & Court Recoveries	11,316	-
Interest, dividends and other investment receipts	3,652	3,806
Receipts from providing goods or services	2,430	-
<b>Total Cash was received from:</b>	<b>757,610</b>	<b>830,247</b>
<b>Cash was applied to:</b>		
Net GST	2,935	(15,496)
Payments to suppliers and employees	674,608	800,312
Donations or grants paid	-	-
<b>Total Cash was applied to:</b>	<b>677,543</b>	<b>784,816</b>
<b>Total Cash Flows from Operating Activities</b>	<b>80,067</b>	<b>45,431</b>
<b>Cash Flows from Investing and Financing Activities</b>		
<b>Cash was received from:</b>		
Receipts from the sale of property, plant and equipment	-	-
Receipts from term deposits	200,000	-
Proceeds from loans borrowed from other parties	-	-
Capital contributed from owners or members	-	-
<b>Total Cash was received from:</b>	<b>200,000</b>	<b>-</b>
<b>Cash was applied to:</b>		
Payments to acquire property plant and equipment	134,659	40,348
Payments to term deposits	-	200,384
Repayments of loans borrowed from other parties	-	-
Capital repaid to owners or members	-	-
<b>Total Cash was applied to:</b>	<b>134,659</b>	<b>240,732</b>
<b>Total Cash Flows from Investing and Financing Activities</b>	<b>65,341</b>	<b>(240,732)</b>
<b>Cash Balance Reconciliation</b>		
Net Cash Movement	145,408	(195,301)
Opening Cash Balance	53,792	249,093
<b>Closing Cash Balance</b>	<b>199,199</b>	<b>53,792</b>

The accompanying notes and auditor's report form part of these financial statements.

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## Statement of Financial Performance

### The Brook (Waimarama) Sanctuary Trust For the year ended 30 June 2019

	NOTES	2019	2018
<b>Income</b>			
Memberships	4	34,631	5,570
Donations & Bequests	4	91,608	67,361
Grants	4	570,914	616,170
Other Income	4	36,445	96,779
Interest Received	4	3,256	3,806
Insurance Recovery	4	549	-
Court recovery	4	10,767	-
Add: Opening Unspent Tagged Grants		117,141	174,116
Less: Closing Unspent Tagged Grants		(206,489)	(117,141)
<b>Total Income</b>		<b>658,821</b>	<b>846,661</b>
<b>Expenses</b>			
<b>Operational Costs</b>			
Biosecurity		17,397	265
Contract Staff		47,529	19,254
Display Material & Stationary		8,412	7,557
Eradication & Monitoring Pests		1,011	167,806
Events		1,768	1,735
Open Day and Volunteer Costs		6,981	3,509
Light, Heat & Power		4,989	4,849
Publicity		5,238	6,577
Purchase of Merchandise		-	418
Salaries		296,773	341,354
Species Reintroductions		3,852	-
Website Costs		4,525	114
<b>Total Operational Costs</b>		<b>398,476</b>	<b>553,437</b>
<b>Vehicle Expenses</b>			
Vehicle Expenses		10,214	12,225
<b>Total Vehicle Expenses</b>		<b>10,214</b>	<b>12,225</b>
<b>Repairs and Maintenance</b>			
Repairs & Renewals		23,408	27,537
Fencing		5,853	22,800
Slip Reinstatement - Dun Mountain Walkway		135,245	10,456
Small Asset Purchases		565	-
Weeding Expenses		453	462
Conservation Education Centre		4,111	-
<b>Total Repairs and Maintenance</b>		<b>169,633</b>	<b>61,256</b>

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## Statement of Financial Performance



	NOTES	2019	2018
<b>Standing Charges</b>			
Insurance & Utilities		20,545	16,842
Leases		3,000	3,000
<b>Total Standing Charges</b>		<b>23,545</b>	<b>19,842</b>
<b>Administrative Expenses</b>			
Accountancy Fees		-	2,609
ACC Levies		3,792	688
Auditors Remuneration		3,150	3,100
Bank Fees		1,080	624
Database Subscriptions		-	10,352
Entertainment Expenses		575	1,179
Eftpos Fees		607	-
General Expenses		14,551	18,153
Legal Fees		2,925	67,906
Local Travel		2,025	2,409
Marketing / Communications		10,365	7,952
Orbus Fees		645	600
Professional Fees		7,654	5,590
Telephone & Facsimile		4,727	6,634
Trade Subscription		616	314
Training		1,486	930
<b>Total Administrative Expenses</b>		<b>54,198</b>	<b>129,039</b>
<b>Total Expenses</b>		<b>656,066</b>	<b>775,799</b>
<b>Net Cash Profit/(Loss)</b>		<b>2,754</b>	<b>70,862</b>
<b>Non Cash Expenses</b>			
<b>Depreciation</b>			
Depreciation		160,791	159,256
<b>Total Depreciation</b>		<b>160,791</b>	<b>159,256</b>
<b>Total Non Cash Expenses</b>		<b>160,791</b>	<b>159,256</b>
<b>Net Trust Income/(Expense) for the Year</b>		<b>(158,037)</b>	<b>(88,394)</b>

The accompanying notes and auditor's report form part of these financial statements.

## Statement of Financial Position

### The Brook (Waimarama) Sanctuary Trust As at 30 June 2019

	NOTES	30 JUN 2019	30 JUN 2018
<b>Assets</b>			
<b>Current Assets</b>			
<b>Cash and Bank</b>			
ASB 00 Account		1,060	1,100
ASB 51 Account		1,537	1,535
BNZ 00 Account		35,408	42,049
BNZ 25 Account		160,705	8,618
Till Floats		490	490
<b>Total Cash and Bank</b>		<b>199,199</b>	<b>53,792</b>
GST Receivable		1,513	444
Accounts Receivable		53,141	59,500
Prepayments		11,398	11,898
<b>Total Current Assets</b>		<b>265,252</b>	<b>125,634</b>
<b>Non-Current Assets</b>			
<b>Investments</b>			
BNZ Term Deposit		-	200,384
<b>Total Investments</b>		<b>-</b>	<b>200,384</b>
Property, Plant and Equipment		4,540,228	4,566,360
<b>Total Non-Current Assets</b>		<b>4,540,228</b>	<b>4,766,744</b>
<b>Total Assets</b>		<b>4,805,481</b>	<b>4,892,378</b>
<b>Liabilities</b>			
<b>Current Liabilities</b>			
Accounts Payables		15,090	15,525
Holiday Pay Accrual		12,362	30,135
Unspent Tagged Grants and Other Funding		206,489	117,141
<b>Total Current Liabilities</b>		<b>233,941</b>	<b>162,801</b>
<b>Total Liabilities</b>		<b>233,941</b>	<b>162,801</b>
<b>Net Assets</b>		<b>4,571,539</b>	<b>4,729,576</b>
<b>General Funds</b>			
Accumulated Surplus		4,571,539	4,729,576
<b>Total General Funds</b>		<b>4,571,539</b>	<b>4,729,576</b>

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## AUDITORS REPORT



NMA Nelson Marlborough Audit Ltd

### INDEPENDENT AUDITOR'S REPORT

To the Beneficiaries of The Brook (Waimarama) Sanctuary Trust

#### Report on the Performance report

##### Qualified Opinion

We have audited the performance report of The Brook (Waimarama) Sanctuary Trust, which comprise the entity information, the statement of financial position as at 30 June 2019, the statement of service performance, the statement of financial performance, the statement of changes in general funds and statement of cash flows for the year then ended, and notes to the performance report, including a summary of significant accounting policies.

In our opinion, except for the possible effects of the matter described in the Basis for Qualified Opinion paragraph below, the performance report presents fairly, in all material respects;

- the entity information for the year then ended;
- the service performance for the year then ended; and
- the financial position of The Brook (Waimarama) Sanctuary Trust as at 30 June 2019 and its financial performance, and cash flows for the year then ended

in accordance with Public Benefit Entity Simple Format Reporting – Accrual (Not-For-Profit).

##### Basis for Qualified Opinion

As per organisations of a similar nature, the control over some activities of the Trust, prior to its being recorded, is limited, and there are no practical audit procedures that can determine the effect of this limited control.

We conducted our audit of the statement of financial performance, statement of financial position, statement of changes in general funds, statement of cash flows, statement of accounting policies and notes to the performance report in accordance with International Standards on Auditing (New Zealand) (ISAs (NZ)), and the audit of the entity information and statement of service performance in accordance with the International Standard on Assurance Engagements (New Zealand) ISAE (NZ) 3000 (Revised). Our responsibilities under those standards are further described in *the Auditor's Responsibilities for the Audit of the Performance Report* section of our report.

We are independent of the Trust in accordance with Professional and Ethical Standard 1 (Revised) *Code of Ethics for Assurance Practitioners* issued by the New Zealand Auditing and Assurance Standards Board and the International Ethics Standards Board for Accountants' *Code of Ethics for Professional Accountants* (IESBA Code), and we have fulfilled our other ethical responsibilities in accordance with these requirements and the IESBA Code.

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We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Other than in our capacity as auditor we have no relationship with, or interests in, the Trust.

#### **Material Uncertainty Related to Going Concern**

We draw your attention to note 10 in the performance report which describes the Trust's reliance on external income generation through donations, grants, sponsorships and other fundraising activities, and the possible effect on the Trust of decreases in this ongoing income. As stated in the note, these circumstances indicate that a material uncertainty exists that may cast significant doubt on the Trust's ability to continue as a going concern. Our opinion is not modified in respect of this matter.

#### ***The Responsibility of the Trustees for the Performance Report***

The Trustees are responsible on behalf of the entity for:

- (a) Identifying outcomes and outputs, and quantifying the outputs to the extent practicable, that are relevant, reliable, comparable and understandable, to report in the statement of service performance;
- (b) the preparation and fair presentation of the performance report which comprises:
  - the entity information;
  - the statement of service performance; and
  - the statement of financial performance, statement of financial position, statement of cash flows, statement of accounting policies and notes to the performance report

in accordance with Public Benefit Entity Simple Format Reporting – Accrual (Not-For-Profit) issued in New Zealand by the New Zealand Accounting Standards Board, and

- (c) for such internal control as the Trustees determine is necessary to enable the preparation of the performance report that is free from material misstatement, whether due to fraud or error.

In preparing the performance report, the Trustees are responsible on behalf of the Trust for assessing the Trust's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Trustees either intend to liquidate the Trust or to cease operations, or have no realistic alternative but to do so.

#### ***Auditor's Responsibility for the Audit of the Performance Report***

Our objectives are to obtain reasonable assurance about whether the performance report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISAs (NZ) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could be reasonably expected to influence the decisions of users taken on the basis of the performance report.

As part of an audit in accordance with ISAs (NZ), we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

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- Identify and assess the risks of material misstatement of the performance report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Trust's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of the use of the going concern basis of accounting by the Trustees and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Trust's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the performance report or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Trust to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the performance report, including the disclosures, and whether the performance report represents the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

*NMA Nelson Marlborough Audit Ltd*

NMA Nelson Marlborough Audit Limited  
PO Box 732  
Nelson 7040

3 October 2019

## DIRECTORY

### Patron

Phillip Woolaston

### Board of Trustees

Chris Hawkes (from May 2019)  
David Butler  
Maurice Woodhouse

Sharon McGuire  
Christine Hemi  
Debbie Armatage (from March 2019)  
Paul Russell  
Peter Jamieson

### Senior Management

Richard (Ru) Collin (from May 2019)  
Nick Tilly (from April 2019) – administration  
Nick Robson - operations

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## **Delaware Bay Estuary - Vehicle Access**

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### **1. Purpose of Report**

- 1.1 Vehicles towing boats are crossing the estuarine flats at Delaware Bay to launch. This is not permitted under the rules in the Nelson Resource Management Plan. This report requests Council determine whether a resource consent application to provide for vehicles crossing the estuary at Delaware Bay should be prepared and lodged and confirming the process for seeking additional budget for either the resource consent or enforcement.

### **2. Summary**

- 2.1 Driving vehicles on the foreshore at locations other than boat ramps requires resource consent as a discretionary activity under the Nelson Resource Management Plan. In preparing for the new Nelson Plan officers have been working with iwi, the fishing/boating community and the local community to work through various options. The potential preferred solution collectively discussed was to lodge a resource consent to provide for access for recreational fishers, using a defined route, for a two year trial period. And if that option was found workable that the route then be defined in the new Nelson Plan.
- 2.2 Iwi have decided not to support the proposed resource consent application. The drafting of the application has been put on hold. Iwi are asking that Council enforce the rule in the Nelson Resource Management Plan (NRMP) and prevent continued access. This was confirmed at a meeting with the Iwi-Council Partnership Group on 19 November.
- 2.3 As usage will increase over the summer period a decision on whether to continue with the resource consent application is required. If the decision is made to continue then it needs to be noted there is no budget for that process or for the installation of a defined route. If the decision is made not to pursue a resource consent application then Council officers will undertake enforcement of the provisions of the current NRMP noting there will be costs associated with this which again are not budgeted.

### 3. Recommendation

#### ***That the Environment Committee:***

1. ***Receives the report Delaware Bay Estuary - Vehicle Access (R10204) and its attachments (A1174267 and A2285396); and***
2. ***Confirms whether an application for resource consent to enable vehicle access over a defined route at Delaware Bay is progressed, then confirms the process for the additional required budget for either the resource consent or enforcement.***

### 4. Background

#### ***History of vehicles on the estuary and Maori Land Court Claim***

- 4.1 In 1999, Māori Pā Road was extended along the edge of the estuary, following a subdivision in the area. Anecdotally, some locals were crossing the estuary to launch boats prior to 1999. However, following the extension of the public road, the number of vehicles crossing the estuary increased. There are also a number of joyriders with some having become stuck and needing to be towed out. A number of those have not found help in time and their cars have been completely inundated in the estuary.
- 4.2 Delaware Bay/Wakapuaka was subject to a claim in the Māori Land Court, which awarded freehold title to the Huria Matenga Wakapuaka Trust in 1998. This decision was challenged by the Crown, and the decision was reversed in the Court of Appeal. The issue was the source of widespread public debate.
- 4.3 Previous Council attempts at enforcement have met with opposition from locals and recreational fishers. When Council put up barricades to block the makeshift ramp around 2001, they were taken down again (without permission). The issue also featured in high profile news stories at the time, with some expressing the view this was an issue of public access to the coast.
- 4.4 Since 2001 there has been no further enforcement by the Council.

#### ***Stakeholder Engagement over the Last Two Years***

- 4.5 For approximately the last two years, officers have been engaging with iwi and stakeholders regarding a possible solution to the issue.
- 4.6 The iwi that has had the most involvement to date is Ngāti Tama, through the two Trusts based in the area, Huria Matenga Wakapuaka

## Item 7: Delaware Bay Estuary - Vehicle Access

Trust and Wakapuaka 1B Trust. In recent months, Ngāti Koata and Ngāti Kuia have joined the discussion. At the meeting with the Iwi-Council Partnership Group on 19 November Ngāti Toa were also involved in discussions.

- 4.7 Other stakeholders that have been engaged with include the harbourmaster, recreational fishers and residents of Delaware Bay.
- 4.8 As part of the engagement, Cawthron Institute were contracted to perform a study on the effects of vehicles on the estuary. This included sediment cores, assessment of the extent of seagrass coverage, field observations of boat launches, a boat users' survey and interviews with iwi representatives and local residents. The findings of the report are discussed further in section 5.

### ***"Trespass notice" flyers***

- 4.9 In September 2019, a number of flyers were put on car windshields, purporting to be "trespass notices". The flyers included the car license plate numbers and included reference to the Huria Matenga Wakapuaka Trust and one of its trustees.
- 4.10 The matter will escalate and it is therefore critical that Council determines whether a resource consent application is pursued, what messages are to be communicated and notes that enforcement, which follows if no application is made, has the potential to be difficult.

## **5. Discussion**

- 5.1 There are a number of competing considerations with regards to the future of access at Delaware Bay.
- 5.2 In simple terms there is a breach of the Nelson Resource Management Plan (NRMP), where driving vehicles on the foreshore is not permitted and requires an application for a discretionary activity. In the absence of an application being made then officers have the delegations to enforce the rule in the NRMP. Enforcement will unlikely end the issues and may inflame matters for some and will require ongoing involvement of enforcement personnel including potential police support.
- 5.3 Recognising the complex issues, discussions commenced with iwi, recreational fishers and the local community. A number of issues surfaced including the need to understand what the potential ecological impacts are. The Cawthron Institute was engaged and the findings of their report are set out below.

### ***The Cawthron Institute report***

- 5.4 Attachment 1 contains the full report. The Cawthron study found that, over the period of monitoring, around 70% of boat launchings and retrievals were happening at the Delaware Bay site, compared to around 30% at Cable Bay.

## Item 7: Delaware Bay Estuary - Vehicle Access

- 5.5 The Cawthron report includes a table showing reasons why people launched at the two locations (see below):

Table 6. Count of boat users' reasons for launching at Delaware Inlet and Cable Bay.

Reasons for use	Delaware Inlet	Cable Bay
Proximity to good fishing grounds	30	5
Safety	20	1
Quiet, wild and beautiful location	16	1
Close to home, accessible	16	1
Ease of access	12	0
Suitable for small boats	11	0
Suitable for children and families	3	1
Fuel efficient	3	0
Free (no boat launching charge)	2	0

*Cawthron report 2015, p36.*

- 5.6 The Cawthron report captured the views of local hapū members on the issue as including:
- This is an issue that goes to their status as mana whenua and kaitiaki of the estuary.
  - They are concerned about the impacts on the ecology, particularly of shellfish and their habitat.
  - The estuary was their "supermarket" and driving across it is culturally offensive.
  - They have aspirations for a commercial venture in the area and they feel that the vehicle access jeopardises that possibility.
  - They are advancing a claim to Customary Marine Title of the estuary.
  - If there was to be vehicle access to a low tide launch point at Delaware Bay, then a long wooden ramp could be built with a charge to users to recover the cost.
- 5.7 The Cawthron report also included a table showing an assessment of potential options (see below):

Option	Pros	Cons
Status quo	Low financial cost (at least in short term).	Damage to estuary and associated cultural values continues. Rules in NCC coastal plan not being enforced.
No vehicle access to estuary at Delaware Inlet	No more damage to estuary (assuming rules can be enforced). Potential for seagrass rehabilitation.	Enforcement could be difficult and/or expensive. Safety issues for boat users. Renewed animosity between residents, iwi and boat users.
Marked route(s) at Delaware Inlet to limited	Reduced damage to estuary. Potential for	Not all vehicles will stay on route. Some ongoing impacts to



## Item 7: Delaware Bay Estuary - Vehicle Access

number of launching points	seagrass rehabilitation outside marked route(s).	estuary. Some maintenance required of route markings.
Long wooden ramp at Delaware Inlet	Minimises on-going damage.	Cost. Structure would have visual effects, some shading effects and changes to currents. Possible damage to estuary during construction phase. On-going maintenance required.
Improve facilities at Delaware Inlet; booking system for parking	Improves experience for users.	Cost. Likely to lead to increased use and therefore more damage to estuary.
Improved signage about values of Delaware Inlet	Greater environmental awareness by boat users. With other measures, could help to reduce impact on estuary.	Unlikely to deter 'joyriders' and some boat users from inappropriate behaviour. Damage to estuary and associated values continues.
Restrictions on users of Delaware Inlet e.g. boat/trailer size limits; no jet skis	Reduced ecological and other impacts (depending on restrictions).	May be difficult to enforce.
Install concrete ramp and improve other facilities at Cable Bay	Safer and better experience for users. Some users diverted from Delaware Inlet so reduced impact to estuary.	Increased congestion at Cable Bay, conflict with beach users. Construction cost, with on-going maintenance. Cable Bay still not safe in some conditions.
Regular monitoring of Delaware Inlet	Provides basis for periodic review of approach.	Cost. May not provide definitive conclusions.

*From Cawthron report 3015, p57.*

- 5.8 Overall, the report found (page ii): *"...there is good evidence, albeit inconclusive, that vehicle traffic has caused a reduction in the extent of seagrass beds over time. Similarly, we consider that higher vehicle usage is likely causing some impacts in the midshore on sediment structure and the associated benthic animal community, including cockles."*

### ***Managed access trial proposed***

- 5.9 After the Cawthron report was provided there was further discussion with hapū representatives and local stakeholders. And as a result a proposal was advanced to trial managed access at the estuary.
- 5.10 The proposal involved the establishment of a marked route to the low tide launch point using concrete markers (low profile, so that landscape values of the area were minimally affected) and that the area outside the marked route would be enforced by Council. A pou was also proposed to be erected recognising the cultural values of the area.
- 5.11 The draft resource consent application proposed a two-year trial period, with monitoring to show the level of compliance and enforcement and also to show the impact on the estuary both within and outside the marked area.

## Item 7: Delaware Bay Estuary - Vehicle Access

- 5.12 In preparing the resource consent all iwi were invited to further participate in discussions. To date, iwi/hapū bodies that have taken part in the draft resource consent application process are:
- Wakapuaka 1B Trust;
  - Huria Matenga Trust;
  - Ngāti Tama ki te Waipounamu Trust;
  - Ngāti Koata (through Ratapu Hippolite and Marlin Elkington);
  - Te Runanga o Ngāti Kuia;
  - Ngāti Toa.
- 5.13 In June and July 2019, the iwi/Trusts rejected the proposal and would not support a resource application for managed access across the estuary. Reasons cited were the ecological impacts, including damage to seagrass beds and the crushing of sediment dwelling invertebrates – especially shellfish.
- 5.14 Ngāti Kuia stated:
- Our stance remains the same. We advocate for the policies of the New Zealand Coastal Policy Statement. We do not think it is appropriate for Council to provide for the community in this way as it is against the existing policy direction in the Plan and the adverse effects are more than minor. Alternative locations for this recreational activity should be explored.*
- 5.15 After receiving this feedback the drafting of the resource consent application stopped. Parties have been informed the next steps, if any, about progressing the application will be considered by Council. A further meeting was held with the Iwi-Council Partnership Group on 19 November and the iwi present made it clear they would not support an application being made for resource consent.

### **Legal Status**

- 5.16 The area above mean high water springs (MHWS) is Council road reserve and below MHWS is the common marine and coastal area (or coastal marine area), which is subject to a “no-ownership” regime under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA) – in other words no-one owns the area.
- 5.17 Whakapuaka/Wakapuaka/Delaware Bay Estuary has a long association with several iwi, principally Ngāti Tama, and two associated Trusts who have land interests in the immediate area. Currently there are eight applications (seven of which are for customary marine title (CMT) and protected customary rights (PCR) and one is just for CMT) relevant to this area that have been lodged with the High Court/Crown under MACA. These are from Te Rūnanga o Rangitāne o Kaituna; Rangitāne o Wairau; Te Ātiawa o Te Waka a Māui; Ngati Tama ki Te Tau Ihu; Ngati Toa Rangatira; Te Huria Matenga Trust; Rihari Dargaville for New Zealand



## Item 7: Delaware Bay Estuary - Vehicle Access

Māori Council (covers all of New Zealand); and Cletus Maanu Paul (covers all of New Zealand).

- 5.18 Groups that obtain CMT and/or PCRs orders or agreements under MACA have significant rights in terms of controlling the activities that may take place in the common marine and coastal area. This includes CMT holders having the right to grant or decline permission for certain activities to occur in the coastal marine area within a CMT. It will be some time before any of the above listed applicant groups will be able to secure the orders or agreements that give rise to CMTs or PCRs (the process is moving slowly through the Courts/Crown) but the Council should be aware that these rights may emerge in the future.
- 5.19 Until the matter of CMTs or PCRs have been settled, any applicant for resource consent in an area where decisions on CMT's are pending must notify the group that has applied for the CMT and seek their views on the application.

### ***Alternative Sites***

- 5.20 There are a number of authorised launch sites in Nelson being:
- a) Monaco – concrete ramp.
  - b) Tahunanui – beach launch and access ramp.
  - c) Wakefield Quay – 2 – yacht club and rescue centre (not public).
  - d) Nelson Marina – 3 – main public ramp, another ramp and a restricted ramp off Vickerman Street.
  - e) Rutherford Park – for small craft.
  - f) QEII Drive – 3 – just north of the Wakapuaka Cemetery, near Malvern Avenue and near Bayview Drive.
  - g) Atawhai Drive – 4 spots.
  - h) Cable Bay – 3 spots.
- 5.21 The recreational boating people have said that access at Cable Bay to the sea can be difficult often as it is an exposed coast and is not easy to launch from or return to. Improvements to the launch site have been discussed but fundamentally the comment from the fishers is it is unsafe at times. The access into the estuary at Cable Bay is above the water line for much of the time and is a long way to the Bay. They say Delaware Inlet provides a gradual descent to the water's edge and is protected from tidal surges. The recreational boating people have said access at the marina involves travel distance and is very busy over the summer period.

### ***Other Issues***

#### *Enforcement*

- 5.22 If a resource consent application is not pursued then enforcement of the rule will be required. Enforcement will initially involve education over a few weekends. However, given the inability to be present at the site at all times and the likely push back from individuals consideration will need to be given to barriers, CCTV and the presence of the Police if they are available. Follow up with individual boaties will be time consuming. None of these items have been budgeted for.

#### *Trust Aspirations*

- 5.23 The two hapū Trusts in the area (Huria Matenga Trust and the Wakapuaka 1B Block Trust) have aspirations for commercial development in Delaware Bay. Hapū members have voiced concern for the viability of potential future ventures if vehicles have access onto the estuary.

#### *Status of the Estuary as an Outstanding Natural Landscape*

- 5.24 Technical work for the new Whakamahere Whakatū Nelson Plan has identified the estuary as an outstanding natural landscape and an area of outstanding coastal natural character. While the Plan has not been notified and as such has no legal effect, the technical information would need to be considered as part of any resource consent application.

#### *Resource Management Plan Development*

- 5.25 It is an option to include the location as an official "launch ramp" in the draft Whakamahere Whakatū Nelson Plan.
- 5.26 The Plan is not due to be notified before 2021 and even when it is there would be some considerable period where the current rules would still be in play. So a resource consent will still be required until such time as the new Plan is operative. The inclusion of a boat ramp at this location in the Plan needs to give effect to matters including the NZ Coastal Policy Statement. It is likely to be challenged in Plan Hearings and the Environment Court.

## **6. Options**

- 6.1 The range of options associated with the resource consent application and defining a route are discussed in Table 1 below.

Table 1

<b>Option 1: Status Quo</b>	
Advantages	<ul style="list-style-type: none"><li>• Low cost.</li><li>• Continued safe access of recreational boat users to the estuary.</li></ul>

## Item 7: Delaware Bay Estuary - Vehicle Access

Risks and Disadvantages	<ul style="list-style-type: none"> <li>Continues the non-compliance with the Nelson Resource Management Plan. Council is not performing its functions.</li> <li>Does not address iwi and ecological concerns regarding vehicles crossing the estuary;</li> <li>Likely escalation by some parties who may look to take on an enforcement role.</li> </ul>
<b>Option 2: Wooden boat ramp across estuary</b>	
Advantages	<ul style="list-style-type: none"> <li>Would minimise damage to the estuary.</li> <li>Would still provide boat access within the estuary.</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>May not be acceptable to iwi (early discussions indicated there may be support but discussions have moved on).</li> <li>Very high visual impact on the landscape (in an area recognised to be an Outstanding Natural Feature or Landscape and an area of Outstanding Coastal Natural Character).</li> <li>This option would require resource consent, (and that consent may not be granted). As the application would likely be notified, the estimated cost would be around \$20,000 and more if the decision is appealed to the Environment Court.</li> <li>A preliminary estimate of construction costs is around \$2 million.</li> <li>Likely ongoing maintenance/replacement costs as subject to tidal movement.</li> </ul>
<b>Option 3: Improvements to Cable Bay ramps</b>	
Advantages	<ul style="list-style-type: none"> <li>Uses recognised boat ramps.</li> <li>Will provide access points in the area without impact to the estuary.</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>In some sea conditions will still be dangerous to use.</li> <li>The high energy environment will likely result in any future ramp breaking up.</li> <li>Cost - a preliminary estimate was sought, but no figure could be given for an engineering solution that would withstand wave action at Cable Bay.</li> </ul>

## Item 7: Delaware Bay Estuary - Vehicle Access

	<ul style="list-style-type: none"> <li>• This option would also require a resource consent application, and due to the potential visual impact of a new ramp on other values of Cable Bay, this option would also likely involve a notified resource consent application – additional cost of at least \$20,000, but much more if the decision is appealed to the Environment Court.</li> <li>• Increased boat traffic may conflict with other recreational users of a popular beach</li> </ul>
<b>Option 4: Continue resource consent application for managed access trial</b>	
Advantages	<ul style="list-style-type: none"> <li>• If successful, would restrict potential impact to a narrower corridor across the estuary and will be monitored during the trial period.</li> <li>• Low level of physical works e.g. rocks defining route - Low cost.</li> <li>• Low visual impact.</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>• Continuing to progress the application will negatively affect the relationship with iwi.</li> <li>• Without iwi support, the consent application will likely be notified (and may not be granted). An estimated cost of the notified consent is at least \$20,000, but more if the decision is appealed to the Environment Court.</li> <li>• If it was successful, as the consent holder, Council would also be legally liable for non-compliance with the consent (e.g. members of the public going outside the marked route on the estuary and monitoring requirements).</li> </ul>
<b>Option 5: Add launch point as a recognised “boat ramp”</b>	
Advantages	<ul style="list-style-type: none"> <li>• Would legitimise the current access but only after the Plan is operative which will be a number of years.</li> <li>• Would provide certainty to current recreational boat users of the launch point.</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>• Would damage the relationship with iwi.</li> <li>• Including this location as a boat ramp in the Nelson Plan would be subject to submissions and would likely be strongly opposed by iwi (and possibly other community groups) with associated costs.</li> </ul>

## Item 7: Delaware Bay Estuary - Vehicle Access

	<ul style="list-style-type: none"><li>Any decision to include the location as a legitimate boat ramp could be appealed to the Environment Court.</li></ul>
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### 7. Conclusion

- 7.1 A complex matter, with many parts, requiring a decision as to whether to proceed in preparing and lodging a resource consent application for vehicular access via a defined route at Delaware Bay. There will be costs associated with the application process, the construction of a defined route as well as the enforcement of the current rule in the NRMP – none of which have been budgeted for.

**Author:** Clare Barton, Group Manager Environmental Management

#### Attachments

Attachment 1: A1774267 - Cawthron Report 3015 - Impact of vehicle traffic - Delaware Inlet - June2017 (*Circulated separately*) [↗](#)

Attachment 2: A2285396 - Aerial photo showing Delaware Estuary - 2017 [↓](#)

<b>Important considerations for decision making</b>
<b>1. Fit with Purpose of Local Government</b>  Section 10 of LGA 2002 requires local government to promote the social, economic, environmental and cultural well-being of communities in the present and for the future. This report traverses all of these matters.
<b>2. Consistency with Community Outcomes and Council Policy</b>  Relevant excerpts of Councils Community Outcomes are:  <i>"We recognise the kaitiakitanga (guardianship) role of tangata whenua iwi.</i>  <i>Good urban design and thoughtful planning create safe, accessible public spaces for people of all ages, abilities and interests.</i>  <b><i>Our Council provides leadership and fosters partnerships, a regional perspective, and community engagement</i></b>  <i>Our leaders understand our community, are confident in our future, know how to drive success and to work with others to tackle the big issues facing Nelson."</i>  The issues are clearly understood. The option selected will determine which of the iwi or safe and accessible spaces outcomes can be achieved.
<b>3. Risk</b>  Whichever option is selected there will either be an adverse impact on Council's relationship with some iwi and Trusts or alternatively some of the local boating community. This will be a long term impact.
<b>4. Financial impact</b>  Regardless of which option is selected there will be additional costs.
<b>5. Degree of significance and level of engagement</b>  This matter is of medium significance given the interest of the community and iwi in the matter. As the issue is one that is subject to either enforcement, Plan change or resource consent under the Resource Management Act 1991 and subject to their own engagement processes, it is not considered necessary to seek feedback under the Local Government Act 2002 provisions.
<b>6. Climate Impact</b>  Any potential defined route will need to consider the potential impact of climate change and more coastal process issues. These will need to be covered in any application for resource consent.



## **7. Inclusion of Māori in the decision making process**

The Trusts and Iwi engaged during this process are aware this report will be presented to the Council.

## **8. Delegations**

*Areas of Responsibility:*

- *Regulatory enforcement and monitoring*
- *The Regional Policy Statement, District and Regional Plans, including the Nelson Plan*

*Delegations:*

*The committee has all of the responsibilities, powers, functions and duties of Council in relation to governance matters within its areas of responsibility, except where they have been retained by Council, or have been referred to other committees, subcommittees or subordinate decision-making bodies.*

### Delaware Bay aerial photo



2017 aerial photo showing the Delaware estuary. Note formal boat ramps marked with a blue cross. Unrecognised launch site marked with a red circle. An Iwi owned trust (Wakapuaka 1B Block) is highlighted in light blue.

A2285395

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## **Review of the Dog Control Policy and Bylaw**

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### **1. Purpose of Report**

- 1.1 To review both the Dog Control Bylaw 2013 (the Bylaw) and the Dog Control Policy 2013 (the Policy), adopt a Statement of Proposal proposing amendments to these documents and to approve commencement of the special consultative procedure.

### **2. Summary**

- 2.1 In order to meet the requirements of the Local Government Act 2002, a review of the Dog Control Bylaw was initiated in February 2018 and needs to be completed by 25 February 2020.
- 2.2 The review of the Bylaw entails consideration of four key questions:
- What is the perceived problem?
  - Is a bylaw the most appropriate way to address the perceived problem?
  - Is the form of the Bylaw (the content) appropriate and if not, how should it be amended to be the most appropriate?
  - Will the Bylaw and any proposed amendments give rise to any New Zealand Bill of Rights Act (NZBORA) implications?
- 2.3 Council will have completed the review when it considers this report and determines whether the Bylaw should continue without amendment, be amended, revoked or revoked and replaced. If the Council agrees amendments should be made, then it will need to adopt a Statement of Proposal and approve commencement of the Special Consultative Procedure.
- 2.4 Discussions with Environmental Inspections Limited (EIL) staff and informal consultation with key stakeholders was carried out in late 2018 to identify any issues with the Bylaw and any proposed improvements to the Policy and Bylaw. Recommendations relate to:
- The Railway Reserve — Retaining the off-leash status for dogs on the Railway Reserve along with signage and publicity on what dog

## Item 8: Review of the Dog Control Policy and Bylaw

owners can do to avoid conflicts between dogs and cyclists, pedestrians and other dogs

- Isel Park — Retaining the half on leash and half off leash approach
- Deleting the Good Dog Owner Policy
- Grazed Reserves — Now requiring dogs to be on a leash at all times in Council reserves where grazing occurs (except in the grazed part of Paremata Flats Reserve)
- Paremata Reserve and Delaware Inlet — Prohibiting dogs from the planted area at Paremata Flats and Delaware Estuary's vegetated margin and islands
- Monaco Reserve — Changing from on-leash to off-leash status (other than in the playground)
- Boulder Bank — Identifying the area closest to the Glen as an on-leash area to align with the Department of Conservation (DOC) signage.
- Number of Dogs — Deleting Part 8 of the Policy (Number of Dogs) which requires Council permission to keep more than 2 dogs within the City and relying on Council's ability to reduce the number of dogs if necessary, under clause 10.2 of the Bylaw.
- Enforcement provisions — Amending the enforcement provisions to align with current practice.

2.5 The public will also be able to make suggestions for changes to any other aspects of the Policy and Bylaw during the consultation process.

### 3. Recommendation

#### ***That the Environment Committee***

1. ***Receives the report Review of the Dog Control Policy and Bylaw (R12538) and its attachments (A2298783, A2145324, A2145327, A2298620, A2145304, A2145310 and A2122940); and***
2. ***Determines that the Bylaw should continue, with amendments, and that the Policy is also amended to reflect those amendments; and***
3. ***Agrees that a Bylaw (and updated Policy) is the most appropriate way of addressing the perceived problems with the current Policy and Bylaw; and***

4. ***Agrees the proposed amendments to the Dog Control Bylaw 2013 (221) are the most appropriate form of Bylaw and do not give rise to any implications under the New Zealand Bill of Rights Act 1990; and***
5. ***Agrees a summary of the Statement of Proposal Amendments to the Dog Control Policy and Dog Control Bylaw 2013 is necessary to enable public understanding of the proposal; and***
6. ***Adopts the Statement of Proposal (A2145304) and the Summary of the Statement of Proposal (A2145310); and***
7. ***Approves commencement of the Special Consultation Procedure, with the consultation period to run from 27 January to 28 February 2020; and***
8. ***Notes that a separate report will be prepared in 2020 to review fees and charges in light of Policy and Bylaw changes; and***
9. ***Approves the approach set out in the Communications Plan (A2298620) and agrees:***
  - (a) ***the plan includes sufficient steps to ensure the Statement of Proposal will be reasonably accessible to the public and will be publicised in a manner appropriate to its purpose and significance; and***
  - (b) ***the plan will result in the Statement of Proposal being as widely publicised as is reasonably practicable as a basis for consultation.***

#### **4. Background**

##### **Review process to be completed by February 2020**

- 4.1 Section 10 of the Dog Control Act 1996 (DCA) requires Council to have a Policy and the necessary bylaws to give effect to it. Where the Local Government Act 2002 (LGA) requires the Bylaw to be reviewed (as is the case here) then section 10AA of the DCA requires the Council to consider whether it is appropriate to also amend the Policy. Accordingly, the Council is undertaking the review of its Bylaw and Policy concurrently.
- 4.2 Section 10(2) of the DCA also requires that all registered dog owners receive notice of any proposed changes to the Dog Control Policy. This

## Item 8: Review of the Dog Control Policy and Bylaw

means all of the 4,836 dog owners (who have a total of 5,800 dogs) must receive notice of the proposed amendments by email or by post. Council also needs to advise people who do not own dogs but have an interest in any of the issues covered in the Policy and Bylaw about the consultation process so that they also have the opportunity to provide feedback.

- 4.3 A communications plan has been developed to achieve widespread awareness of the proposal, which includes: promoting the proposals through the news media, social media, Our Nelson and posters in public places, as well as directly contacting all of the stakeholders who were invited to provide informal feedback in late 2018, which includes cycling groups and schools located near the Railway Reserve.
- 4.4 By considering this report and the proposed amendments to the Bylaw, Council will complete the review process, and the current Bylaw (which came into effect on 25 February 2013) will continue to have effect beyond 25 February 2020. Public consultation on the proposed amendments can occur after this date.

### **Environment Committee to undertake the review process**

- 4.5 The February 2018 report to the Planning and Regulatory Committee indicated that the Bylaw had been relatively non-controversial to implement. However, a number of issues were identified for further consideration. This included reconsideration of:
- off-leash areas on the Railway Reserve
  - on-leash/off-leash areas at Isel Park
  - off-leash areas where stock grazing occurs
  - on-leash/off-leash status of Monaco Reserve.
- 4.6 The Planning and Regulatory Committee recommended that full Council considers the review of the Dog Control Policy and Bylaw. This was confirmed at the Council meeting on 20 March 2018. Given the new Council committee structure where committees are of the whole Council it was determined at the 14 November Council meeting that this matter would be considered by the Environment Committee.

### **Feedback including from stakeholders**

- 4.7 Stakeholder engagement in late 2018 consisted of:
- letters to stakeholders (Attachment 1) to invite feedback on the most significant issues identified by EIL and Council staff
  - an informal survey of Isel Park users on their on-leash or off-leash preferences for Isel Park.



**Statement of Proposal includes issues and options analysis**

4.11 Stakeholder engagement in 2018 informed the attached Statement of Proposal (Attachment 5). The Statement of Proposal (SOP) identifies a range of issues with the current Policy and Bylaw and includes an analysis of the options against key criteria. These criteria were derived from section 10(4) of the Dog Control Act 1996 as well as Council's reserve management objectives, and the Local Government Act 2002. The options relate to the following matters:

- the Railway Reserve
- Isel Park
- grazed reserves
- the Good Dog Owner Policy
- Monaco Reserve
- Paremata Flats Reserve and Delaware Estuary
- the Boulder Bank
- number of dogs
- enforcement provisions.

4.12 The public will be able to provide feedback on these options through a Special Consultative Procedure, to be carried out after Council has approved a Statement of Proposal.

**Special Consultative Procedure outcomes could be more or less restrictive**

4.13 Outcomes of the special consultative procedure could include:

- retaining the existing provisions in the Policy and the Bylaw
- adopting the proposed amendments outlined in the SOP, or a variation of these, based on community feedback
- adopting a different approach in the Bylaw and the Policy based on community feedback (see alternative options section on page 9 of the SOP).

4.14 A legal review of the SOP has been carried out to ensure it meets the requirements of the LGA, the NZBORA, and the DCA.

## **5. Discussion**

### **Legal issues to consider**

- 5.1 In deciding whether to make any changes to the Bylaw, consideration must be given to s155 of the Local Government Act (LGA) and s10(4) of the Dog Control Act 1996 (DCA).
- 5.2 The LGA requires the identification of any perceived problem and a determination that the Bylaw is the most appropriate method of addressing the problem. If the Bylaw is identified as the most appropriate method, then further consideration needs to be given to whether the current form of the Bylaw is the most appropriate and whether there are implications under the New Zealand Bill of Rights Act 1990 (NZBORA).
- 5.3 The DCA provides useful context for consideration of the above LGA matters. Section 10(4) emphasises:
- (a) the need to minimise danger, distress, and nuisance to the community generally; and
  - (b) the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults; and
  - (c) the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and
  - (d) the exercise and recreational needs of dogs and their owners.
- 5.4 To complete the review, Council needs to consider the following questions.
- What is the perceived problem?
  - Is a bylaw the most appropriate way of addressing the problem?
  - Is the form of the Bylaw (the content) appropriate?
  - Will the Bylaw give rise to any New Zealand Bill of Rights Act (NZBORA) implications?

### **What is the perceived problem?**

- 5.6 Council's records show there are approximately 6,000 registered dogs in Nelson (in 2019). With a population of 52,000 people, the challenge is how to accommodate the needs of both dogs and their owners, and the wider community. As outlined in section 10(4) of the DCA (shown above), there is a need to minimise danger, distress, fear and nuisance caused by dogs while managing access to public places where there might be a conflict between dogs and the community. This needs to be

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balanced with the exercise and recreational needs of dogs and their owners.

- 5.7 The Policy and Bylaw seek to address these problems by prohibiting dogs from certain areas, and designating on and off-leash areas.
- 5.8 The key problems identified with the 2013 Bylaw, and the proposed changes to address them are outlined below.

<b>Problem to be addressed</b>	<b>Proposed change</b>
The Good Dog Owner Policy is not achieving the objectives for which it was developed due to the time and costs involved in administering it. It also unfairly disadvantages people who are unable to pay registration fees on time.	Delete the GDO Policy.
Stock grazing is a low cost way to control grass in Council reserves, in order to manage fire risk. However, graziers are reluctant to provide sheep or cattle for this purpose if there is a risk of attack or worrying of their stock by dogs.	Require dogs to be on a leash in Council's grazed reserves (rather than being allowed to be off-leash).
Dogs have the potential to disturb rare, ground-nesting birds which live in Paremata Reserve and on the margins of Delaware Inlet.	Prohibit dogs from the planted area at Paremata Reserve and Delaware Inlet.
In 2014 Council received a petition signed by 66 people asking for dogs to be allowed off-leash in Monaco Reserve.	Allow dogs to be off-leash in Monaco Reserve (excluding the playground).
DOC is responsible for management of the Boulder Bank and has signage stating this is an on-leash area. However, this is currently an off-leash area in Council's Bylaw.	Require dogs to be on-leash on the Boulder Bank (apart from the areas which are already prohibited) to align with DOC signage.
EIL have advised that the Number of Dogs policy is not achieving the desired outcome. Most people are unaware of the policy (of requiring permission to have more than two dogs per property).	Manage potential issues with multiple dogs on a property through the DCA rather than requiring a permit to have more than two dogs.
Minor inconsistencies between how the enforcement process is carried out by Council and the current text in the Bylaw.	Amend the Bylaw to more accurately reflect the enforcement process carried out by Council.

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### **Is a bylaw the most appropriate way of addressing the problem?**

- 5.9 The Bylaw has been in place since 2004 and has been an effective way to manage dogs. Section 10 of the DCA requires councils to develop a Dog Control Policy and to give effect to the policy through a bylaw. Therefore, unless no public places are listed in a dog control policy as areas where dogs are prohibited or required to be on a leash, there are limited other options for managing dogs under NZ legislation.
- 5.10 Alternative (and complementary) ways to minimise danger, distress, fear and nuisance caused by dogs while managing access to public places where there might be a conflict between dogs and the community are outlined below. Council uses these methods alongside implementation of its Dog Control Policy and Bylaw.

<b>Options for managing conflicts between dogs and the community</b>	<b>Assessment</b>
Respond to complaints using the powers provided through the Dog Control Act.	<p>This approach gives Council the power to charge registration fees and intervene when an issue occurs, such as a dog attack.</p> <p>On its own, this approach does not comply with section 10 of the Dog Control Act, and would result in a reactive rather than a proactive approach to reducing conflicts between dogs and the wider community.</p>
Rely on education and dog training.	<p>This approach encourages people to take responsibility for their dog, and gives them skills to control their dog when it is off-leash in a public place.</p> <p>On its own, this approach does not comply with section 10 of the Dog Control Act, and relies on all dog owners to manage any risks of conflict between their dogs and the community, which does not provide enough certainty for the wider community.</p>

### **Is the form of the Bylaw (the content) appropriate?**

- 5.11 The form of the Bylaw could be improved, and the recommended changes are outlined in section 6 of this report. The key changes proposed to the Bylaw are:

## Item 8: Review of the Dog Control Policy and Bylaw

- to require dogs to be on a leash at all times in grazed reserves to avoid impacts on stock
- to require dogs to be on leash on the Boulder Bank (apart from the areas which are already prohibited) to align with DOC signage
- to prohibit dogs from Delaware Estuary and Paremata Flats Reserve to avoid disturbance to rare, ground-nesting birds
- to allow dogs to be off leash in Monaco Reserve, except for the playground, to reflect the preferences of the community.

### **What are the potential implications for NZBORA?**

- 5.12 In reviewing bylaws the Council needs to consider whether the Bylaw is reasonable and demonstrably justified. The only human right listed in NZBORA which has some potential relevance to the Dog Control Bylaw is section 18(1) — 'Everyone lawfully in New Zealand has the right to freedom of movement and residence in New Zealand.'
- 5.13 The proposed changes to the Bylaw don't impact on any movements by people alone. They do increase restrictions on people with responsibilities for exercising dogs (in grazed reserves, on the Boulder Bank and at Delaware Estuary). However, significant off-leash walking areas remain available to people in Nelson, including the off-leash area at Tahunanui Beach, most of the Maitai Walkway, and the Railway Reserve.

### **Consultation process to gain public feedback**

- 5.14 The public consultation process will enable the community to consider the proposed amendments to the Policy and Bylaw, and to suggest any other changes to the Policy and Bylaw. A one month submission period will be followed by a hearing for those wanting to speak. The Environment Committee will then hold a deliberations meeting to consider all submissions and make decisions.

## **6. Options**

### **Railway Reserve to be off leash**

- 6.1 The Railway Reserve is currently identified as an off-leash area (refer maps 2, 3, 4 and 5 of Attachment 7).
- 6.2 EIL (which provides animal control services for Council) has received approximately 40 complaints about dog-related activity on the Railway Reserve over the past three years. This equates to almost one complaint per month. Anecdotally, many of these complaints relate to dogs running out of control and creating conflict with other users of the reserve such as walkers and cyclists.
- 6.3 Extendable leashes are problematic for cyclists because the dog could be on one side of the path and the owner on the other, creating a significant risk for cyclists. However, Police-reported crash data from 2000-2019

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does not include any cycle versus dog incidents. It may be an unreported issue.

- 6.4 The 0800 Cycle Crash hotline is a way to gather data about cycle crashes in Nelson, and is supported by both Council and the New Zealand Transport Agency. The 0800 Cycle Crash data from 2011 to 2018 records one incident on the Railway Reserve with no injury in 2011, two incidences involving dogs in 2012 (one a near miss, and the other resulting in a cyclist falling on to the grass verge, causing a graze) and one incident in 2017 on the Railway Reserve leashing to a slight injury. The only other dog-related incident in Nelson (recorded in the Cycle Crash data) involved a dog running across the road at Paremata Drive, causing the cyclist to fall off their bike and fracture their foot.
- 6.5 For comparison, the total number of cycle crashes recorded in the 0800 Cycle Crash data during this period is shown in the following table.

<b>Year</b>	<b>Reported crashes</b>
2011	15
2012	34
2013	35
2014	3
2015	20
2016	13
2017	17
2018	12

### *Stakeholder feedback*

- 6.6 Council received the following feedback during informal consultation in late 2018. (Note: feedback was provided by a health professional, animal experts and dog owners representatives. The Nayland schools and kindergarten, and cycling groups, were invited to provide feedback but did not do so. Schools, families and cyclists will have an opportunity to provide feedback during the Special Consultative Procedure.)
- Elderly people with dogs who can't drive or walk to the beach may need other off-leash locations close to their homes.
  - Off-leash areas for dogs are important for the exercise and socialisation of dogs and there needs to be enough off-leash areas to give easy access to all residents without the need to drive



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- Forcing dogs into smaller areas will only increase anxiety reactions and aggressive reactions. Allowing the continued access is important (Halifax Vets).
- There are significant numbers of cyclists and pedestrians on the Railway Reserve, and bikes and dogs off leash aren't a great mix.
- Controlling an off-leash dog in this environment requires a very well trained dog/owner team.
- Speeding cyclists are a concern.
- Cyclists need to slow down and be a little more courteous to dogs and dog walkers. Dog walkers need to understand how their dogs react and to control them appropriately. People who have good control of their dogs are not the issue, it's the people who don't really care that cause cyclists problems.

### *Options*

6.7 A number of options have been assessed in the Statement of Proposal (SOP). These include:

- Option A — Status quo: Off leash for the whole of the Railway Reserve
- Option B — Status quo: Off leash for the whole of the Railway Reserve, plus signage and publicity about what dog owners can do to avoid conflicts with cyclists, pedestrians and other dogs
- Option C — On leash for the whole of the Railway Reserve
- Option D — On leash everywhere except the area between Quarantine Road and Songer Street
- Option E — On leash during specific hours (eg 7–9am and 3–6pm)

### *Recommendation and Reasons*

6.8 Option B is the preferred option for the following reasons.

- Option B scores the highest in terms of minimising conflicts between people and dogs, providing dog owners with access to off-leash areas, and having clear and enforceable rules.
- While there have been a number of dog versus bike incidents over the past three years on the Railway Reserve, this equates to less than one complaint per month. This may increase with the increasing use of E-bikes which move at faster speeds.
- There are limited recreation areas in which to walk a dog off a leash in the Victory and Bishopdale areas.

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- If the Railway Reserve is identified as an on-leash area, there is potential for dog versus bike issues to grow due to more use of extendable leashes.
- Safety concerns may be addressed through dog and cycle owner education, including signage that dog walking is encouraged outside peak commuter times, and updated user etiquette information.
- Costs for increased education (described above) are not significant (approximately \$2,000 per annum) and can be accommodated within existing budgets.

### **Isel Park to retain on-leash and off-leash areas**

- 6.9 Isel Park is currently partially on-leash (including the area around Isel House) and partially off-leash (the area closest to the Stoke shops, as well as the open space nearest the sportsfields). Refer to Map 3.
- 6.10 Environmental Inspections Ltd staff have advised that despite extensive signage at the Park's entrances, the on-leash and off-leash areas are not well understood and are therefore difficult for Council to enforce in response to complaints.
- 6.11 It is also important to provide safe recreational areas for children and the elderly, including areas where people can picnic and children can play without the risk of dogs rushing up to them. The 'front lawn' area in front of Isel House is of particular importance because this is an area where parents, kindergartens and playgroups are encouraged to bring children.

### *Park User Survey Feedback*

- 6.12 The majority of people spoken with in an informal November 2018 survey had no concerns about dogs being off leash in Isel Park (regardless of whether they owned a dog or not). Many of the dog walkers were older people, and one couple said they preferred their dog to be off leash because they were in their 80s and couldn't walk fast enough for their dog to get sufficient exercise when on a leash.
- 6.13 However, some people preferred to keep the current 50:50 approach, recognising the Park is used by many elderly people and handicapped people as well as children. One woman with young children said she didn't usually come to Isel Park because of the presence of off-leash dogs.

### *Options*

- 6.14 A number of options have been assessed in the SOP. These include:
- Option A — Status quo: Part on leash and part off leash
  - Option B — All off leash
  - Option C — All on leash

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### *Recommendations and Reasons*

6.15 Option A is the preferred option because:

- Isel Park offers a high amenity recreation area for parents and children, and the elderly, as well as for dog owners of all ages
- parents need places to go where they can be confident their children can run around without being rushed at by dogs
- Areas can be better delineated
- Continuity with current arrangements.

### **Grazed Reserves to become on-leash areas**

6.16 Grazing occurs in the following locations:

- part of the Grampians Reserve
- part of the Sir Stanley Whitehead Walkway
- part of the Tantragee Reserve (around the Tantragee Walkway which begins near the community gardens)
- part of the Maitai River esplanade reserve.

6.17 The extent of the grazed reserve areas is shown on Maps 6, 7, 8 and 9 of Attachment 7.

6.18 Council does not have the funding to manage these areas without grazing. Dog attacks are one of the main problems with stock welfare, and consequently attracting and keeping graziers. The Grampians isn't a reserve that can be managed with weed wackers. The weeds have taken off in recent years. The grazier removed all sheep a few years ago because of dog attacks and has only recently agreed to bring them back. Without the sheep, Council will lose control of grass growth which may also impact new plantings.

6.19 Longer grass increases fire risk. Once a fire has started, the more grass there is, the more fuel there is for the fire.

6.20 A particular issue with sheep in the Grampians Reserve is that dog walkers may not be aware of the presence of sheep until they are directly in front of them, due to the vegetation and the hilly contour of the area.

## Item 8: Review of the Dog Control Policy and Bylaw

### *Stakeholder Feedback*

- 6.25 Council received a wide range of feedback regarding potential changes for grazed areas. This included the following points.
- Dog owners highly value the off-leash status of the Grampians.
  - Having a dog provides extra security for solo women runners and walkers.
  - Because of the convoluted nature of the contours and the tracks on the Grampians a sheep can appear out of nowhere with no warning which can agitate dogs.
  - Dogs running free can be a problem for both young children and for ground-nesting birds.
  - The grazier was asked about the extent of the problem and said the worst was 35 sheep killed in the middle of lambing, and another eight in one go during an Easter break.
  - The grazier was supportive of the grazed areas at Paremata Flats Reserve remaining an off-leash exercise area as long as there is adequate signage indicating "stock grazing — keep dogs under control". He hasn't had any issues with dogs in this reserve and is aware that off-leash dog exercise areas are very limited in Nelson North.

### *Options*

- 6.26 A number of options have been assessed in the SOP.
- Option A — Status quo: dogs must be under control at all times
  - Option B — Require dogs to be on a leash WHEN stock are present
  - Option C — Require dogs to be on a leash in grazed areas at all times (excluding Paremata Flats Reserve)
  - Option D — Require dogs to be on a leash in grazed areas at all times in the Grampians Reserve only
  - Option E — Prohibit dogs from grazed areas (at all times)

### *Recommendations and Reasons*

- 6.27 Option C is the preferred option (require dogs to be on a leash in all grazed reserves at all times **excluding** Paremata Flats Reserve) because:
- both weeds and fire risk increase if stock are not grazing these areas

## Item 8: Review of the Dog Control Policy and Bylaw

- dog walkers can't always know stock are in an area until they come across them, particularly on the steep, vegetated front-facing slopes of the Grampians
- grazing these areas is the most cost-effective way to manage weeds and fire risk on hillsides
- signage can be put in place to ensure off-leash and on-leash areas are easily distinguished.

### **Good Dog Owner Policy to be Deleted**

- 6.28 The existing Good Dog Owner Policy is that a Good Dog Owner discount (which is currently \$19.50) applies on an annual basis for meeting three conditions related to complaints, fencing and dog welfare, and paying registration fees on time. The two other elements of the policy are:
- an ongoing discount for neutered dogs, or for dogs registered as members of the New Zealand Kennel Club
  - one voucher will be available per dog, for all dog owners towards attending a recognised training course or 1:1 training to address a behavioural issue (only payable by Council if it is redeemed with an approved provider).
- 6.29 EIL officers advised that implementation of the Good Dog Owner (GDO) Policy has not proven to be an effective way to achieve the outcomes for which it was designed (reducing non-compliance, promoting animal welfare and encouraging dog owners to pay registration fees on time). Currently the Policy is unclear as to whether an owner with a substantial complaint can regain their Good Dog Owner status the next year.
- 6.30 When people apply for GDO status, the discount does not apply until the next year of registration fees. Lots of people complain about this delay, which results in EIL staff having to spend a lot of time resolving these complaints.
- 6.31 In addition, one of the conditions of GDO status is paying registration fees on time. This is more difficult for people on lower incomes, who then miss out on the \$19.50 GDO discount. Therefore the Policy is skewed in favour of people on higher incomes.
- 6.32 The GDO Policy also includes the following provision which has not yet been implemented: *"One voucher will be available per dog, for all dog owners towards attending a recognised training course or 1:1 training to address a behavioural issue (only be payable by Council, if it is redeemed with an approved provider)."*
- 6.33 Halifax Vets provided the following informal feedback in late 2018. *"Unfortunately, in classes we only see the subset of the dog population that are keen to have the best start. We don't see the puppies and owners we need — the ones that will socialise and raise their dogs in a way that is inappropriate and only encourage behavioural problems."*



## Item 8: Review of the Dog Control Policy and Bylaw

*Whatever the answer we need to get socialisation to the areas where the problems are more severe."*

### 6.34 Suggestions included:

- offering reduced registration fees for the first two years of a dog's life if they have attended puppy class
- making it a bylaw requirement that all puppies must have been to a puppy class prior to being registered.

### *Options*

### 6.35 A number of options have been assessed in the SOP. These include:

- Option A — Status quo: Retain existing GDO Policy
- Option B – Delete the GDO Policy.

### *Recommendations and Reasons*

### 6.36 Option B is recommended because the GDO Policy:

- is costly to administer (approximately \$16,500 per annum based on 300 requests at \$55 per request)
- is costly to implement (currently there are 2,500 owners receiving the \$19.50 subsidy, which costs \$48,750, with the potential for another 3,701 applications at a cost of approximately \$72,000) and easy to be classified as a good dog owner.
- does not achieve policy outcomes as it works on the basis that good dog owners need to prove they are good dog owners rather than assuming all dog owners are good dog owners and penalising those who are not.
- duplicates provisions in the Dog Control Act which requires owners to keep their dog under control generally (ss52 and 52A) and confined to their property (s52A).

### 6.37 It is likely that removing the GDO policy will not be popular with those who are already identified as Good Dog Owners or those that have the potential to be given their current status and fee reduction.

### 6.38 Changes to the GDO may require amendments to Councils fees and charges. This matter will be addressed in a future report to Council should this be necessary.

## **Monaco Reserve to be off leash**

### *Stakeholder Feedback*

## Item 8: Review of the Dog Control Policy and Bylaw

- 6.39 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 be allowed to run on the Monaco Reserve without a leash. There were 66 supporting signatures with the majority of petitioners being local to the Monaco area, although some people from Richmond, Stoke and Tahunanui also signed it.
- 6.40 Council officers met with those who wrote the petition on Friday, 8 May 2015. The group said they had not seen or heard of any issues with dogs in the reserve. They did not want dogs in the playground (within the reserve) but did not think a fence around the playground was necessary.

### *Council Officers' Feedback*

- 6.41 Council officers advised that Monaco Reserve could be suitable as an off-leash area, although additional signage would be required to ensure that people are aware that dogs are not permitted in the playground area.

### *Options*

- Option A — Status quo: on leash requirement in Monaco Reserve
- Option B — Dogs permitted to be off leash in Monaco Reserve (excluding the playground)

### *Recommendations and Reasons*

- 6.42 Option B is recommended because there is strong community support for this approach.
- 6.43 There is a playground in Monaco Reserve, which will continue to be a dogs prohibited area. This combined approach within a park has proven workable in a number of other neighbourhood parks where dogs are allowed to be off leash except in the designated playground area. These include Wolfe Reserve, Poplar Reserve, Fairfield Park and Hanby Park.

### **Dogs to be prohibited in Paremata Flats planted area and in Delaware Estuary**

- 6.51 'The fenced area of the foreshore and esplanade reserve at Paremata Flats' is included in Schedule One of the Bylaw (dogs prohibited areas) and 'the sand and mudflats of Delaware Estuary' are listed in Schedule Two (dogs are permitted but must be kept on a leash). The proposed approach is shown on Map 10 of Attachment 7.

### *Stakeholder Feedback*

- 6.52 During the late 2018 stakeholder engagement process, Ian Price (who leads the Paremata Flats Restoration Project) said there is an ongoing issue at Paremata with off-leash dogs entering the planted area, which poses a threat to rare ground-nesting birds such as fern birds. He noted that the present wording in the Dog Control Bylaw may be a little ambiguous and suggested revised wording to state 'the dog exercise

## Item 8: Review of the Dog Control Policy and Bylaw

area at Paremata Flats applies only within the grazed paddocks. No dogs are to enter any of the planted areas of Paremata Flats Reserve’.

### *Options*

- Option A — Status quo: dogs are prohibited within the fenced area of the foreshore and esplanade reserve at Paremata Flats
- Option B — Explicitly refer to the Paremata Flats planted area and Delaware Estuary’s vegetated margins and islands as dog prohibited areas. (Retain the ‘sand and mudflats of Delaware Estuary’ in Schedule 2 as an on-leash area.)

### *Recommendations and Reasons*

- 6.53 Option B is recommended because the extent of the area in which dogs are prohibited could be better clarified. Prohibiting dogs from these areas will avoid disturbance of rare, ground nesting birds such as fern birds. It also makes sense to include the estuary margins, and islands within the estuary, as areas where dogs are prohibited due to the bird nesting areas that are located there.
- 6.54 Retaining the sand and mudflats of Delaware Estuary as an on-leash area avoids the risk of dogs running out of control and disturbing birds in the vegetated areas.

### **Boulder Bank rules to align with Department of Conservation signage**

- 6.55 The Boulder Bank Scenic Reserve, from the Cut towards Boulder Bank Drive for 4 kilometres, from October to February’ is listed in Schedule One (dog prohibited areas). There is no reference to the remainder of the Boulder Bank which means it is currently an off-leash area. The proposed approach is shown on Maps 11, 12, 13 and 14 of Attachment 7.
- 6.56 EIL recommended adding the Boulder Bank to Schedule 2 (on leash areas) because Council can’t currently act on complaints regarding non-compliance with DOC’s assigned on-leash status for the Boulder Bank, because this is not listed in the Bylaw.

### *Stakeholder Feedback*

- 6.57 During the 2018 stakeholder engagement process, Lionel Solly (Acting Statutory Manager) advised that DOC has signage on the Boulder Bank which indicates that dogs are permitted if on a leash in this area. He also said that technically this is enforceable by DOC under the Reserves Act 1977, but in practical terms DOC does not have the resources to undertake compliance and enforcement work in relation to dogs being walked off leash at this site.
- 6.58 In further conversations, it has been noted that not all of the Boulder Bank is classified as a scenic reserve. Some parts (the baches) have a recreation reserve classification, and the part owned by Port Nelson

## Item 8: Review of the Dog Control Policy and Bylaw

(around the Lighthouse) doesn't have a reserve classification. For this reason, it would be preferable to change the Bylaw's existing references from 'Boulder Bank Scenic Reserve' to 'Boulder Bank'.

### *Options*

- Option A — Status quo — DOC has signs indicating dogs should be on a leash on the Boulder Bank but this is not listed as an on-leash area in the Bylaw. (However, the area from the Cut towards Boulder Bank Drive for 4km from October to February is listed in the Bylaw as a prohibited area to protect nesting birds). Schedule A of the Policy and Bylaw refers to the "Boulder Bank Scenic Reserve".
- Option B — Include the Boulder Bank in the Bylaw as an on-leash area (noting the prohibited status of part of the Boulder Bank from October to February), and change the 'Boulder Bank Scenic Reserve' references to the 'Boulder Bank'.

### *Recommendations and Reasons*

- 6.59 Option B is recommended because including the Boulder Bank in Schedule 2 of the Dog Control Bylaw would enable Council to enforce an on-leash requirement and ensure the protection of native birds during the breeding season. Council will contact Port Nelson and the Boulder Bank bach owners about the proposed change. However, it will not result in an actual change for the bach owners, because a condition of their concession is that they're not allowed to take any cats, dogs or other household pets onto the land.
- 6.60 Council already includes a number of DOC sites in the Bylaw (including part of the Boulder Bank and Whakapuaka Raupo Swamp), and this enables Council to respond to complaints received regarding these areas.

### **Number of dogs to be managed differently**

- 6.61 Section 8 of the Policy (Number of Dogs) states:
- *"No more than two dogs can be kept on any property in the urban area without written permission from the Council. (The extent of Nelson's urban area is shown on the map attached to both the Dog Control Policy and Dog Control Bylaw 2013.) Puppies up to three months old are exempt from this limit.*
  - *There will be a one-off additional charge for keeping more than two dogs on an urban property, to cover the costs of reviewing the suitability of the property for more than two dogs. Assessment, and any conditions imposed on the dog owner, will be focused on all reasonable steps being taken to ensure that the dogs will not cause a nuisance to any person or be likely to be injurious to the health of any person.*

## Item 8: Review of the Dog Control Policy and Bylaw

- *Dog owners who have more than two dogs in February 2013 will have an 'existing use right' to continue to own their existing dogs, until the end of the dogs' lives. Written permission will be required for ownership of any additional dogs after this date.*
- *This approach will increase the Council's ability to control the effects of multiple dogs without generating high administration costs.*
- *There are no limits on the number of dogs that may be kept on a property which is not within the urban area."*

6.62 EIL has advised the Number of Dogs Policy is not achieving the desired outcome (to avoid impacts of too many dogs on a property) for practical reasons. The people who seek permission for more than two dogs are the ones whose dogs are not going to cause a problem. In addition, most people are unaware of the Policy prior to registering a puppy at three months of age, and it would be unacceptable to say at that stage (after a month of ownership) that they can no longer keep their puppy.

6.63 EIL noted that Part 8 of the Policy (number of dogs) could be removed entirely, because clause 10.2 of the Bylaw gives Dog Control Officers the authority to reduce the number of dogs on the premises if any dog has become, or is likely to become, a nuisance to any person or injurious to the health of any person.

### *Options*

- Option A — Status quo: no more than two dogs can be kept on any property in the urban area without written permission from the Council.
- Option B — Rely on Council's ability to reduce the number of dogs if necessary, under clause 10.2 of the Bylaw. (Consequent amendments — delete the urban area definition from the Bylaw and the map of the Nelson Urban Area from both the Dog Control Policy and Bylaw, as this relates to Part 8 of the Policy.)

### *Recommendations and Reasons*

6.64 Option B is recommended because this provides Council with the authority it needs to manage nuisance and health issues associated with multiple dogs.

### **Enforcement provisions to be amended**

6.65 The current provisions are shown below (with the proposed changes noted in tracking).

6.66 EIL officers identified some minor inconsistencies between how the enforcement process is carried out by Council and the current text in the Policy and Bylaw. They also recommended some changes to better



## Item 8: Review of the Dog Control Policy and Bylaw

reflect the Dog Control Act 1996. These changes are listed below and included in section 9 of the SOP (Attachment 5).

### 6.67 Amend the wording of the Policy as follows:

- Clause 4.1 of the Policy — change the last sentence of clause 4.1 to “Non compliance with this notice ~~will~~ may result in enforcement action.”
- Clause 7.5 of the Policy — Amend to “Where the offence relates to a failure to register a dog, Council will issue a notice that a dog is not registered. Then, if the registration fee is not paid within seven days, the owner will receive an Infringement Notice.”

### 6.68 Amend Clause 10.2 of the Bylaw to refer to both dog owners, and to owners and occupiers of premises, as follows.

If, in the opinion of a Dog Control Officer, any dog has become or is likely to become a nuisance to any person or injurious to the health of any person, the Dog Control Officer may, by notice in writing, require the dog owner or the owners or occupiers of the premises at which the dog is kept, within a time specified in such notice to do all or any of the following:

- a) reduce the number of dogs on the premises;
- b) construct, alter, reconstruct or otherwise improve the kennels or other buildings or fences used to house or contain the dog;
- c) tie up or otherwise confine the dog during specified periods;
- d) take such other action as necessary to minimise or remove the likelihood of nuisance or injury to health.

### *Options*

- Option A — Status quo — some inconsistencies remain between the Policy/Bylaw and Council’s enforcement approach.
- Option B — Consistency between the Policy/Bylaw and both Council’s enforcement approach.

### *Recommendations and Reasons*

### 6.69 Option B is recommended because these changes will more accurately reflect the enforcement process carried out by Council.

### **All other aspects of the Policy and Bylaw to be open to review**

### 6.70 All other aspects of the Policy and Bylaw will be open to review and potential amendment in response to public feedback. This is an

## Item 8: Review of the Dog Control Policy and Bylaw

opportunity for people to suggest other changes which have not yet been considered.

### **Dog Park to be investigated**

- 6.71 During the previous consultation process on the Dog Control Policy and Bylaw in 2012, Council committed to investigating a number of sites that may be suitable for a fenced dog park. Provision of this park is outside of the scope of the Policy and Bylaw, but Council is likely to receive submissions on this topic.
- 6.72 Funding has been allocated in 2019/20 for investigation, engagement and consents related to a dog park, with construction programmed in 2020/21. The location of this park has not yet been determined.

## **7. Conclusion**

- 7.1 Completing the review of the Dog Control Policy and Bylaw by February 2020 will mean the Bylaw will not be due for its next review until February 2030. It will also ensure an enforceable bylaw continues to be in place after 25 February 2020.
- 7.2 Commencing a special consultation procedure on 27 January 2020 will enable Council to consider public feedback on the proposed changes, and any other changes suggested by submitters.
- 7.3 The next steps in the process are:
- public consultation period from 27 January to 28 February 2020
  - hearing of submitters who wish to speak on 25-26 March 2020
  - deliberations on 23 April 2020
  - adoption of an amended Policy and Bylaw by Council to follow.

**Author: Matt Heale, Manager Environment**

### **Attachments**

- Attachment 1: A2298783 Stakeholder Engagement - Dog Control Bylaw [↓](#)
- Attachment 2: A2145327 Dog Control Bylaw [↓](#)
- Attachment 3: A2145324 Dog Control Policy [↓](#)
- Attachment 4: A2298620 Communications Plan [↓](#)
- Attachment 5: A2145304 - Statement of Proposal - Dog Control Bylaw [↓](#)
- Attachment 6: A2145310 - Summary of Statement of Proposal - Dog Control Bylaw [↓](#)
- Attachment 7: A2122940 Map - Proposed Dog Bylaw Changes and Grazing Changes [↓](#)

<b>Important considerations for decision making</b>
<p><b>1. Fit with Purpose of Local Government</b></p> <p>This report seeks to enable local decision making and action by and behalf of communities by seeking to commence community engagement on the review of the Dogs Policy and Bylaw. The proposed amendments to the Policy and Bylaw seek to promote environmental wellbeing by enhancing health and safety in relation to how dogs are managed.</p>
<p><b>2. Consistency with Community Outcomes and Council Policy</b></p> <p><i>Our unique natural environment is healthy and protected — our open spaces are valued for recreation and we welcome the many visitors who want to experience our extraordinary natural environment.</i></p> <p>The role of the Dog Control Policy and Bylaw is to ensure everyone has good access to open spaces for recreation.</p> <p><i>Our communities are healthy, safe, inclusive and resilient.</i></p> <p>The safety of cyclists and pedestrians, as well as the health benefits of exercise for dog owners and their dogs, are key criteria to be considered when weighing up the options for amending the Dog Control Policy and Bylaw.</p>
<p><b>3. Risk</b></p> <p>One of the criteria which applies to the review of the Dog Control Policy and Bylaw is to minimise conflicts (including dog attacks on dogs, stock and people) as well as crashes between dogs and cyclists.</p>
<p><b>4. Financial impact</b></p> <p>Deleting the GDO Policy will mean savings in administration costs (approximately \$16,500 per annum) and increased revenue from registration fees (\$48,750 immediately and another \$72,000 over time)</p> <p>There are savings associated with completing the Dog Control Policy and Bylaw Review before February 2020 and having a 10 year review timetable in future.</p>
<p><b>5. Degree of significance and level of engagement</b></p> <p>This matter is of high significance because of its high importance to a relatively large proportion of the community — including dog owners and all users of reserves.</p>

## **6. Climate Impact**

This decision will have no impact on the ability for the Council or district to proactively respond to the impacts of climate change now or in the future and will have no impact on greenhouse gas emissions.

## **7. Inclusion of Māori in the decision making process**

No specific consultation has been undertaken with iwi on the Dog Control Policy and Bylaw.

## **8. Delegations**

On 22 February 2018 the Planning and Regulatory Committee resolved to refer to Council all powers of the Planning and Regulatory Committee relating to the Dog Control Policy and Bylaw. At the Council meeting on 14 November 2019 Council revoked the previous decision to refer this matter to Council.

The Environment Committee has the following areas of responsibility:

- *Bylaws, within the areas of responsibility*
- *Environmental regulatory matters including (but not limited to) animals and dogs*

*Delegations:*

*The committee has all of the responsibilities, powers, functions and duties of Council in relation to governance matters within its areas of responsibility, except where they have been retained by Council, or have been referred to other committees, subcommittees or subordinate decision-making bodies.*

*The exercise of Council's responsibilities, powers, functions and duties in relation to governance matters includes (but is not limited to):*

- *Reviewing and determining whether a bylaw or amendment, revocation or replacement of a bylaw is appropriate*
- *Undertaking community engagement, including all steps relating to Special Consultative Procedures or other formal consultation processes*

## **Attachment 1 — Stakeholder Engagement**

Council sought feedback from the following organisations during the preparation of this proposal to amend the Dog Control Policy and Bylaw.

- Dog Owner Group
- Halifax Vets
- Stoke Veterinary Clinic
- Victory Square Veterinary clinic
- SPCA
- NZ Kennel Club representative
- The Nelson Ark
- Health professionals who submitted on the Proposed 2012 Dog Control Policy and Bylaw
- Public Health Services Nelson Marlborough DHB
- Birdlife on Grampians
- The Centre of New Zealand / Botanics Trapping Group
- Marsden Valley Trap Line C/- Don Sullivan
- Paremata Flats Restoration Project
- Titoki Reserve Native Recovery Group
- Friends of the Maitai
- Cycling Nelson
- Bicycle Nelson Bays
- Cycling Advocates Network
- Nelson Mountain Bike Club
- The farmer who grazes stock in Council reserves
- Monaco Reserve off-leash advocates (who made a petition in 2014)
- Nayland Kindergarten
- Nayland Primary School
- Nayland College
- Broadgreen Intermediate
- Department of Conservation



**DOG CONTROL BYLAW NO. 221**  
**January 2020**

**— with proposed amendments**



Nelson City Council Dog Control Bylaw No.221  
~~February 2013~~ with Proposed Amendments

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## **1 INTRODUCTION**

- 1.1 The title of this Bylaw shall be the "Dog Control Bylaw 2020."
- 1.2 The Bylaw shall come into effect on [x month] 2020.

## **2 DEFINITIONS**

Terms and expressions defined in the Dog Control Act 1996 shall, when used in this Bylaw, have the meanings defined in the Act.

**Act** - Means the Dog Control Act 1996.

**City** - Means the territory of the City of Nelson as defined in Part 2 of Schedule 2 to the Local Government Act 2002.

**The Council** - Means the Nelson City Council.

**Playing area** - Means that part of any sports ground which at the material time is marked out or otherwise set aside for the playing of any active sport.

**Under control** – Means that at all times a dog is able to be restrained or to obey commands.

## **3 DOGS PROHIBITED**

- 3.1 No person shall allow any dog of which they are the owner to enter upon or remain on any part of any public place or area specified in Schedule One.

## **4 DOGS PERMITTED ON A LEASH**

- 4.1 No person shall allow any dog of which they are the owner to enter upon or remain on any part of any public place or area specified in Schedule Two, unless the dog is at all times controlled on a leash.
- 4.2 Clause 4.1 does not apply to dogs under the direction of the Nelson Dog Training Club.

## **5 DOGS IN ALL OTHER PUBLIC PLACES**

- 5.1 In all public places where dogs are not prohibited or required to be on a leash, dogs must be kept under control by the owner. It is the responsibility of the owner to decide whether this control can be achieved off leash or on a leash. Nothing in this clause absolves the owner from the obligation to carry a leash at all times while he or she is with the dog in a public place.
- 5.2 Every dog owner shall ensure that at all times the dog is under an appropriate degree of control which will ensure that the dog does not cause a nuisance to any other person, or rush at or startle any person in a manner that causes that person to be injured or endangered, or causes any property to be damaged or endangered.

## **6 EXEMPTIONS**

- 6.1 A working dog, as defined in the Act as well as any Land Search and Rescue dog, is exempted from Clauses 3, 4 or 5 above, while it is engaged in or being used for its working purpose.
- 6.2 Nothing in Clauses 4 or 5 shall prevent the Council from excluding dogs from any area for the purpose of holding an event.
- 6.3 Nothing in Clauses 3 or 4 shall prevent the Council from granting permission for dogs to enter a Schedule One or Two area for a special purpose such as feral animal control or the management of indigenous wildlife.
- 6.4 Clauses 6.1 and 6.3 do not negate the need to apply for a dog control permit from the Department of Conservation where such a permit is required to take a dog onto land administered by the Department of Conservation.

## **~~7~~ NUMBER OF DOGS**

- ~~7.1 No occupier of any land or premises within the City, shall keep, or allow to be kept on the land or premises for any period exceeding seven days, more than two dogs over the age of three months.~~
- ~~7.2 Clause 8.1 shall not apply to any occupier of any land or premises within the City who had more than two dogs in February 2013. They have an "existing use right" to continue to own their existing dogs, until the end of the dogs' lives. Written permission will be required for ownership of any additional dogs after this date.~~
- ~~7.3 Clause 8.1 shall not apply to any occupier of any land or premises within the City who has written permission from the Council to keep more than two dogs.~~
- ~~7.4 Clause 8.1 shall not apply to any occupier of any land or premises which is outside of the urban area shown on the map attached to this Bylaw.~~

## **8 SEIZURE OF ROAMING DOGS**

- 8.1 Any dog found wandering free at large on public or private property, whether or not it is wearing a collar having the proper registration label or disc attached as required by the Act, may be seized and impounded by any Dog Control Officer, Dog Ranger or other person authorised by the Council.

## **9 DOGS WITH CONTAGIOUS DISEASES**

- 9.1 No owner of any dog with a contagious disease shall take the dog to a public place, or allow the dog to remain in a public place.

## **10. NUISANCES OR INJURY TO HEALTH**

- 10.1 The owner of any dog or the owner or occupier of any premises where any dog is customarily kept, shall take all reasonable steps to ensure that the dog does not cause a nuisance to any person or be likely to be injurious to the health of any person.

- 10.2 If, in the opinion of a Dog Control Officer, any dog has become or is likely to become a nuisance to any person or injurious to the health of any person, the Dog Control Officer may, by notice in writing, require the dog owner or the owners or occupiers of the premises at which the dog is kept, within a time specified in such notice to do all or any of the following:
- a) reduce the number of dogs on the premises;
  - b) construct, alter, reconstruct or otherwise improve the kennels or other buildings or fences used to house or contain the dog;
  - c) tie up or otherwise confine the dog during specified periods;
  - d) take such other action as necessary to minimise or remove the likelihood of nuisance or injury to health.
- 10.3 If, in the opinion of a Dog Control Officer, any dog has become or is likely to become a nuisance any person to whom notice is given under Clause 10.2 who fails to comply with the notice, within the time specified in the notice, shall commit an offence against this Bylaw.
- 10.4 Any dog left in a public place, whether restrained or not, and causing a nuisance or distress to any person by act of aggression, obstruction, noise or otherwise, may be removed by any Dog Control Officer, Dog Ranger or Constable and subsequently impounded.

## **11. DOGS DEFECATING**

- 11.1 The owner of any dog that defecates in a public place or on land or premises other than that on which the dog is normally kept, shall immediately remove the faeces.
- 11.2 Every person, with or in control of any dog in any public place, or on any land or premises other than that on which the dog is usually kept, shall at all times carry on their person a bag or other receptacle suitable for the collection of any faeces which the dog might deposit.

## **12. OFFENCES AND PENALTIES**

- 12.1 Every person who breaches this bylaw commits an offence.
- 12.2 Every person who commits an offence under this Bylaw may have an infringement notice issued to them or be prosecuted for a breach of bylaw under the Dog Control Act 1996 or the Local Government Act 2002.

## **SCHEDULE ONE**

### **Dogs Prohibited Areas**

1. Nelson Airport (unless transporting dogs for air lift in or out of Nelson; or dogs securely restrained in the owner's vehicle).
2. Eastern two thirds of Tahunanui Main Beach.
3. The playing area of any Council sports grounds. The exception is Maitai Cricket Ground, for which the prohibition only applies from October to March each year.
4. Children's playgrounds - the section of the reserve set aside for playground equipment.
5. Nelson City Council Water Reserves (without Council permits):
  - Maitai Valley
  - Roding
6. Brook Conservation Reserve.
7. Any public building owned or controlled by the Council. (Except in respect of the Trafalgar Centre or Stoke Hall when a function involving dogs is being held.)
8. Trafalgar Park.
9. Saxton Field Cricket Oval and the Athletics Track.
10. Saxton Field Hockey and Softball Areas.
11. Haulashore Island.
12. Oyster Island.
13. Haven Holes Reserve.
14. The following Maitai River swimming holes and the listed picnic areas:
  - The picnic area and river bank beside Black Hole - true right side of the river only. (This is the right-hand side, when looking downstream.)
  - Dennes Hole and the adjacent picnic area
  - Sunday Hole and the adjacent picnic area
  - Maitai Camp Hole and the adjacent picnic area.

(This prohibition only applies from 1 December to 31 March each year.)

15. Dogs are prohibited from land administered by the Department of Conservation that is not foreshore and sea bed unless the owner has specific authorisation, for example a dog control permit from the Department of Conservation; or the reserve has Department of Conservation signage identifying where a dog may be taken without a permit. (Dogs are permitted on foreshore and sea bed administered by the Department of Conservation unless it is an area listed in this Schedule.)
16. The beaches and estuary flat of Nelson Haven bounded by the Boulder Bank Scenic Reserve (to the west) and Boulder Bank Drive (to the east) for a distance of 500 metres along each of those boundaries.
17. The Boulder Bank ~~Scenic Reserve~~, from the Cut towards Boulder Bank Drive for 4 kilometres, from October to February.
18. Whakapuaka Raupo Swamp.
19. The fenced area of the foreshore and esplanade reserve at Paremata Flats, including the planted area of the Paremata Flats Reserve.
20. Delaware Estuary margins, and islands within the estuary.
21. Dogs are permitted to be off leash on the formed cycling and walking tracks within Marsden Valley Reserve, including Involution Trail. However, they are prohibited from being in the bush areas (off the tracks) in the part of Marsden Valley Reserve to the east of the Barnicoat Walkway.
22. Sand Island.



## **SCHEDULE TWO**

### **Dogs are Permitted but must be Kept on a Leash**

1. All public footpaths and other public areas within the Central Business District, and within the Stoke and Tahunanui shopping centre.
2. Nelson cemeteries, both active and historic. The active cemeteries are: Marsden Valley Cemetery, Seaview Cemetery, and Hira Cemetery. The historic cemeteries are Wakapuaka Cemetery, the Quakers Cemetery on Wellington Walkway and the Hallowel Cemetery near Shelbourne Street.
3. Horticultural Parks. These are: Miyazu Japanese Gardens, Anzac Memorial Park, Church Hill, Melrose Gardens, Queens Gardens, Broadgreen Gardens and Isel Park. The exception to the on leash requirement is the less cultivated part of Isel Park which begins at Main Road Stoke and extends to the Isel Park entrance gate, as well as the area south of the access road beyond the Isel Park entrance gate. This exception applies when events are not being held in Isel Park.
4. Neighbourhood Parks – excluding those listed in Schedule Three.
5. The sand and mudflats of Delaware Estuary.
6. Around the playing areas of sports fields when games or training sessions are occurring. (At other times dogs may be off lead on sports grounds other than the playing area of sports grounds.)
7. The Maitai walkway, from the river mouth up to the Collingwood Street bridge.
8. Council-owned, grazed reserves Council-owned, grazed reserves, including:
  - part of the Grampians Reserve
  - part of the Sir Stanley Whitehead Walkway
  - part of the Tantragee Reserve (Tantragee Walkway area)
  - part of the Maitai River esplanade reserve.

(Note: The grazed part of Paremata Flats Reserve continues to be an off-lead area.)

9. The Boulder Bank. (Note: the Boulder Bank from the Cut toward Boulder Bank Drive for 4 kilometres is a dogs prohibited area from October to February.

### **SCHEDULE THREE**

#### **Neighbourhood Parks in which Dogs may be Off Lead**

1. Abraham Heights Reserve.
2. Andrews Farm Reserve.
3. Bayview Road Reserve (North).
4. Betsy Eyre Park.
5. Bishopdale Reserve.
6. Bishop's Park.
7. Bledisloe North Reserve.
8. Branford Park.
9. Corder Park.
10. Custom House Reserve.
11. Emano East Reserve.
12. Emano West Reserve.
13. Fairfield Park.
14. Grampian Oaks Reserve.
15. Hanby Park.
16. Hira Reserve.
17. Kowhai Reserve.
18. Monaco Reserve.
19. Murphy North Reserve.
20. Murphy South Reserve.
21. Ngapua Reserve.
22. Nikau Reserve.
23. Orchard Reserve.
24. Pipers Park.
25. Poplar Reserve.

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~~February 2013~~ with Proposed Amendments

- 26. Queen Elizabeth II Reserve.
- 27. Station Reserve.
- 28. Songer Reserve.
- 29. Tosswill Reserve.
- 30. Waterhouse Reserve.
- 31. Wolfe Reserve.
- 32. Woodstock Reserve.

## Item 8: Review of the Dog Control Policy and Bylaw: Attachment 2

Nelson City Council Dog Control Bylaw No.221  
~~February 2013~~ with Proposed Amendments

~~Map of the Nelson Urban Area~~



## **DOG CONTROL POLICY**

**January 2020**

**— with proposed amendments**

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## **1 Introduction**

- 1.1 Nelson is known as a place that welcomes dogs, recognising the role they play in:
- Encouraging people to exercise, as they take their dogs for a walk or run.
  - Enhancing social wellbeing, as dog owners interact with others while exercising their dogs.
  - Providing companionship for many people. This is particularly important for people living on their own, which is an increasing trend.
- 1.2 The Council is also mindful of the need to minimise adverse impacts of dogs on the community. The Dog Control Act 1996 (the Act) places an obligation on the Council to adopt a policy about dogs, and to adopt a bylaw to give effect to this policy. In adopting a policy under section 10 of the Act, the Council must have regard to:
- the need to minimise danger, distress, and nuisance to the community generally; and
  - the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults; and
  - the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and
  - the exercise and recreational needs of dogs and their owners.

## **2 Dogs in Public Places**

- 2.1 Some areas have been set aside as areas where dogs are not allowed to go at all, where there are important recreation, conservation or human safety values to be protected.
- 2.2 There are high concentrations of people in Nelson's central business district, and the Stoke and Tahunanui shopping centres. For this reason, it is safer to require dogs to be on a leash in these areas.
- 2.3 Neighbourhood parks are generally relatively small and are commonly used by children. To avoid risks to children, dogs should be on a leash 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.

- 2.4 In all public places where dogs are not prohibited or required to be on a leash, dogs must be under the control of their owner at all times. Some owners are able to control their dogs using voice commands, and others will need to have their dogs on a leash to achieve adequate control. It will be the responsibility of the dog owner to decide how best to ensure they are in control of their dog's movements and actions.

### **Dogs Prohibited**

- 2.5 No person shall allow any dog of which they are the owner to enter upon or remain on any part of any public place or area specified in Schedule One.

### **Dogs Permitted on a Leash**

- 2.6 No person shall allow any dog of which they are the owner to enter upon or remain on any part of any public place or area specified in Schedule Two, unless the dog is at all times controlled on a leash.

### **Dogs in all other Public Places**

- 2.7 In all public places where dogs are not prohibited or required to be on a leash, dogs must be kept under control by the owner. It is the responsibility of the owner to decide whether this control can be achieved off leash or on a leash. Nothing in this clause absolves the owner from the obligation to carry a leash at all times while he or she is with the dog in a public place.
- 2.8 Every dog owner shall ensure that at all times the dog is under an appropriate degree of control which will ensure that the dog does not cause a nuisance to any other person using the area, or rush at or startle any person in a manner that causes that person to be injured or endangered, or causes any property to be damaged or endangered.
- 2.9 The ability to exercise dogs without a leash does not absolve owners from their obligation under the Act to ensure that their dog is kept under control, and to carry a leash at all times while with the dog in a public place.
- 2.10 Keeping a dog under control includes the obligation to ensure that the dog does not stray on to any private property.

### **Exemptions**

- 2.11 A working dog, as defined in the Dog Control Bylaw 2013, is exempted from clauses 2.6, 2.7 and 2.8–2.11 subject to conditions, while it is engaged in or being used for its working purpose.
- 2.12 Nothing in clauses 2.6, 2.7 and 2.8–2.11 shall prevent the Council from excluding dogs from any area for the purpose of holding an event.
- 2.13 Nothing in the above clauses (dogs prohibited, dogs permitted on a leash) shall prevent the Council from issuing a permit for dogs to enter a Schedule One or Two area for a special purpose such as feral animal control or the management of indigenous wildlife.

### **3 Registration Fees**

- 3.1 The Council has adopted a fee structure which recognises the following types of dogs:
- Urban Dogs.
  - Rural Dogs. Note: Dogs and their owners are classified as Rural if they reside on a property which has an area in excess of 1 hectare.
  - ~~Dogs on the Good Dog Owner scheme (refer Clause 7.4).~~
  - Police dogs, Search and Rescue Dogs and any disability assist dogs.
  - Dogs classified as dangerous.
- 3.2 The Act requires that all money received from registration fees or other charges levied under the Act are to be applied only for purposes authorised by or under the Act. The Council acknowledges that good dog owners tend to subsidise the cost of activity related to irresponsible owners and to this end will encourage owners to take responsibility for their dogs to ensure that fees can be kept as low as possible.
- 3.3 The Council will endeavour to operate the Pound on a cost recovery basis so that, as far as possible, Council operates a user pays system.

### **4 Barking Dogs**

- 4.1 Section 55 of the Act authorises Dog Control Officers to issue an abatement notice to any person who owns a dog which the Officer considers is causing a nuisance by persistent and loud barking or howling. Non compliance with this notice will may result in enforcement action.
- 4.2 Section 56 authorises the Officer to remove the dog from the property if the owner takes no action and a further complaint is received.
- 4.3 The Council will continue to implement these provisions on complaint.

### **5 Dogs with Contagious Diseases**

- 5.1 No owner of any dog with a contagious disease shall take the dog to a public place, or allow the dog to remain in a public place.

### **6 Menacing and Dangerous Dogs**

- 6.1 The Act contains a number of provisions which enable the Council to require specific control action to be taken in respect of menacing and dangerous dogs.
- 6.2 A menacing dog is one which has not been classified as a dangerous dog, but which the Council considers may pose a threat to any person, stock, poultry or domestic animal or protected wildlife because of observed or

reported behaviour or any characteristics typically associated with the breed or type.

- 6.3 The Council must classify a dog as a menacing dog if it believes that the dog belongs wholly or predominantly to one or more breeds or types listed in Schedule 4 of the Act.
- 6.4 Section 30A of the Act states that no person may import into New Zealand any dog that belongs wholly or predominantly to one or more breed or type of dog listed in Schedule 4 of the Act (listed below). Breed of dog:
- Brazilian Fila.
  - Dogo Argentino.
  - Japanese Tosa.
  - Perro de Presa Canario.

Type of dog:

- American Pit Bull Terrier.
- 6.5 In accordance with section 31(1) of the Act, a territorial authority must classify a dog as a dangerous dog if:
- the owner of the dog has been convicted of an offence in relation to the dog under section 57A(2); or
  - the territorial authority has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on one or more occasions, reasonable grounds to believe that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife; or
  - the owner of the dog admits in writing that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.
- 6.6 Sections 31 to 33 of the Act outline the reasons why, and the manner in which, a dog may be classified as dangerous, and the obligations which this imposes on an owner which includes having the dog on a leash and muzzled when in public and compulsory neutering of the dog.
- 6.7 Sections 33A to 33EC of the Act contain similar provisions relating to menacing dogs. These dogs are also required to be on a leash and muzzled when in public but neutering of these dogs is at the discretion of the Council. As a matter of policy, the Council will require all dogs classified as menacing to be neutered, including dogs which are classified as menacing by other territorial authorities and which are later registered in Nelson.
- 6.8 The Council will require the neutering of any dog of the breed or type to which section 30A of the Act applies, and will require any other dog to be neutered when the classification is confirmed.

## **7 Enforcement**

- 7.1 The Act provides that the Council may issue Infringement Notices which provide an instant fine for a number of offences. As the Council's aim is to promote owner responsibility, an education and advisory approach will generally be taken. However, enforcement action may be taken against repeat offenders. Infringement Notices may be preceded by a written warning. In those instances where the actions of the owner amount to a wilful disregard for the safety or convenience of any person or animal, or a fraudulent or deliberate attempt to circumvent the requirements of the Act or the Dog Control Bylaw 2020, an Infringement Notice is likely to be issued without warning.
- 7.2 Where a written warning is ignored, or the offence is repeated within two years, or the behaviour is seen to be becoming habitual, a person may receive further Infringement Notices or be prosecuted.
- 7.3 In certain circumstance (for example where it is a serious offence) enforcement action may proceed directly by way of prosecution.
- 7.4 Any dog found at large in any public place at any time, in contravention of the Dog Control Bylaw 2020, may be seized and impounded by any Dog Control Officer, Dog Ranger or other person authorised by the Council. Consideration will be given to reducing impounding fees on a case by case basis, if the dog owner carries out an assessment of their property and rectifies any fencing inadequacies. Council will assist in assessment of properties if requested.
- 7.5 The Council will enforce the requirement for owners to remove their dog's faeces and the Dog Control Bylaw 2020 will require persons to have a bag with them when exercising any dog.
- 7.6 Where the offence relates to failure to register a dog, Council will issue a notice that a dog is not registered. Then, if the registration fee is not paid within seven days, the owner will receive an Infringement Notice.
- 7.7 Section 42 of the Act authorises a Dog Control Officer to enter any land or premises (except a dwelling house) occupied by the owner of the dog for the purpose of seizing and impounding an unregistered dog.
- 7.8 The Council will also make use of the provisions of the Act relating to Probationary Owners and Disqualification of Owners to, over time; improve the level of owner responsibility or to bar irresponsible persons from future ownership or control of any dog.

## **8 Owner Education**

- 8.1 The Council carries out the following initiatives to encourage responsible dog ownership. These are:
- The Doggy Do project.
  - ~~The Good Dog Owner Policy.~~

- ~~Information for dog owners, and the wider community. Publicity material~~
- Patrols by Dog Control Officers

### **The Doggy Do Project**

- 8.2 The Council provides dispensers for plastic rubbish bags as a convenience for people exercising their dogs in a number of areas within the city. The presence of these is one way the Council can encourage owners to pick up their dog's faeces.
- 8.3 However, the main focus will continue to be on the owner's personal responsibility to remember to take a bag and to pick up after their dogs. The provision of dispensers is limited to high use sites only. Dog owners will also be encouraged to make use of bags which are readily available from other sources such as recycled bread bags and plastic shopping bags.

### **~~Good Dog Owner Policy~~**

~~A new Good Dog Owner policy takes effect from July 2013:~~

- ~~Substantial Good Dog Owner discount applies on an annual basis for meeting the following three conditions: Having no more than one minor, proven complaint/impounding; and~~
  - ~~Having adequate fencing or other means of containing their dog on the property, and complying with standard welfare requirements for water, shelter and food (spot checks will apply); and~~
  - ~~Paying registration fees on time.~~
- ~~An ongoing discount applies for any dog that is either neutered, or for dogs registered as members of the New Zealand Kennel Club.~~
- ~~One voucher will be available per dog, for all dog owners towards attending a recognised training course or 1:1 training to address a behavioural issue (only payable by Council, if it is redeemed with an approved provider).~~

### **Publicity Material**

- 8.4 The Council will provide information to owners and carry out periodic publicity of dog control matters.
- 8.5 The Council will produce pamphlets and website information that includes maps clearly identifying dog prohibited areas and areas where dogs are required to be on a leash. Guidance will also be provided on:
- What dog owners can do to avoid conflicts with other people in the community, including respecting the space around other people (particularly children and cyclists) when exercising dogs.



- Locking extendable dog leashes where there is a risk of tripping cyclists and pedestrians.
  - Dog training options.
- 8.6 The Council will also provide signage in high use areas which will include the contact details for Dog Control.

### **Patrols by Dog Control Officers**

- 8.7 One important education tool is the advice and assistance which Dog Control Officers can provide to dog owners and to the general public. Dog Control Officers will be readily visible to the public through patrols aimed at assisting dog owners using the more popular public places to understand the obligations imposed on them by the Act and the Council's Dog Control Bylaw 2013.

## **9 ~~Number of Dogs~~**

~~No more than two dogs can be kept on any property in the urban area without written permission from the Council. (The extent of Nelson's urban area is shown on the map attached to both the Dog Control Policy and Dog Control Bylaw 2013.) Puppies up to three months old are exempt from this limit.~~

~~There will be a one-off additional charge for keeping more than two dogs on an urban property, to cover the costs of reviewing the suitability of the property for more than two dogs. Assessment, and any conditions imposed on the dog owner, will be focused on all reasonable steps being taken to ensure that the dogs will not cause a nuisance to any person or be likely to be injurious to the health of any person.~~

~~Dog owners who have more than two dogs in February 2013 will have an "existing use right" to continue to own their existing dogs, until the end of the dogs' lives. Written permission will be required for ownership of any additional dogs after this date.~~

~~This approach will increase the Council's ability to control the effects of multiple dogs without generating high administration costs.~~

~~There are no limits on the number of dogs that may be kept on a property which is not within the urban area~~

## **10 Co-operation with Other Organisations**

### **Ministry of Agriculture**

- 10.1 The Ministry for Primary Industries now has responsibility for the control and eradication of true hydatids and sheep measles under the provisions of the Biosecurity Act 1993.
- 10.2 There is no requirement for people to dose their dogs for hydatids or sheep measles. However, Council publicity material will explain the benefits of general worming of dogs and it will be up to the dog owner to talk to their vet about the best worming regime for their dog.

### **Society for Prevention of Cruelty to Animals**

- 10.3 The Council will work in conjunction with the Society for Prevention of Cruelty to Animals where possible to promote dog welfare.
- 10.4 The Council will periodically review its assistance to the Society for Prevention of Cruelty to Animals in respect of euthanasia of unwanted dogs or other services to ensure that this represents an appropriate benefit to the community.

### **Interest Groups**

- 10.5 The Council will continue to liaise with relevant interest groups.

## **11 Bylaws**

- 11.1 The Council is required to introduce a bylaw to give effect to this policy.
- 11.2 The approach of the Dog Control Bylaw 2020 is to ensure as far as possible that:
- Dog owners are not penalised for owning a dog.
  - Members of the public are able to make use of the public areas within the city without intimidation or inconvenience brought about through the actions of dogs or their owners.
  - The welfare of dogs kept within the city is preserved and/or enhanced.
  - Dogs do not pose threats to rare or protected wildlife.

### **Dog Control Bylaw 2020 Provisions**

- 11.3 The Dog Control Bylaw 2020 makes provision for the following matters:
- Specifying areas where dogs are prohibited.
  - Specifying areas where dogs are required to be on a leash.
  - Seizing and impounding of any dogs found wandering at large on public or private property.
  - Requiring owners of dogs with contagious diseases to keep them away from public places.
  - Requiring owners to ensure their dog does not cause a nuisance or an injury to any person.
  - Requiring persons controlling a dog to remove its faeces from property other than that occupied by that person.
  - Impounding of dogs.

## **12 Operation of a Pound**

- 12.1 The Council will operate a pound for the temporary confinement of any dog which is seized by a Dog Control Officer pursuant to the provisions of the Act. This includes:
- Wandering dogs.
  - Barking dogs causing distress.
  - Dogs attacking persons or animals.
  - Dogs rushing at persons, animals or vehicles.
  - Dogs in the vicinity of protected wildlife.
  - Unregistered dogs.
- 12.2 All impounded dogs will be retained in the pound for at least the required time in order to give the owners an opportunity to reclaim them. Unless reclaimed, and all fees and charges paid, the dogs will be disposed of in accordance with the Act.

## **SCHEDULE ONE**

### **Dogs Prohibited Areas**

Dogs are prohibited from the following areas for the reasons as set out:

1. Nelson Airport (unless transporting dogs for air lift in or out of Nelson; or dogs securely restrained in the owner's vehicle). This is for safety reasons.
2. Eastern two thirds of Tahunanui Main Beach. This is an important beach providing seaside recreation/swimming for a large number of residents and visitors to enjoy, free from nuisance or inconvenience. In addition the setting aside of the western end of the beach and the back beach area for dogs provides adequate opportunity for swimming, beach exercise and socialising.
3. The playing area of any Council sports grounds. The exception is Maitai Cricket Ground, for which the prohibition only applies from October to March each year.

Playing areas of sports fields used for active recreation – dogs are not compatible with active recreational pursuits and owners need to ensure that their dogs are kept off the marked playing fields. However, dogs are allowed to exercise around the edges of these areas. The exception is Maitai Cricket Ground, for which the prohibition only applies from October to March each year.

4. Children's playgrounds - the section of the reserve set aside for playground equipment. One of the main areas of concern in respect of children's interaction with dogs is that they are generally instantly attracted to animals. This coupled with the pack instincts of adult dogs can lead to instances of biting and other injurious behaviour. In addition, the bark surfaces of playgrounds mean that faeces left by dogs can be overlooked.
5. Nelson City Council Water Reserves (without Council permits):
  - Maitai Valley
  - Roding

In order to preserve the integrity of the city water supply and the natural environment of the catchments, dogs are not permitted within the Maitai and Roding Water Reserves. However, permits may be given for dogs to be used in these areas for specific feral animal control purposes.

6. Brook Conservation Reserve. This area is being developed as a wildlife sanctuary and dogs are not compatible with this aim. However, permits may be given for dogs to be used in this area for specific conservation purposes.

7. Any public building owned or controlled by the Council (except in respect of the Trafalgar Centre or Stoke Hall when a function involving dogs is being held).
8. Trafalgar Park.
9. Saxton Field Cricket Oval and the Athletics Track.
10. Saxton Field Hockey and Softball Areas.

(This reason applies to 7, 8, 9 and 10): It is not appropriate for dogs to be brought into facilities where people are undertaking recreational pursuits or leisure time activities, or engaged in business. Any disability assist dogs or dogs used by the Police or other agencies are exempt from this prohibition. The prohibition excludes approved dog shows at the Trafalgar Centre and Stoke Hall.

11. Haulashore Island. This island provides important wildlife habitats which need to be protected from predatory animals.
12. Oyster Island. This island provides important wildlife habitats which need to be protected from predatory animals.
13. Haven Holes Reserve. The area is being developed as a wading bird habitat.
14. The following Maitai River swimming holes and the listed picnic areas:
  - The picnic area and river bank beside Black Hole - true right side of the river only. (This is the right hand side, when looking downstream.)
  - Dennes Hole and the adjacent picnic area.
  - Sunday Hole and the adjacent picnic area.
  - Maitai Camp Hole and the adjacent picnic area.

(This prohibition only applies from 1 December to 31 March each year.) The Maitai swimming holes and adjacent picnic areas are important and highly popular recreation and swimming spots for large numbers of residents and visitors of all ages. The high numbers of families frequenting these areas during summer months can lead to potential conflict between children and dogs. Further, because the spaces are confined the potential approach and movement of dogs through people's picnics can be intimidating for some members of the public. When use is high there is also increased potential for conflict between dogs. In addition, any dog faeces left uncollected becomes a health risk. The nature of the river bank means that detection and clean up of faeces is more difficult and can be easily overlooked by owners. The setting aside of the river bank and picnic area on the true right side of Black Hole, whilst retaining the option for dogs to swim in this hole by accessing it from the true left side (the side with the Maitai walkway), still provides dogs with ample exercise and swimming opportunities.

There are also picnic tables on this side of the river, allowing people to picnic with their dogs. Dog owners are still able to park their cars on the true right hand side of the river near Black Hole and walk across the nearby bridge to access the true left side of the river. The high levels of cyanobacteria detected immediately upstream of Dennes Hole means that this swimming hole is not suitable as a dog swimming area during summer months.

15. Dogs are prohibited from land administered by the Department of Conservation that is not foreshore and sea bed unless the owner has specific authorisation, for example a dog control permit from the Department of Conservation; or the reserve has Department of Conservation signage identifying where a dog may be taken without a permit. (Dogs are permitted on foreshore and sea bed administered by the Department of Conservation unless it is an area listed in this Schedule.)
16. The beaches and estuary flat of Nelson Haven bounded by the Boulder Bank Scenic Reserve (to the west) and Boulder Bank Drive (to the east) for a distance of 500 metres along each of those boundaries. This area provides important habitat, roosting and nesting sites for endangered wader birds and needs to be protected from dog disturbance.
17. ~~The Boulder Bank-Scenic Reserve~~, from the Cut towards Boulder Bank Drive for 4 kilometres, from October to February, to protect nesting birds.
18. Whakapuaka Raupo Swamp. It potentially has high biodiversity values as a bird sanctuary as the wetland improves, creating habitat for rails and crakes.
19. The fenced area of the foreshore and esplanade reserve at Paremata Flats, including the planted area of Paremata Flats Reserve. A number of bird species, including banded rail, have established following fencing and extensive pest eradication works in this area. Permits may be given for dogs to be used in these areas for specific feral animal control purposes.
20. Delaware Estuary margins, and islands within the estuary – due to the presence of rare ground nesting birds.
21. Dogs are permitted to be off leash on the formed cycling and walking tracks within Marsden Valley Reserve, including Involution Trail. However, they are prohibited from being in the bush areas (off the tracks) in the part of Marsden Valley Reserve to the east of the Barnicoat Walkway. This part of Marsden Valley Reserve, which is largely native bush, is habitat for a growing weka population. Permits may be given for dogs to access areas beyond the formed tracks for specific feral animal control purposes.
22. Sand Island. This site is of regional and national importance as both a breeding and roosting site for a number of birds including: Black Fronted Tern, Black-billed Gull, Pied Shag, Red-billed Gull, Caspian Tern, South Island Pied Oystercatcher, White-fronted Tern

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and the Variable Oyster Catcher. In addition, Godwits roost on this island during spring tides.



## **SCHEDULE TWO**

### **Dogs are Permitted but must be Kept on a Leash**

1. All public footpaths and other public areas within the Central Business District, and within the Stoke and Tahunanui shopping centres.
2. Nelson cemeteries, both active and historic. The active cemeteries are: Marsden Valley Cemetery, Seaview Cemetery, and Hira Cemetery. The historic cemeteries are Wakapuaka Cemetery, the Quakers Cemetery on Wellington Walkway and the Hallowel Cemetery near Shelbourne Street.
3. Horticultural Parks. These are: Miyazu Japanese Gardens, Anzac Memorial Park, Church Hill, Melrose Gardens, Queens Gardens, Broadgreen Gardens and Isel Park. The exception to the on leash requirement is the less cultivated part of Isel Park which begins at Main Road Stoke and extends to the Isel Park entrance gate, as well as the area south of the access road beyond the Isel Park entrance gate. This exception applies when events are not being held in Isel Park.
4. Neighbourhood Parks – excluding those listed in Schedule Three.
5. The sand and mudflats of Delaware Estuary.
6. Around the playing areas of sports fields when games or training sessions are occurring. (At other times dogs may be off leash on sports grounds other than the playing area of sports grounds.)
7. The Maitai walkway, from the river mouth up to the Collingwood Street bridge.
8. Council-owned, grazed reserves, including:
  - part of the Grampians Reserve
  - part of the Sir Stanley Whitehead Walkway
  - part of the Tanragee Reserve (Tanragee Walkway area)
  - part of the Maitai River esplanade reserve

(Note: The grazed part of Paremata Flats Reserve continues to be an off-leash area.)
9. The Boulder Bank. (Note: the Boulder Bank from the Cut toward Boulder Bank Drive for 4 kilometres is a dogs prohibited area from October to February.)

### **SCHEDULE THREE**

#### **Neighbourhood Parks in which Dogs may be Off Leash**

1. Abraham Heights Reserve
2. Andrews Farm Reserve
3. Bayview Road Reserve (North)
4. Betsy Eyre Park
5. Bishopdale Reserve
6. Bishop's Park
7. Bledisloe North Reserve
8. Branford Park
9. Corder Park
10. Custom House Reserve
11. Emano East Reserve
12. Emano West Reserve
13. Fairfield Park
14. Grampian Oaks Reserve
15. Hanby Park
16. Hira Reserve
17. Kowhai Reserve
18. Monaco Reserve
19. Murphy North Reserve
20. Murphy South Reserve
21. Ngapua Reserve
22. Nikau Reserve
23. Orchard Reserve
24. Pipers Park
25. Poplar Reserve
26. Queen Elizabeth II Reserve

Nelson City Council Dog Control Policy  
— with Proposed Amendments

- 27. Station Reserve
- 28. Songer Reserve
- 29. Tosswill Reserve
- 30. Waterhouse Reserve
- 31. Wolfe Reserve
- 32. Woodstock Reserve

Nelson City Council Dog Control Policy  
— with Proposed Amendments

**~~MAP OF THE NELSON URBAN AREA~~**



## **Communications Plan**

### **For Dogs Bylaw Consultation**

DATE

**6 November 2019**

## **Project description**

AMENDMENTS TO THE DOG CONTROL POLICY AND BYLAW 2013

March 2019

Council has developed proposed amendments to the Dog Control Policy and Dog Control Bylaw. However, Council welcomes feedback on any of the options included in the full Statement of Proposal. Any new options are also welcome.

Please note that the entire Dog Control Policy 2013 and Dog Control Bylaw 2013 are open for review as part of this consultation, as well as any matters relevant to the Policy and Bylaw that people wish to raise as part of this consultation process. Council, in making its decision, will be taking account of all submissions made.

Consultation on the Bylaw is open from 27 January -28 February 2020

## **Communications objectives**

The communication objectives for this project are to:

- a) Inform and educate the Nelson community about the objectives and purpose of the Dog Control Bylaw.
- b) Encourage people to have their say on the amendments to the Dog Control Bylaw.
- c) Actively involve and engage key stakeholders.

## **Responsibility**

### **Sponsor**

Clare Barton

### **Project Manager**

Matt Heale

### **Communications Adviser**

Caroline Crick

### **Media spokesperson/people**

Clare Barton

### **Councillor or Mayor**

Clr Kate Fulton

## Target audiences

Potential audiences are individuals and groups who are either affected by or have an interest in the outcome – i.e. how dogs are controlled in Nelson

Key stakeholders – include vets, dog owners and their groups, recreational clubs and groups, health professionals, wildlife groups, schools.



Dog control bylaw  
review - Stakeholder c

The general public including individual:

- Dog owners
- Non-dog owners
- Recreation area users (walkways, parks, swimmers, sportspeople)
- Residents with and without dogs
- Property owners

## Key messages

On the Bylaw/amendments

- Council has developed proposed amendments to the Dog Control Policy and Dog Control Bylaw.
- Council welcomes feedback on any of the options included in the full Statement of Proposal.
- Any new options are also welcome.

On the consultation

- **Whether or not you own a dog**, we'd like to know what you think about the proposed amendments to the Bylaw
- Consultation on the Bylaw is open from 27 January -28 February 2020

Overall

- We need a dog control bylaw to ensure that our city:
    - supports good dog ownership'
    - recognises that dog ownership is a privilege, and
    - that pet and working dogs are of great value to their owners
    - Respects the needs of the people and places they come into contact with.
- This will mean that:
- Dangerous dogs are controlled effectively
  - Everyone can enjoy our outdoor spaces safely (including children, families and the elderly)
  - Wildlife are not endangered by dogs



- o Dogs and other domestic pets are not endangered by other dogs
- o Domestic and working dogs have their welfare needs met
- o Dogs do not foul our footpaths, recreation reserves and waterways.

## Internal Communications

- General awareness of Consultation on bylaw
- Internal Stakeholders – parks, environment, EIL
- Customer services
- Councillors newsletter

## Budget and cost code

## Action plan

Record all communications tactics here, identify which communications tools are being used, and who is responsible.

Activity	Date	Deadline	Details	Cost	Staff involved
Media release	27 January	24			Caroline
Our Nelson	22 January	15 January			Caroline
Our Nelson	19 Feb	12 Feb			Caroline
Radio advertising	27 Jan-28 Feb	20 Jan		tbc	Caroline
Website	27 january	20 January	Home page link		Caroline/Duncan
Facebook	27 Jan-28feb		Boosted posts	\$100	Caroline/Scott
Artwork and web content incl upload documents	27 January	20 January	Poster; website graphics	\$300	Caroline, Duncan
Window display	27 Jan-28 feb		Posters, info		Caroline/EIL

## Evaluation

Evaluate the success of your communications plan. Did your communications efforts achieve the objectives you defined? Why or why not? What lessons are to be learned?

Metrics – Facebook reach

Website hits

Our.Nelson reads

Media release pick up



## **Statement of Proposal**

### **AMENDMENTS TO THE DOG CONTROL POLICY AND DOG CONTROL BYLAW 2013**

**January 2020**

## 1. Nelson City Council's proposed amendments to the Dog Control Policy (2013) and the Dog Control Bylaw (2013)

Nelson City Council (**Council**) would like to know what you think of the Dog Control Policy 2020 (**Policy**) and the Dog Control Bylaw 2020 (**Bylaw**) and Council's proposed amendments to them.

The current Policy and Bylaw both came into effect on 25 February 2013 following the consideration of submissions in 2012. The current Policy and Bylaw reflect Council's preferred direction at that time, which was:

- to allow dogs off-leash in most places (if they are under control)
- to require dogs to be on a leash in urban centres and most neighbourhood reserves
- to continue to prohibit dogs from a list of sensitive areas including conservation reserves, the playing surface of sports fields, and playgrounds.

The Council has reviewed both documents and is proposing some changes in approach (described below). We want to know what you think of the proposed changes, as well as any other matters which are relevant to the Policy and Bylaw that you wish to raise as part of this consultation process. In making decisions on this proposal, Council will be taking account of all submissions made.

**The Policy and Bylaw are attached to this Statement of Proposal, with the key changes underlined. Additional improvements have been made to the wording of the Policy and Bylaw to reflect legal advice. To enable you to focus on the key proposals, these detailed changes are not underlined.**

**Paper copies of this document (and a summary) are available at the Council's Customer Service Centre and in Nelson libraries.**

## 2. The Proposal

Detailed analysis of the issues and options is provided in section 4 of this proposal. However, a summary of what is proposed is outlined below.

**Note:** No changes are proposed to the Railway Reserve and Isel Park, but the potential to make changes was considered during the assessment of the 2013 Policy and Bylaw, so these areas are included in the following list.

**The Railway Reserve** — Retain the off-leash status of the Railway Reserve along with signage and publicity on what dog owners can do to avoid conflicts with cyclists, pedestrians and other dogs.

**Isel Park** — Retain the half on-leash and half off-leash approach.

**Good Dog Owner Policy** — Delete the Good Dog Owner Policy.

**Grazed Reserves** — Change from off leash to on-leash status at all times in Council reserves where grazing occurs (except in the grazed part of Paremata Flats ReServe).

**Paremata Reserve and Delaware Inlet** — Prohibit dogs from the planted area at Paremata Flats and Delaware Estuary's vegetation margin and islands.

**Monaco Reserve** — Change from on-leash to off-leash status (other than in the playground).

## Item 8: Review of the Dog Control Policy and Bylaw: Attachment 5

**Boulder Bank** — Change from off-leash to on-leash status for the whole of the Boulder Bank to align with the Department of Conservation (**DOC**) signage in this area. (Note: no change is proposed to the prohibition of dogs in the area from the Cut towards Boulder Bank Drive for 4km, from October to February, to protect nesting birds.)

**Number of Dogs** — Delete Part 9 of the Policy (Number of Dogs) which requires Council permission to keep more than two dogs within the City and rely on Council's ability to reduce the number of dogs if necessary, under clause 10.2 of the Bylaw. (Consequently, delete the Map of the Nelson Urban Area and definition of 'urban area' in the Bylaw and Policy, as these related to the Number of Dogs policy.)

**Enforcement provisions** — Amend clauses 4.1, and 7.5 of the Policy, and clause 10.2 of the Bylaw as follows.

- Section 4.1 of the Policy — change the last sentence of clause 4.1 to "Non compliance with this notice may result in enforcement action."
- Clause 7.5 of the Policy — Amend to "Where the offence relates to a failure to register a dog, Council will issue a notice that a dog is not registered. Then, if the registration fee is not paid within seven days, the owner will receive an Infringement Notice."
- Amend Clause 10.2 of the Bylaw to refer to both dog owners, and to owners and occupiers of premises, as follows. This change enables Council to work with the owner of the dog, the occupiers of the premises at which the dog and/or the owner of the house, as necessary, on issues such as provision of adequate fencing.

"If, in the opinion of a Dog Control Officer, any dog has become or is likely to become a nuisance to any person or injurious to the health of any person, the Dog Control Officer may, by notice in writing, require the dog owner or the owners or occupiers of the premises at which the dog is kept, within a time specified in such notice to do all or any of the following: ..."

**All other aspects of the Policy and Bylaw** — Retain all other aspects of the Policy and Bylaw.

### **Proposed Policy, Bylaw and Maps**

The proposed changes are shown in the attached Policy and Bylaw, and maps. Paper copies are available at Council's Customer Services Centre and in Nelson libraries.

### **Consideration under the Dog Control Act 1996 and the Local Government Act 2002**

This Statement of Proposal to amend the Policy and Bylaw has been prepared in accordance with the following legislation:

- Dog Control Act 1996 (**DCA**), sections 10, 10AA and 20
- Local Government Act 2002 (**LGA**), sections 83, 155 and 156.

Note: Section 10(8) of the Dog Control Act requires Council to use the special consultative procedure when adopting an amended Dog Control Policy.

Section 83 of the LGA states that the special consultative procedure must include:

- A statement of proposal (or a summary of it) being made as widely available as practicable.
- A consultation period of at least one month during which feedback on the proposal may be provided to Council.
- An opportunity for people to present their views to the Council.

### **Determination under Section 155 of the Local Government Act 2002**

In reviewing the Bylaw, determinations must be made under section 155 of the LGA and in the context of reconsideration of the matters in section 10(4) of the DCA.

Section 155 of the LGA requires the identification of a perceived problem with the Bylaw and a determination that a Bylaw is the most appropriate way of addressing the problem. If a Bylaw is identified as the most appropriate method, then further consideration needs to be given to whether the Bylaw is the most appropriate and if not, how it should be amended to be the most appropriate. and whether there are implications under the New Zealand Bill of Rights Act 1990 (**NZBORA**) in relation to the Bylaw and any proposed amendments.

The DCA provides context for consideration of the above LGA matters. Section 10(4) requires regard to be had to the following when reviewing the Bylaw:

- (a) the need to minimise danger, distress, and nuisance to the community generally; and
- (b) the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults; and
- (c) the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and
- (d) the exercise and recreational needs of dogs and their owners.

To complete the review, Council needs to consider the following questions.

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## Item 8: Review of the Dog Control Policy and Bylaw: Attachment 5

- What is the perceived problem?
- Is a bylaw the most appropriate way to address the perceived problem?
- Is the form of the Bylaw (the content) appropriate and if not, how should it be amended to be the most appropriate?
- Will the Bylaw and any proposed amendments give rise to any NZBORA implications?

### What is the perceived problem?

Council's records show there are approximately 6,000 registered dogs in Nelson (in 2019). With a population of 52,000 people, the challenge is how to accommodate the needs of both dogs and their owners, and the wider community. As outlined in section 10(4) of the DCA (shown above), there is a need to minimise danger, distress, fear and nuisance caused by dogs while managing access to public places where there might be a conflict between dogs and the community. This needs to be balanced with the exercise and recreational needs of dogs and their owners.

The Policy and Bylaw seek to address these problems by prohibiting dogs from certain areas, and designating on and off-leash areas.

The key problems identified with the 2013 Bylaw, and the proposed changes to address them are outlined below.

Problem to be addressed	Proposed change
The Good Dog Owner Policy is not achieving the objectives for which it was developed due to the time and costs involved in administering it. It also unfairly disadvantages people who are unable to pay registration fees on time.	Delete the GDO Policy.
Stock grazing is a low cost way to control grass in Council reserves, in order to manage fire risk. However, graziers are reluctant to provide sheep or cattle for this purpose if there is a risk of attack or worrying of their stock by dogs.	Require dogs to be on a leash in Council's grazed reserves (rather than being allowed to be off-leash).
Dogs have the potential to disturb rare, ground-nesting birds which live in Paremata Reserve and on the margins of Delaware Inlet.	Prohibit dogs from the planted area at Paremata Reserve and Delaware Inlet.
In 2014 Council received a petition signed by 66 people asking for dogs to be allowed off-leash in Monaco Reserve.	Allow dogs to be off-leash in Monaco Reserve (excluding the playground).
DOC is responsible for management of the Boulder Bank and has signage stating this is an on-leash area. However, this is currently an off-leash area in Council's Bylaw.	Require dogs to be on-leash on the Boulder Bank (apart from the areas which are already prohibited) to align with DOC signage.
EIL have advised that the Number of Dogs policy is not achieving the desired	Manage potential issues with multiple dogs on a property through the DCA

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outcome. Most people are unaware of the policy (of requiring permission to have more than two dogs per property).	rather than requiring a permit to have more than two dogs.
Minor inconsistencies between how the enforcement process is carried out by Council and the current text in the Bylaw.	Amend the Bylaw to more accurately reflect the enforcement process carried out by Council.

**Is a bylaw the most appropriate way of addressing the problem?**

The Bylaw has been in place since 2004 and has been an effective way to manage dogs. Section 10 of the DCA requires councils to develop a Dog Control Policy and to give effect to the policy through a bylaw. Therefore, unless no public places are listed in a dog control policy as areas where dogs are prohibited or required to be on a leash, there are limited other options for managing dogs under NZ legislation.

Alternative (and complementary) ways to minimise danger, distress, fear and nuisance caused by dogs while managing access to public places where there might be a conflict between dogs and the community are outlined below. Council uses these methods alongside implementation of its Dog Control Policy and Bylaw.

<b>Options for managing conflicts between dogs and the community</b>	<b>Assessment</b>
Respond to complaints using the powers provided through the Dog Control Act.	<p>This approach gives Council the power to charge registration fees and intervene when an issue occurs, such as a dog attack.</p> <p>On its own, this approach does not comply with section 10 of the Dog Control Act, and would result in a reactive rather than a proactive approach to reducing conflicts between dogs and the wider community.</p>
Rely on education and dog training.	<p>This approach encourages people to take responsibility for their dog, and gives them skills to control their dog when it is off-leash in a public place.</p> <p>On its own, this approach does not comply with section 10 of the Dog Control Act, and relies on all dog owners to manage any risks of conflict between their dogs and the community, which does not provide enough certainty for the wider community.</p>

**Is the form of the Bylaw (the content) appropriate and if not, how should it be amended to be the most appropriate?**

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The form of the Bylaw could be improved, and the recommended changes are outlined in this statement of proposal.

The Bylaw clearly identifies which areas dogs are permitted in and if dogs are allowed, whether they are required to be on a leash or allowed to be off a leash. This ensures an appropriate balance between the exercise and recreational needs of dogs and their owners while reducing the danger of uncontrolled dogs and allowing the public to use public places without fear of attack or intimidation by dogs. The Bylaw is also consistent with all the applicable legislation, and Council's policies. In Council's view, the Bylaw, with the proposed amendments, is the most appropriate form of Bylaw for managing dogs.

### **What are the potential implications for New Zealand Bill of Rights Act 1990?**

In reviewing the Bylaw, Council needs to assess whether the Bylaw and any proposed amendments give rise to any implications under NZBORA. NZBORA requires that any bylaw may only place 'such reasonable limits... as can be demonstrably justified in a free and democratic society'.

The only human right which has some potential relevance to the Bylaw is section 18(1) — 'Everyone lawfully in New Zealand has the right to freedom of movement and residence in New Zealand.'

The current Bylaw does not impact on any movements by people alone but it does place restrictions on people's ability to move when exercising dogs, as it lists a number of areas where dogs are prohibited or required to be on a leash. However, the default is that everywhere else dogs can be off leash provided they are under control. This means significant off-leash walking areas remain available to people in Nelson, including the off-leash area at Tahunanui Beach, along most of the Maitai Walkway, along the Railway Reserve, and many other off-road shared paths. Dog owners in Nelson have a number of choices for exercising their dogs, particularly in comparison to many other New Zealand cities with stricter controls. Therefore, to the extent that a person's freedom of movement is impacted when exercising their dog(s), the Council considers that this a justified limitation

The proposed changes to the Bylaw do increase the areas where dogs are required to be on a lead (in Council's grazed reserves and on the Boulder Bank) and where they are prohibited (at Delaware Estuary and Paremata Flats Reserve). However, significant off-leash walking areas remain available to people in Nelson, and will include Monaco Reserve if this proposal is adopted. Therefore, to the extent that a person's freedom of movement is impacted when exercising their dog(s), the Council considers that this a justified limitation in order to reduce fire risk and to protect rare, nesting birds.

### **Special Consultative Procedure**

Outcomes of this special consultative procedure could include:

- Retaining the existing provisions in the Policy and the Bylaw.
- Adopting the proposed amendments outlined in this Statement of Proposal, or a variation of these, based on community feedback.
- Adopting a different approach in the Bylaw and Policy, based on community feedback.

### **General options**

In order to enable the Council to respond to a wide range of submissions, the options to be considered for all issues include:

- Increasing restrictions.
- Reducing restrictions.

Options	Advantages	Disadvantages
<b>Increase restrictions</b>	More protection of cyclists, pedestrians, wildlife and stock from interactions with off-leash dogs.	More bylaw administration and more investment in monitoring and enforcement required.  Fewer off-leash exercise options for dog owners and dogs.
<b>Reduce restrictions</b>	More off-leash exercise options for dogs and dog owners.	More potential conflicts between dogs and cyclists, pedestrians, stock and/or wildlife.  More complaints for Council to respond to on a case by case basis, with less ability to resolve issues through enforcement of bylaw provisions.

## 3. Nelson City Council's Criteria

### Background

In reviewing the Policy and Bylaw, Council considered the purpose of the proposed changes to the Policy and Bylaw. A consistent set of Nelson City Council criteria have been used to assess the different options associated with each issue.

When adopting a policy Council needs to have regard to the matters outlined in section 10(4) of the Dog Control Act, which are:

- the need to minimise danger, distress, and nuisance to the community generally; and
- the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults; and
- the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and
- the exercise and recreational needs of dogs and their owners.

These legislative matters are reflected in the first and second of the criteria listed below. In addition, Nelson City Council's criteria include additional outcomes sought by Council which are: management of fire risk, having clear and enforceable rules, and the ability to provide cost-effective dog control services.

### Criteria

- Conflicts between people, wildlife and dogs are minimised.

2. All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.
3. Cost-effective stock control of grass and weeds in Council reserves.
4. Clear enforceable rules that are well understood.
5. Cost-effective dog control services.

#### 4. Alternatives considered by Council

##### RAILWAY RESERVE

**Benefit of current approach:** Dog owners and dogs residents have easy access to an extensive off-leash exercise area away from traffic.

**Problem:** Potential for conflicts between dogs and people (both pedestrians and cyclists). Encounters between off-leash dogs which are not under control and cyclists (who can sometimes be travelling at high speeds) has the potential to lead to significant crashes and potentially causing injury to the cyclists, pedestrians and dogs.

**Discussion:**

There is no simple answer to the issue of on-leash/off-leash status for the Railway Reserve given the importance of this shared pathway for cycling, pedestrian use and as a dog exercise area.

Informal consultation in late 2018 provided the following feedback:

- Elderly people who can't drive or walk to the beach may need other off-leash areas close to their homes.
- Off-leash areas for dogs are important for the exercise and socialization of dogs, and we need enough off-leash areas to give easy access to all residents. Driving, in order to exercise the dog, seems counterproductive.
- There are significant numbers of cyclists and pedestrians on the Railway Reserve, and bikes and dogs off-leash aren't a great mix.
- Controlling a dog in this environment off-leash requires a very well-trained dog/owner team.
- Speeding cyclists are a concern.
- Cyclists need to slow down and be a little more courteous to dogs and dog walkers.
- Dog walkers need to understand how their dogs react and to control them appropriately. People who have good control of their dogs are not the issue, it's the people who don't really care that cause cyclists problems and ruin it for everyone else.
- I do commend the Council on the change of plans away from significantly restricting dog access areas at the last review and I would encourage this to be the continued way forward. Forcing dogs into smaller areas will only increase anxiety reactions and aggressive reactions. Allowing the continued access we have is very important. (Halifax Vets)

Over the past three years Council's animal control team has received approximately 40 complaints about dog-related activity on the Railway Reserve. This equates to approximately one percent of all dog related complaints. Many of these complaints relate to dogs running out of control, creating conflict with other users of the reserve such as walkers and bikers. The areas with the most reported incidents are: Bishopdale and the Stoke area from Songer Street to Saxton Road West.

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Council officers have advised that extendable leash are the worst case scenario for cyclists because the dog could be on one side of the path and the owner on the other, creating a significant risk for cyclists. They also advised that the police reported crash data does not include any reported cycle versus dog incidents.

The 0800 Cycle Crash hotline is a way to gather data about cycle crashes in Nelson, and is supported by both Council and the New Zealand Transport Agency. The 0800 Cycle Crash data from 2011 to 2018 records one incident on the Railway Reserve with no injury in 2011, two incidences involving dogs in 2012 (one a near miss, and the other resulting in cyclist falling on to the grass verge, causing a graze) and one incident in 2017 on the Railway Reserve leading to a slight injury. The only other dog-related incident involved a dog running across the road at Paremata Drive, causing the cyclist to fall off their bike and fracture their foot.

For comparison, the total number of cycle crashes recorded in the 0800 Cycle Crash data during this period is shown in the following table. This puts the crashes involving dogs into context with other types of cycle crashes.

<b>Year</b>	<b>Reported crashes</b>
2011	15
2012	34
2013	35
2014	3
2015	20
2016	13
2017	17
2018	12

**Assessment of options against criteria**

Note: Low, medium, high means a low, medium or high chance of meeting the criteria

	<b>Conflicts between people, wildlife and dogs are minimised.</b>	<b>All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.</b>	<b>Cost-effective stock control of grass and weeds in Council reserves.</b>	<b>Clear enforceable rules that are well understood.</b>	<b>Cost-effective dog control services.</b>
<b>Option A</b> Status quo: Off-leash for the whole of the Railway Reserve.	Medium (approximately 40 complaints over three years)	High	N/A	High	High
<b>Option B</b> Off-leash for the whole of the Railway Reserve, plus signage and publicity about what dog owners can do to avoid conflicts with cyclists, pedestrians and other dogs.	High	High	N/A	High	Medium
<b>Option C</b> On-leash for the whole of the Railway Reserve.	Medium (the use of extendable leashes is likely to increase as a result of this change, which increase risks for cyclists).	Low	N/A	High	Medium (likely to result in complaints about off-leash dogs)
<b>Option D</b> On-leash everywhere except the area between Quarantine Road and Songer Street.	Medium (this may concentrate more off-leash dogs in one area and increase the use of extendable leashes in other areas)	Medium	N/A	Low (variable rules for different sections is likely to be confusing)	Medium (likely to result in complaints about off-leash dogs in on-leash areas)
<b>Option E</b> On-leash during specific hours (e.g. 7–9am and 3–6pm).	Medium	Medium	N/A	Low (variable rules for different times of the day is likely to be confusing)	Medium (likely to result in complaints about off-leash dogs during on-leash hours)

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### Options Analysis

**Option A** — retaining the Railway Reserve as an off-leash area ensures residents have access to an extensive off-road exercise area. However, there is a risk of cycle crashes and near misses on this well-used shared pathway.

**Option B** — retaining the Railway Reserve as an off-leash area will ensure residents have access to an extensive off-road exercise area. The risk of cycle crashes and near misses on this well used shared pathway can be reduced via education and signage. This approach can be monitored to determine whether other physical changes need to be put in place.

**Option C** — changing the Railway Reserve to an on-leash area is likely to address safety concerns for some of the cyclists and pedestrians using the area, including children attending the Stoke schools. However, it will restrict dog exercise and socialisation opportunities, particularly for older people who no longer drive. Use of longer or extendable leashes may become an increasing safety issue for cyclists.

**Option D** — changing the Railway Reserve to an on-leash area everywhere except the area between Quarantine Road and Songer Street West would recognise that most of the complaints relate to the Bishopdale area and the area between Songer Street and Saxton Road West. However, it may concentrate off-leash dogs in a smaller section of the Railway Reserve, intensifying safety issues in this area. It may also lead to confusion about which areas are on and off-leash, as has occurred in Isel Park. Other disadvantages are a potential increase on extendable leash use, and loss of an extensive off-leash exercise area near home for Victory and Bishopdale residents.

**Option E** — setting specific on-leash hours in the Railway Reserve is less clear and enforceable than Options A, B and C because the rules will change at different times of the day, and will impact on people who wish to exercise their dogs off-leash before or after work.

### Preferred Option:

**Option B** — Off leash for the whole of the Railway Reserve, plus signage and publicity about what dog owners can do to avoid conflicts with cyclists, pedestrians and other dogs.

### Reasons

The benefits of meeting the exercise and recreational needs of the dogs and their owners are greater than the costs associated with a small number of complaints related to off-leash dogs on the Railway Reserve.

Other reasons:

- Option B scores the highest in terms of minimising conflicts between people and dogs, providing dog owners with access to off-leash areas, and will result in clear and enforceable rules.
- While there have been a number of dog versus bike incidents over the past three years on the Railway Reserve, this is a small proportion of the overall number of dog related complaints.

- There are limited off-leash alternatives — particularly in the Victory and Bishopdale areas.
- If the Railway Reserve is identified as an on-leash area, there is potential for dog versus bike issues to grow due to more use of extendable leashes.
- Safety concerns may be addressed through dog and cycle owner education, including signage that dog walking is encouraged outside peak commuter times, and updated user etiquette information.
- Costs for increased education (described above) are not significant (approximately \$2,000 per annum) and can be accommodated within existing budgets.
- Accident data can be monitored to assess whether education is working or whether physical changes to the Railway Reserve may be needed in the future. A further change could be made to the Policy (with a consequent change to the Bylaw) if data showed an escalation of issues on the Railway Reserve. This change could be proposed and consulted on without triggering a full review of the Policy and Bylaw.

## 2. ISEL PARK

**Benefits of current approach:** Dog owners and dogs have easy access to an off-leash area in a highly valued park away from traffic. There is also a designated on-leash area for people who prefer not to be in the presence of off-leash dogs.

**Problem:** The on-leash and off-leash areas are not well understood by park users despite the presence of signage at each entrance to the Park. This means dogs are often off leash in the on-leash area, which has the potential to cause conflict between those park users who are aware of the Bylaw provisions and those who aren't.

**Discussion:**

Isel Park is currently partially on-leash (the area including the historic house) and partially off-leash (the area closest to the Stoke shops, as well as the open space nearest the sports fields).

Council officers have pointed out the importance of providing safe recreational areas for children and the elderly, including areas where people can picnic, and children can play without the risk of dogs rushing up to them. The 'front lawn' area in front of Isel House is of particular importance because this is an area where parents, kindergartens and playgroups are encouraged to bring children.

The majority of people spoken with in a November 2018 survey (regardless of whether they owned a dog or not) had no concerns about dogs being off-leash in Isel Park. Many of the dog walkers were older people, who said they preferred their dog to be off-leash because they were in their 80s and couldn't walk fast enough for their dog to get sufficient exercise when on a leash.

However, some people preferred to keep the current 50:50 approach, recognising the park is used by many elderly people and people with disabilities, as well as children. Council wants to ensure that the public can use visit and use the park, to the extent that is practicable, without fear of attack or intimidation by dogs, while also recognising the exercise and recreational needs of dogs and their owners.



**Assessment of options against criteria**

	Conflicts between people, wildlife and dogs are minimised.	All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.	Cost-effective stock control of grass and weeds in Council reserves.	Clear enforceable rules that are well understood.	Cost-effective dog control services.
<b>Option A</b> Status quo: Part on-leash and part off-leash.	High	Medium	N/A	Low	Medium (ongoing complaints about lack of compliance)
<b>Option B</b> Part on-leash and part off-leash with clearer demarcation of the on-leash and off-leash areas.	High	Medium	N/A	High	High
<b>Option C</b> All off-leash.	Medium	High	N/A	High	High
<b>Option D</b> All on-leash.	High	Low	N/A	High	High

**Preferred option:**

**Option B** — Status quo: Part on-leash and part off-leash with clearer demarcation of the on-leash and off-leash areas.

**Reasons**

Option B is the preferred option because:

- Isel Park offers a high amenity recreation area for parents and children, and the elderly, as well as for dog owners of all ages.
- Parents need on-leash spaces where they can be confident their children can run around without being rushed at by dogs.

**3. GRAZED RESERVES****Benefits of current approach:**

Dog owning residents have easy access to extensive off-leash areas away from traffic in the Grampians, along the Maitai and on the Sir Stanley Whitehead walk track between Walters Bluff and the Centre of New Zealand. Grazing occurs in these areas.



**Problem:** As a result of dog attacks on sheep, graziers are reluctant to graze their sheep in Council reserves. This has led to overgrown grass and weeds, smothering new plantings and creating increased fire risk.

**Discussion:**

Council officers have advised that Council doesn't have the funding to manage these areas without grazing. Dog attacks are one of the main problems with stock welfare, and this risk makes graziers unwilling to run their stock in Council reserves. The grazier removed all sheep a few years ago because of dog attacks and has only just agreed to reinstall them. Without sheep and cattle, Council will lose control of grass, vines and new plantings.

The option of only requiring dogs on-leash when stock are present has been considered. This is most difficult in areas such as the Grampians where stock are not always visible until someone comes across them. Council's Parks and Facilities staff have advised it is not practical to keep signage up to date to reflect the presence of stock in any particular area.

Council received a wide range of feedback during informal consultation in late 2018. This included the following points.

- Dog owners highly value the off-leash status of the Grampians and a dog provides extra security for solo runners and walkers.
- Because of the convoluted nature of the contours and the tracks on the Grampians, it is a complete lottery whether you see a sheep or not, and they can appear out of nowhere with no warning.
- It is a problem with dogs running free with young children.
- There is a concern for ground birds when dogs are allowed off-leash.
- The Grampians isn't a reserve that can be managed with weed whackers, the weeds have taken off in recent years and this is primarily because of dogs. The grazier removed all sheep a few years ago because of dog attacks and has only just agreed to return sheep to this area.
- The grazier was asked about the extent of the problem and said the worst was 35 sheep killed in the middle of lambing and another eight in one go during Easter break. The latest was on Monday (in November 2019) as sheep were being put onto the Grampians a dog ran past chasing five from the previous load and then managed to cut one off and had it down against the fence.

**Assessment of options against criteria**

	<b>Conflicts between people, wildlife and dogs are minimised</b>	<b>All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.</b>	<b>Cost-effective stock control of grass and weeds in Council reserves.</b>	<b>Clear enforceable rules that are well understood.</b>	<b>Cost-effective dog control services.</b>
<b>Option A</b> Status quo: dogs must be under control at all times (which can be either on a leash or by obeying commands) and dogs caught attacking or worrying sheep will be destroyed.	N/A	High	Low	Low (due to the frequency of issues related to sheep and dogs)	N/A
<b>Option B</b> Require dogs to be on a leash <u>WHEN</u> stock are present.	N/A	High	Medium	Low	N/A
<b>Option C</b> Require dogs to be on a leash in grazed areas (at all times) — excluding Paremata Flats Reserve, where dogs can be off-leash but must be controlled around stock.	N/A	Medium (all of the grazed areas are connected to areas where dogs can be off-leash)	High	High	N/A
<b>Option D</b> Require dogs to be on a leash in grazed areas (at all times) in the Grampians Reserve only.	N/A	High	Low (both the Grampians Reserve and the Sir Stanley Whitehead Park have been identified as at extreme fire risk, and the Maitai Conservation Reserve is identified as High Risk).	High	N/A
<b>Option E</b> Prohibit dogs from grazed areas (at all times).	N/A	Low	High	High	N/A

**Preferred option:**

**Option C** — Require dogs to be on a leash in all grazed reserves (at all times) **excluding** Paremata Flats Reserve, where dogs can be off-leash but must be controlled around stock.

**Reasons:**

Both weeds and fire risk increase if stock are not grazing these areas. It is difficult for dog walkers to know when stock are in an area, and usually a dog walker will not know there is stock present until they come across them. Therefore, it can be difficult for dog walkers to know when they need to control their dogs around the grazing stock and an owner is better able to control their dog(s) around grazing stock when it is on a leash. For these reasons, Council considers that dogs should be on a leash in all grazed reserves but with an exception carved out for Paremata Flats.

The grazed area at Paremata Flats Reserve is excluded from this proposed change, as off-leash dog exercise areas are limited in Nelson North, and the grazier hasn't had any issues with dogs in this reserve. He is supportive of this being an off-leash exercise area, as long as there is adequate signage indicating "stock grazing — keep dogs under control".

## **4. GOOD DOG OWNER POLICY**

**Benefits of current approach:** A discount on registration fees applies for people who apply for Good Dog Owner (**GDO**) status and meeting three conditions related to complaints, fencing and dog welfare, and paying their registration fees on time. The two other elements of the policy are:

- An ongoing discount for neutered dogs, or for dogs registered as members of the New Zealand Kennel Club
- One voucher will be available per dog, for all dog owners towards attending a recognised training course or 1:1 training to address a behavioural issue (only payable by Council if it is redeemed with an approved provider).

**Problem:** The GDO Policy was established to promote animal welfare and to reward responsible dog ownership. However, awareness of the available discount (\$19.50) is limited, resulting in lack of equity between dog owners who have filled out the application form (and receive the discount) and those who are unaware of it, and miss out.

**Discussion:**

The Good Dog Owner Policy does not enhance animal welfare or responsible dog ownership due to the low level requirements to gain GDO status:

- no more than one minor, proven complaint/impounding; and
- adequate fencing or other means of containing their dog on the property and complying with standard welfare requirements for water, shelter and food (spot checks will apply); and
- paying registration fees on time.

Officers have advised this Policy is time-intensive to administer. It also unfairly disadvantages people who are unable to pay registration fees on time — as well as receiving a penalty for late payment of registration fees, a late payment disqualifies people from having GDO status. Therefore, the Policy is skewed in favour of people on higher incomes.

Other issues with the Policy:

- It is not a cost-effective policy to administer, due to ongoing queries regarding

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- when the discount applies; and
- The Policy is unclear as to whether an owner with a substantial complaint can regain their GDO status the next year;
- When people apply for GDO status, the discount does not apply until the next year of registration fees. Lots of people complain about this delay, which results in EIL staff having to spend time resolving these complaints.

**Assessment of options against criteria**

	<b>Conflicts between people, wildlife and dogs are minimised.</b>	<b>All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.</b>	<b>Cost-effective stock control of grass and weeds in Council reserves.</b>	<b>Clear enforceable rules that are well understood.</b>	<b>Cost-effective dog control services.</b>
<b>Option A</b> Status quo: Retain existing GDO Policy.	Low	N/A	N/A	N/A	Low
<b>Option B</b> Delete the GDO Policy.	Low	N/A	N/A	N/A	High

**Preferred option:**

**Option B** — Delete the GDO Policy.

**Reasons:**

Option B is preferred because the GDO Policy:

- is costly to administer (approximately \$16,500 per annum based on 300 requests at \$55 per request)
- is costly to implement (currently there are 2,500 owners receiving the \$19.50 subsidy which costs \$48,750, with the potential for another 3,701 applications at a cost of approximately \$72,000) and it is easy to be classified as a good dog owner
- does not achieve policy outcomes as it works on the basis that good dog owners need to prove they are good dog owners rather than assuming all dog owners are good dog owners and penalising those who are not
- duplicates provisions in the Dog Control Act which require owners to keep their dog under control generally (ss52 and 52A) and confined to their property (s52A).

**MONACO RESERVE**

**Benefits of current approach:** The current approach is aligned with the general principle in Schedule 2 of the Bylaw that neighbourhood parks are on-leash areas.

**Problem:** Council received a letter and supporting petition in 2015 seeking that Monaco Reserve become an off-leash area (66 signatories).

**Discussion:**

After receiving the letter and supporting petition in 2015, Council decided to address this through the 2019 review of the Dog Control Policy and Bylaw.

**Assessment of options against criteria**

	<b>Conflicts between people, wildlife and dogs are minimised.</b>	<b>All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.</b>	<b>Cost-effective stock control of grass and weeds in Council reserves.</b>	<b>Clear enforceable rules that are well understood.</b>	<b>Cost-effective dog control services.</b>
<b>Option A –</b> Retain Monaco Reserve as an on-leash area	Medium (Monaco Reserve is currently used as an off-leash area by many dog owners, leading to complaints about non-compliance).	Low	N/A	High	N/A
<b>Option B –</b> Include Monaco Reserve in Schedule 3, as an off-leash area	High (this approach is supported by the community),	High	N/A	High	N/A

**Preferred option: Option B** — Remove Monaco Reserve from Schedule 2 (on-leash areas) and add it to Schedule Three (neighbourhood parks in which dogs may be off-leash).

**Reasons:**

Although there is a playground in Monaco Reserve (which will remain a dog prohibited area), signs can be used to indicate this. There is also a playground in a number of other neighbourhood parks where dogs are allowed to be off-leash, including Wolfe Reserve, Poplar Reserve, Fairfield Park and Hanby Park. Allowing Monaco Reserve to be an off-leash area would not be inconsistent with the rest of the Bylaw.

## 5. PAREMATA FLATS RESERVE AND DELAWARE ESTUARY

**Benefits of current approach:** The current Bylaw states that dogs are prohibited from the fenced area of the foreshore and esplanade reserve at Paremata Flats Reserve, and are required to be on a lead on the sand and mudflats of Delaware Estuary. The purpose of this approach is to protect rare, nesting birds.

**Problem:** It is currently unclear whether dogs are prohibited from the planted area of Paremata Flats Reserve, which has recently been planted; and there is an ongoing risk of disturbance of birds nesting in the vegetation around Delaware Estuary.

**Discussion:**

If Paremata Flats is a dog prohibited area, it makes sense to also prohibit dogs from the adjacent nesting areas on the margins of the estuary.

**Assessment of options against criteria**

	Conflicts between people, wildlife and dogs are minimised.	All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.	Cost-effective stock control of grass and weeds in Council reserves.	Clear enforceable rules that are well understood.	Cost-effective dog control services.
<b>Option A</b> Status quo: Dogs are prohibited within the fenced area of the foreshore and esplanade reserve at Paremata Flats.	Medium	N/A	N/A	Low	N/A
<b>Option B</b> Explicitly refer to the Paremata Flats planted area and the Delaware Estuary margins and islands within the estuary as a dogs prohibited area.	High	N/A	N/A	High	N/A

**Preferred option:** Explicitly refer to the Paremata Flats planted area within clause 19 of Schedule One (dog prohibited areas), and include Delaware Estuary margins, and islands within the estuary as a dog prohibited area.

**Reasons:** Currently the dog prohibited area is the planted areas by the estuary and river, so an extension to cover all the planted areas is appropriate to protect the habitat of rare, ground nesting birds such as fern birds.

There is an off-lead dog exercise area available in the grazed area of Paremata Flats Reserve, and this ensures that dog owners have access to off-lead areas.

## 6. BOULDER BANK

**Benefits of current approach:** DOC has erected signs stating that dogs should be on a lead along the Boulder Bank to protect birdlife.

**Problem:** DOC has advised Council it does not have resources to enforce this signage, and does not have official powers to do so, as this area has not been declared a controlled dog area under the Conservation Act 1987.

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**Discussion:**

Including the Boulder Bank as an on-lead area would enable Council to enforce DOC's preferred approach of dogs being on a leash along the Boulder Bank.

**Assessment of options against criteria**

	<b>Conflicts between people, wildlife and dogs are minimised .</b>	<b>All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.</b>	<b>Cost-effective stock control of grass and weeds in Council reserves.</b>	<b>Clear enforceable rules that are well understood .</b>	<b>Cost-effective dog control services.</b>
<b>Option A</b> Status quo: — DOC has signs indicating dogs should be on a leash on the Boulder Bank but this is not listed as an off-leash area in the Bylaw. (However, the area from the Cut towards Boulder Bank Drive for 4km from October to February is listed as a prohibited area to protect nesting birds.) Dogs are permitted on foreshore and sea bed administered by DOC unless it is an area listed in this Schedule.	Low	Medium  (Council cannot currently enforce DOC's on-leash requirement.)	N/A	Low	High
<b>Option B</b> Include the Boulder Bank in Schedule 2 as an on-leash area (noting the prohibited status of part of the Boulder Bank from October to February to protect nesting birds).	High	Low (very limited off-leash options in the Nelson North area)	N/A	High (consistency with DOC requirements)	Medium (this is an additional cost to Council)

**Preferred option: Option B** — Include the Boulder Bank in Schedule 2 (on-leash areas) of the Policy and Bylaw to enable enforcement to be carried out by Council on behalf of the Department of Conservation.

**Reasons:** DOC has signage on the Boulder Bank which indicates that dogs are permitted if on a leash in this area.

The Acting Statutory Manager has advised that DOC does not have the resources to undertake compliance and enforcement work in relation to dogs being walked off-leash at this site.

## 7. NUMBER OF DOGS

**Benefits of current approach:** Including a policy to require Council permission for keeping more than two dogs on an urban property is intended to reduce the risk of nuisance to neighbours.

**Problem:** EIL officers have advised the Number of Dogs Policy is not achieving the desired outcome for practical reasons. The people who seek permission for more than two dogs are the ones whose dogs are not going to cause a problem. In addition, most people are unaware of the Policy prior to registering a puppy at three months of age, and it would be unacceptable at that stage (after a month of ownership) that they can no longer keep their puppy.

**Discussion:**

EIL officers noted that section 9 of the Policy (number of dogs) could be removed entirely, because clause 10.2 of the Bylaw gives Dog Control Officers the authority to reduce the number of dogs on the premises if any dog has become, or is likely to become, a nuisance to any person or injurious to the health of any person.

**Assessment of options against criteria**

	Conflicts between people, wildlife and dogs are minimised.	All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.	Cost-effective stock control of grass and weeds in Council reserves.	Clear enforceable rules that are well understood.	Cost-effective dog control services.
<b>Option A</b> Status quo — No more than two dogs can be kept on any property in the urban area without written permission from the Council.	Medium	N/A	N/A	Low	Low
<b>Option B</b> Rely on Council's ability to reduce the number of dogs if necessary, under clause 10.2 of the Bylaw.	Medium	N/A	N/A	Medium	High

**Preferred option:** Rely on Council's ability to reduce the number of dogs if necessary, under clause 10.2 of the Bylaw. (Consequent amendment — delete the map of the Nelson Urban Area and definition of 'urban area' from the Dog Control Policy and Bylaw, as this relates to Part 8 of the Policy.)

**Reasons:** This approach provides Council with the authority it needs to manage nuisance and health issues associated with multiple dogs on the same property.



## 8. ENFORCEMENT PROVISIONS

**Benefits of current approach:** The current Bylaw provides guidance on Council's approach to enforcement, and some aspects of the Dog Control Act.

**Problem:** The wording in the current Bylaw is inconsistent with Council's approach to enforcement, and to some aspects of the Dog Control Act.

**Discussion:**

Alignment with enforcement processes and wording in the Dog Control Act is desirable.

**Assessment of options against criteria**

	Conflicts between people, wildlife and dogs are minimised.	All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.	Cost-effective stock control of grass and weeds in Council reserves.	Clear enforceable rules that are well understood.	Cost-effective dog control services.
<b>Option A</b> Status quo — some inconsistencies between the Policy/Bylaw and Council's enforcement approach and/or the DCA	N/A	N/A	N/A	Medium	N/A
<b>Option B</b> Consistency between the Policy/Bylaw and Council's enforcement approach and/or the DCA	N/A	N/A	N/A	High	N/A

**Preferred option:** Amend the wording of the Policy as follows:

- Section 4.1 of the Policy — change the last sentence of clause 4.1 to "Non compliance with this notice may result in enforcement action."
- Clause 7.5 of the Policy — Amend to "Where the offence relates to a failure to register a dog, Council will issue a notice that a dog is not registered. Then, if the registration fee is not paid within seven days, the owner will receive an Infringement Notice."

Amend the wording of the Bylaw as follows:

- Clause 10.2 of the Bylaw should refer to both dog owners, and to owners and occupiers of premises, as follows.

"If, in the opinion of a Dog Control Officer, any dog has become or is likely to

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become a nuisance to any person or injurious to the health of any person, the Dog Control Officer may, by notice in writing, require the dog owner or the owners or occupiers of the premises at which the dog is kept, within a time specified in such notice to do all or any of the following:

- a) reduce the number of dogs on the premises;
- b) construct, alter, reconstruct or otherwise improve the kennels or other buildings or fences used to house or contain the dog;
- c) tie up or otherwise confine the dog during specified periods;
- d) take such other action as necessary to minimise or remove the likelihood of nuisance or injury to health."

**Reasons:** These changes will more accurately reflect the enforcement process carried out by Council.

## **ALL OTHER ASPECTS OF THE POLICY AND BYLAW**

**Proposal:** Retain all other aspects of the Policy and Bylaw (other than improvements to the wording of the Policy and Bylaw to reflect legal advice).

Some changes have been made to use correct names of public places. For example, all references to the 'Boulder Bank Scenic Reserve' have been changed to 'Boulder Bank' because parts of the Boulder Bank do not have a scenic reserve classification. Some parts (the baches) have a recreation reserve classification, and the part owned by Port Nelson (around the Lighthouse) doesn't have a reserve classification.

**Reason:** The proposed amendments are based on informal consultation with a broad range of stakeholders. However, the formal consultation process is an opportunity to suggest other changes which have not yet been considered.

### **Submissions**

Anyone may make a submission about any aspect of the Policy and Bylaw. The entire Policy and Bylaw are open for consultation, as well as any matters relevant to the Policy and Bylaw that people wish to raise as part of this consultation process. Council, in making its decision, will take account of all submissions made.

All submissions, including the name and contact details of the submitter, will be made available to the public and media on Council's website, unless you specifically request that your contact details be kept private and explain why it is necessary to protect your privacy. Council will not accept any anonymous submissions.

Submissions can be made:

- online at [nelson.govt.nz](http://nelson.govt.nz)
- by post to Dog Control Policy and Bylaw Review, PO Box 645, Nelson 7010
- by delivering your submission to Civic House, 110 Trafalgar Street, Nelson.

**Submissions must be received no later than 28 February 2020.**

Any person who wishes to speak in support of their submission will be given the opportunity to address the Council at a hearing on **25–26 March 2020**.



## **DRAFT FOR CONSULTATION**

### **Proposed Amendments to the Dog Control Policy 2020 and the Dog Control Bylaw 2020**

#### **Maps**

Maps showing the proposed changes are available on the website. Paper copies are available at the Customer Service Centre and in Nelson libraries.

#### **Proposed Amendments to the Policy and Bylaw**

Proposed amendments are shown in revision marking in both the Dog Control Policy and Bylaw 2013 which are attached to this statement of proposal, and are available on the website. Paper copies are available at the Customer Service Centre and in Nelson libraries.



## **Summary of Statement of Proposal**

### **AMENDMENTS TO THE DOG CONTROL POLICY AND BYLAW 2013**

**January 2020**

## Introduction

Nelson City Council (**Council**) would like to know what you think of the Dog Control Policy 2020 (**Policy**) and the Dog Control Bylaw 2020 (**Bylaw**) and Council's proposed amendments to them.

The current Policy and Bylaw both came into effect on 25 February 2013 following the consideration of submissions in 2012. The current Policy and Bylaw reflect Council's preferred direction at that time, which was:

- to allow dogs off-leash in most places (if they are under control)
- to require dogs to be on a leash in urban centres and most neighbourhood reserves
- to continue to prohibit dogs from a list of sensitive areas including conservation reserves, the playing surface of sports fields, and playgrounds.

The Council has reviewed both documents and is proposing some changes in approach (described below). We want to know what you think of the proposed changes, as well as any other matters which are relevant to the Policy and Bylaw that you wish to raise as part of this consultation process. In making decisions on this proposal, Council will be taking account of all submissions made.

**This is a summary of the information in the Statement of Proposal, which is available on the Council website [\[add link\]](#). Paper copies of both this summary and the Statement of Proposal are available at the Council's Customer Service Centre and in the Nelson libraries.**

**The Proposed Policy and Bylaw are attached to the Statement of Proposal, with the key changes underlined. Additional improvements have been made to the wording of the Policy and Bylaw to reflect legal advice. To enable you to focus on the key proposals, these detailed changes are not underlined.**

## Review of the key issues

The key issues identified with the 2013 Policy and Bylaw, and the proposed changes to address them, are outlined below.

Problem to be addressed	Proposed change
The Good Dog Owner (GDO) Policy is not achieving the objectives for which it was developed due to the time and costs involved in administering it. It also unfairly disadvantages people who are unable to pay registration fees on time.	Delete the GDO Policy.
Stock grazing is a low cost way to control grass in Council reserves, in order to manage fire risk. However, graziers are reluctant to provide sheep or cattle for this purpose if there is a risk of attack or worrying of their stock by dogs.	Require dogs to be on a leash in Council's grazed reserves (rather than being allowed to be off-leash).
Dogs have the potential to disturb rare, ground-nesting birds which live in Paremata Reserve and on the margins of Delaware	Prohibit dogs from the planted area at Paremata Reserve and Delaware Inlet.

Inlet.	
In 2014 Council received a petition signed by 66 people asking for dogs to be allowed off-leash in Monaco Reserve.	Allow dogs to be off-leash in Monaco Reserve (excluding the playground).
DOC is responsible for management of the Boulder Bank and has signage stating this is an on-leash area. However, this is currently an off-leash area in Council's Bylaw.	Require dogs to be on-leash on the Boulder Bank (apart from the areas which are already prohibited) to align with DOC signage.
EIL have advised that the Number of Dogs policy is not achieving the desired outcome. Most people are unaware of the policy (of requiring permission to have more than two dogs per property).	Manage potential issues with multiple dogs on a property through the DCA rather than requiring a permit to have more than two dogs.
Minor inconsistencies between how the enforcement process is carried out by Council and the current text in the Bylaw.	Amend the Bylaw to more accurately reflect the enforcement process carried out by Council.

## Summary of the Proposal

**Note:** No changes are proposed to the Railway Reserve and Isel Park, but the potential to make changes was considered during the assessment of the 2013 Policy and Bylaw, so these areas are included in the following list.

**The Railway Reserve** — Retain the off-leash status of the Railway Reserve along with signage and publicity on what dog owners can do to avoid conflicts with cyclists, pedestrians and other dogs.

**Isel Park** — Retain the half on-leash and half off-leash approach.

**Good Dog Owner Policy** — Delete the Good Dog Owner policy.

**Grazed Reserves** — Change from off leash to on-leash status at all times in Council reserves where grazing occurs (except in the grazed part of Paremata Flats Reserve).

**Paremata Reserve and Delaware Inlet** — Prohibit dogs from the planted area at Paremata Flats and Delaware Estuary's vegetation margin and islands.

**Monaco Reserve** — Change from on-leash to off-leash status (other than in the playground).

**Boulder Bank** — Change from off-leash to on-leash status for the whole of the Boulder Bank to align with the Department of Conservation (**DOC**) signage in this area. (Note: no change is proposed to the prohibition of dogs in the area from the Cut towards Boulder Bank Drive for 4km, from October to February, to protect nesting birds.)

**Number of Dogs** — Delete Part 9 of the Policy (Number of Dogs) which requires Council permission to keep more than two dogs within the City and rely on Council's ability to reduce the number of dogs if necessary, under clause 10.2 of the Bylaw. (Consequently, delete the Map of the Nelson Urban Area and definition of 'urban area' in the Bylaw and Policy, as these related to the Number of Dogs policy.)

**Enforcement provisions** — Amend clauses 4.1, and 7.5 of the Policy, and clause 10.2 of the Bylaw to align with Council's approach to enforcement.

### **Assessment process**

A consistent set of Nelson City Council criteria have been used to assess the different options associated with each issue.

When adopting a policy Council needs to have regard to the matters outlined in section 10(4) of the Dog Control Act, which are:

- (a) the need to minimise danger, distress, and nuisance to the community generally; and
- (b) the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults; and
- (c) the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and
- (d) the exercise and recreational needs of dogs and their owners.

These legislative matters are reflected in the first and second of the criteria listed below. In addition, Nelson City Council's criteria include additional outcomes sought by Council which are: management of fire risk, having clear and enforceable rules, and the ability to provide cost-effective dog control services.

### **Nelson City Council's Criteria**

- 1. Conflicts between people, wildlife and dogs are minimised.
- 2. All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.
- 3. Cost-effective stock control of grass and weeds in Council reserves.
- 4. Clear enforceable rules that are well understood.
- 5. Cost-effective dog control services.



## Assessment of Options

### Railway Reserve

**Note:** The following outcome is not applicable to this topic:

- Cost-effective stock control of grass and weeds in Council reserves.

Options	Assessment of benefits
<b>Option A</b> Status quo: Off-leash for the whole of the Railway Reserve.	<u>High</u> All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.  Clear enforceable rules that are well understood.  Cost-effective dog control services.
	<u>Medium</u> Conflicts between people, wildlife and dogs are minimised. (Approximately 40 complaints over three years.)
<b>Option B</b> Off-leash for the whole of the Railway Reserve, plus signage and publicity about what dog owners can do to avoid conflicts with cyclists, pedestrians and other dogs.	<u>High</u> Conflicts between people, wildlife and dogs are minimised.  All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.  Clear enforceable rules that are well understood.
	<u>Medium</u> Cost-effective dog control services.
<b>Option C</b> On-leash for the whole of the Railway Reserve.	<u>High</u> Clear enforceable rules that are well understood.
	<u>Medium</u> Conflicts between people, wildlife and dogs are minimised. (The use of extendable leashes is likely to increase as a result of this change, which increase risks for cyclists).  Cost-effective dog control services. (Likely to result in complaints about off-leash dogs.)
	<u>Low</u> All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.

<b>Option D</b> On-leash everywhere except the area between Quarantine Road and Songer Street.	<u>Medium</u> Conflicts between people, wildlife and dogs are minimised. (This may concentrate more off-leash dogs in one area and increase the use of extendable leashes in other areas.)  All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.  Cost-effective dog control services. (Likely to result in complaints about off-leash dogs in on-leash areas.)
	<u>Low</u> Clear enforceable rules that are well understood. (Variable rules for different sections is likely to be confusing.)
<b>Option E</b> On-leash during specific hours (e.g. 7–9am and 3–6pm).	<u>Medium</u> Conflicts between people, wildlife and dogs are minimised.  All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.  Cost-effective dog control services. (Likely to result in complaints about off leash dogs during on-leash hours.)
	<u>Low</u> Clear enforceable rules that are well understood. (Variable rules for different times of the day is likely to be confusing.)

**Preferred Option:**

**Option B** — Off leash for the whole of the Railway Reserve, plus signage and publicity about what dog owners can do to avoid conflicts with cyclists, pedestrians and other dogs.

**Reasons**

The benefits of meeting the exercise and recreational needs of the dogs and their owners are greater than the costs associated with a small number of complaints related to off-leash dogs on the Railway Reserve.

## Isel Park

**Note:** The following outcome is not applicable to this topic:

- Cost-effective stock control of grass and weeds in Council reserves.

Options	Assessment of benefits
<b>Option A</b> Status quo: Part on-leash and part off-leash.	<u>High</u> Conflicts between people, wildlife and dogs are minimised.
	<u>Medium</u> All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.  Cost-effective dog control services. (Ongoing complaints about lack of compliance.)
	<u>Low</u> Clear enforceable rules that are well understood.
<b>Option B</b> Part on-leash and part off-leash with clearer demarcation of the on-leash and off-leash areas.	<u>High</u> Conflicts between people, wildlife and dogs are minimised.  Clear enforceable rules that are well understood.  Cost-effective dog control services.
	<u>Medium</u> All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.
<b>Option C</b> All off-leash.	<u>High</u> All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.  Clear enforceable rules that are well understood.  Cost-effective dog control services.
	<u>Medium</u> Conflicts between people, wildlife and dogs are minimised.
<b>Option D</b> All on-leash.	<u>High</u> Conflicts between people, wildlife and dogs are minimised.  Clear enforceable rules that are well understood.  Cost-effective dog control services.

	<p><u>Low</u></p> <p>All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.</p>

### Preferred option:

**Option B** — Status quo: Part on-leash and part off-leash with clearer demarcation of the on-leash and off-leash areas.

### Reasons

Option B is the preferred option because:

- Isel Park offers a high amenity recreation area for parents and children, and the elderly, as well as for dog owners of all ages.
- Parents need on-leash spaces where they can be confident their children can run around without being rushed at by dogs.

### Grazed Reserves

**Note:** The following outcomes are not applicable to this topic:

- Conflicts between people, wildlife and dogs are minimised.
- Cost-effective dog control services.

Options	Assessment of benefits
<p><b>Option A</b></p> <p>Status quo: dogs must be under control at all times (which can be either on a leash or by obeying commands) and dogs caught attacking or worrying sheep will be destroyed.</p>	<p><u>High</u></p> <p>All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.</p>
	<p><u>Low</u></p> <p>Cost-effective stock control of grass and weeds in Council reserves.</p> <p>Clear enforceable rules that are well understood. (Due to the frequency of issues related to sheep and dogs.)</p>
<p><b>Option B</b></p> <p>Require dogs to be on a leash <u>WHEN</u> stock are present.</p>	<p><u>High</u></p> <p>All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.</p>
	<p><u>Medium</u></p> <p>Cost-effective stock control of grass and weeds in Council reserves.</p>
	<p><u>Low</u></p>

	Clear enforceable rules that are well understood.
<b>Option C</b> Require dogs to be on a leash in grazed areas (at all times) — excluding Paremata Flats Reserve, where dogs can be off-leash but must be controlled around stock.	<u>High</u> Cost-effective stock control of grass and weeds in Council reserves.  Clear enforceable rules that are well understood.
	<u>Medium</u> All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs. (All of the grazed areas are connected to areas where dogs can be off-leash.)
<b>Option D</b> Require dogs to be on a leash in grazed areas (at all times) in the Grampians Reserve only.	<u>High</u> All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.  Clear enforceable rules that are well understood.
	<u>Low</u> Cost-effective stock control of grass and weeds in Council reserves. (Both the Grampians Reserve and the Sir Stanley Whitehead Park have been identified as at extreme fire risk, and the Maitai Conservation Reserve is identified as High Risk).
<b>Option E</b> Prohibit dogs from grazed areas (at all times).	<u>High</u> Cost-effective stock control of grass and weeds in Council reserves.  Clear enforceable rules that are well understood.
	<u>Low</u> All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.

**Preferred option:**

**Option C** — Require dogs to be on a leash in all grazed reserves (at all times) **excluding** Paremata Flats Reserve, where dogs can be off-leash but must be controlled around stock.

**Reasons:**

Both weeds and fire risk increase if stock are not grazing these areas. It is difficult for dog walkers to know when stock are in an area, and usually a dog walker will not know there is stock present until they come across them. Therefore, it can be difficult for dog walkers to know when they need to control their dogs around the grazing stock and an owner is better able to control their dog(s) around grazing stock when it is on a leash. For these reasons, Council considers that dogs should be on a leash in all grazed reserves but with an exception carved out for Paremata Flats.

The grazed area at Paremata Flats Reserve is excluded from this proposed change, as off-leash dog exercise areas are limited in Nelson North, and the grazer hasn't had any issues with dogs in this reserve. He is supportive of this being an off-leash exercise area, as long as there is adequate signage indicating "stock grazing — keep dogs under control".

## Good Dog Owner Policy

**Note:** The following outcomes are not applicable to this topic:

- All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.
- Cost-effective stock control of grass and weeds in Council reserves.
- Clear enforceable rules that are well understood.

Options	Assessment of benefits
<b>Option A</b> Status quo: Retain the current GDO Policy.	<u>Low</u> Conflicts between people, wildlife and dogs are minimised.  Cost-effective dog control services.
<b>Option B</b> Delete the GDO Policy.	<u>High</u> Cost-effective dog control services.
	<u>Low</u> Conflicts between people, wildlife and dogs are minimised.

### Preferred option:

**Option B** — Delete the GDO Policy.

### Reasons:

Option B is preferred because the GDO Policy:

- is costly to administer (approximately \$16,500 per annum based on 300 requests at \$55 per request)
- is costly to implement (currently there are 2,500 owners receiving the \$19.50 subsidy which costs \$48,750, with the potential for another 3,701 applications at a cost of approximately \$72,000) and it is easy to be classified as a good dog owner
- does not achieve policy outcomes as it works on the basis that good dog owners need to prove they are good dog owners rather than assuming all dog owners are good dog owners and penalising those who are not
- duplicates provisions in the Dog Control Act which require owners to keep their dog under control generally (ss52 and 52A) and confined to their property (s52A).

## Monaco Reserve

**Note:** The following outcomes are not applicable to this topic:

- Cost-effective stock control of grass and weeds in Council reserves.
- Cost-effective dog control services.

Options	Assessment of benefits
<b>Option A</b> Status quo: dogs must be under control at all times (which can be either on a leash or by obeying commands) and dogs caught attacking or worrying sheep will be destroyed.	<u>High</u> Clear enforceable rules that are well understood.
	<u>Medium</u> Conflicts between people, wildlife and dogs are minimised. (Monaco Reserve is currently used as an off-leash area by many dog owners, leading to complaints about non-compliance.)
	<u>Low</u> All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.
<b>Option B</b> Include Monaco Reserve in Schedule 3, as an off-leash area	<u>High</u> Conflicts between people, wildlife and dogs are minimised. (This approach is supported by the community)  All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.  Clear enforceable rules that are well understood.

**Preferred option: Option B** — Remove Monaco Reserve from Schedule 2 (on-leash areas) and add it to Schedule Three (neighbourhood parks in which dogs may be off-leash).

### Reasons:

Although there is a playground in Monaco Reserve (which will remain a dog prohibited area), signs can be used to indicate this. There is also a playground in a number of other neighbourhood parks where dogs are allowed to be off-leash, including Wolfe Reserve, Poplar Reserve, Fairfield Park and Hanby Park. Allowing Monaco Reserve to be an off-leash area would not be inconsistent with the rest of the Bylaw.

## Paremata Flats Reserve and Delaware Estuary

**Note:** The following outcomes are not applicable to this topic:

- All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.
- Cost-effective stock control of grass and weeds in Council reserves.
- Cost-effective dog control services.

Options	Assessment of benefits
<b>Option A</b> Status quo — dogs are prohibited within the fenced area of the foreshore and esplanade reserve at Paremata Flats.	<u>Medium</u> Conflicts between people, wildlife and dogs are minimised.
	<u>Low</u> Clear enforceable rules that are well understood.
<b>Option B</b> Explicitly refer to the Paremata Flats planted area and the Delaware Estuary margins and islands within the estuary as a dogs prohibited area	<u>High</u> Conflicts between people, wildlife and dogs are minimised.  Clear enforceable rules that are well understood.

**Preferred option: Option B** — Explicitly refer to the Paremata Flats planted area within clause 19 of Schedule One (dog prohibited areas), and include Delaware Estuary margins, and islands within the estuary as a dog prohibited area.

**Reasons:** Currently the dog prohibited area is the planted areas by the estuary and river, so an extension to cover all the planted areas is appropriate to protect the habitat of rare, ground nesting birds such as fern birds.

There is an off-lead dog exercise area available in the grazed area of Paremata Flats Reserve, and this ensures that dog owners have access to off-lead areas.



## Boulder Bank

**Note:** The following outcome is not applicable to this topic:

- Cost-effective stock control of grass and weeds in Council reserves.

Options	Assessment of benefits
<b>Option A</b> Status quo: DOC has signs indicating dogs should be on a leash on the Boulder Bank but this is not listed as an off-leash area in the Bylaw. (However, the area from the Cut towards Boulder Bank Drive for 4km from October to February is listed as a prohibited area to protect nesting birds.) Dogs are permitted on foreshore and sea bed administered by DOC unless it is an area listed in this Schedule.	<u>High</u> Cost-effective dog control services.
	<u>Medium</u> All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs. (Council cannot currently enforce DOC's on-leash requirement.)
	<u>Low</u> Conflicts between people, wildlife and dogs are minimised.  Clear enforceable rules that are well understood.
<b>Option B</b> Include the Boulder Bank in Schedule 2 as an on-leash area (noting the prohibited status of part of the Boulder Bank from October to February to protect nesting birds).	<u>High</u> Conflicts between people, wildlife and dogs are minimised.  Clear enforceable rules that are well understood. (Consistency with DOC requirements.)
	<u>Medium</u> Cost-effective dog control services. (This is an additional cost to Council.)
	<u>Low</u> All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs. (Very limited off-leash options in the Nelson North area.)

**Preferred option: Option B** — Include the Boulder Bank in Schedule 2 (on-leash areas) of the Policy and Bylaw to enable enforcement to be carried out by Council on behalf of the Department of Conservation.

**Reasons:** DOC has signage on the Boulder Bank which indicates that dogs are permitted if on a leash in this area.

The Acting Statutory Manager has advised that DOC does not have the resources to undertake compliance and enforcement work in relation to dogs being walked off-leash at this site.

## Number of Dogs

**Note:** The following outcomes are not applicable to this topic:

- All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs.
- Cost-effective stock control of grass and weeds in Council reserves.

Options	Assessment of benefits
<b>Option A</b> Status quo — No more than two dogs can be kept on any property in the urban area without written permission from the Council.	<u>Medium</u> Conflicts between people, wildlife and dogs are minimised.
	<u>Low</u> Clear enforceable rules that are well understood.  Cost-effective dog control services.
<b>Option B</b> Rely on Council's ability to reduce the number of dogs if necessary, under clause 10.2 of the Bylaw.	<u>High</u> Cost-effective dog control services.
	<u>Medium</u> Conflicts between people, wildlife and dogs are minimised.  Clear enforceable rules that are well understood.

**Preferred option:** Rely on Council's ability to reduce the number of dogs if necessary, under clause 10.2 of the Bylaw. (Consequent amendment — delete the map of the Nelson Urban Area and definition of 'urban area' from the Dog Control Policy and Bylaw, as this relates to Part 8 of the Policy.)

**Reasons:** This approach provides Council with the authority it needs to manage nuisance and health issues associated with multiple dogs on the same property.

## Enforcement Provisions

Options	Assessment of benefits
<b>Option A</b> Status quo: Some inconsistencies between the Policy/Bylaw and Council's enforcement approach and/or the DCA	<u>Medium</u> Clear enforceable rules that are well understood.
<b>Option B</b> Consistency between the Policy/Bylaw and Council's enforcement approach and/or the DCA	<u>High</u> Clear enforceable rules that are well understood.

**Preferred option:** Amend the wording of the Policy as follows:

- Section 4.1 of the Policy — change the last sentence of clause 4.1 to "Non compliance with this notice may result in enforcement action."
- Clause 7.5 of the Policy — Amend to "Where the offence relates to a failure to register a dog, Council will issue a notice that a dog is not registered. Then, if the registration fee is not paid within seven days, the owner will receive an Infringement Notice."
- Clause 10.2 of the Bylaw should refer to both dog owners, and to owners and occupiers of premises, as follows.

If, in the opinion of a Dog Control Officer, any dog has become or is likely to become a nuisance to any person or injurious to the health of any person, the Dog Control Officer may, by notice in writing, require the dog owner or the owners or occupiers of the premises at which the dog is kept, within a time specified in such notice to do all or any of the following:

- reduce the number of dogs on the premises;
- construct, alter, reconstruct or otherwise improve the kennels or other buildings or fences used to house or contain the dog;
- tie up or otherwise confine the dog during specified periods;
- take such other action as necessary to minimise or remove the likelihood of nuisance or injury to health.

**Reasons:** These changes will more accurately reflect the enforcement process carried out by Council.

### **All other aspects of the Policy and Bylaw**

**Proposal:** Retain all other aspects of the Policy and Bylaw (other than improvements to the wording of the Policy and Bylaw to reflect legal advice).

**Note:** Some changes have been made to use correct names of public places. For example, all references to the 'Boulder Bank Scenic Reserve' have been changed to 'Boulder Bank' because parts of the Boulder Bank do not have a scenic reserve classification. Some parts (the baches) have a recreation reserve classification, and the part owned by Port Nelson (around the Lighthouse) doesn't have a reserve classification.

**Reason:** The proposed amendments are based on informal consultation with a broad range of stakeholders. However, the formal consultation process is an opportunity to suggest other changes which have not yet been considered.

### **Submissions**

Anyone may make a submission about any aspect of the Policy and Bylaw. The entire Policy and Bylaw are open for consultation, as well as any matters relevant to the Policy and Bylaw that people wish to raise as part of this consultation process. Council, in making its decision, will take account of all submissions made.

All submissions, including the name and contact details of the submitter, will be made available to the public and media on Council's website, unless you specifically request that your contact details be kept private and explain why it is necessary to protect your privacy. Council will not accept any anonymous submissions.

Submissions can be made:

- online at [nelson.govt.nz](http://nelson.govt.nz)
- by post to Dog Control Policy and Bylaw Review, PO Box 645, Nelson 7010
- by delivering your submission to Civic House, 110 Trafalgar Street, Nelson.

**Submissions must be received no later than 28 February 2020.**

Any person who wishes to speak in support of their submission will be given the opportunity to address the Council at a hearing on **25–26 March 2020**.



DRAFT FOR CONSULTATION

## **Proposed Amendments to the Dog Control Policy 2020 and the Dog Control Bylaw 2020**

### **Maps**

Maps showing the proposed changes are available on the website. Paper copies are available at the Customer Service Centre and in Nelson libraries.

### **Proposed Amendments to the Policy and Bylaw**

The key changes Council proposes to make are underlined in both the Dog Control Policy and Bylaw 2020 which are attached to the Statement of Proposal. This is available on the website [add link]. Paper copies are available at the Customer Service Centre and in Nelson libraries.



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**Dog Bylaw Changes Map 1**

R9973

 **Nelson City Council**  
te kaunihera o whakatū

**Legend**

**Proposed Dog Bylaw Changes**

 On lead → Off lead

**Existing Dog Bylaw Areas**

 Dogs on Lead

 Dogs Prohibited



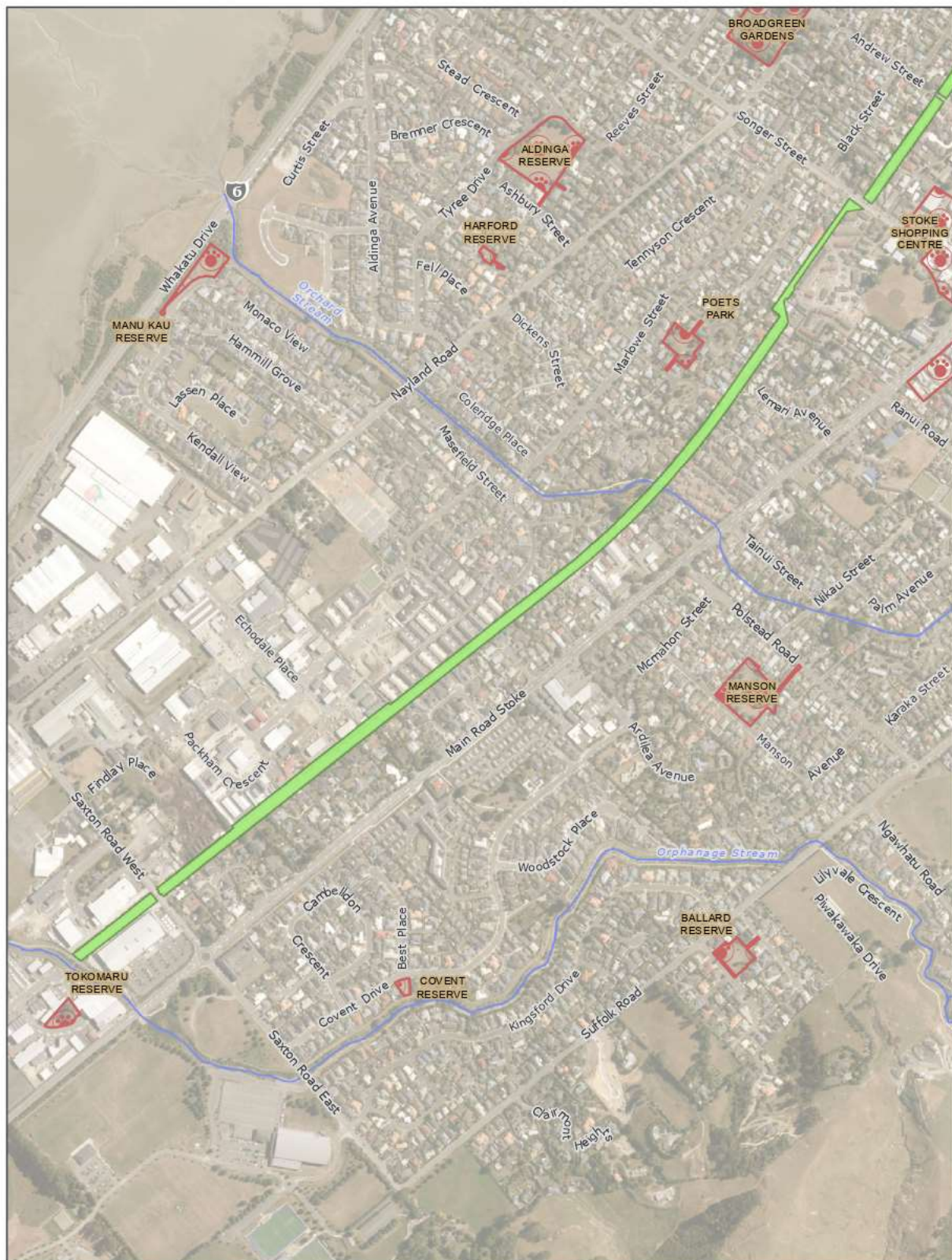
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February 2019

PO Box 645 Nelson 7040 New Zealand PH 03 5460200 nelson.govt.nz

File Ref: A2122940  
HD. Original map size A4.





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## Dog Bylaw Changes Map 2

R9973



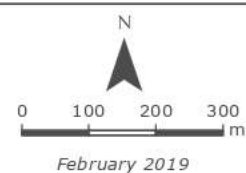
### Legend

Railway Reserve

Off lead (No Change)

Existing Dog Bylaw Areas

Dogs on Lead



February 2019

File Ref: A2122940  
HD. Original map size A4.





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**Dog Bylaw Changes Map 3**  
R9973

 **Nelson City Council**  
te kaunihera o whakatū

**Legend**

**Existing Dog Bylaw Areas**

-  Dogs on Lead
-  Dogs Prohibited

**Railway Reserve**

-  Off lead (No Change)

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0 100 200 300 m

May 2019

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## Dog Bylaw Changes Map 4

R9973



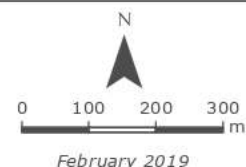
### Legend

Railway Reserve

Off lead (No Change)

Existing Dog Bylaw Areas

Dogs on Lead



February 2019

File Ref: A2122940  
HD. Original map size A4.





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**Dog Bylaw Changes Map 5**

R9973



Nelson City Council  
te kaunihera o whakatū

**Legend**

**Railway Reserve**

Off lead (No Change)

**Existing Dog Bylaw Areas**

Dogs on Lead

**Park Boundaries**



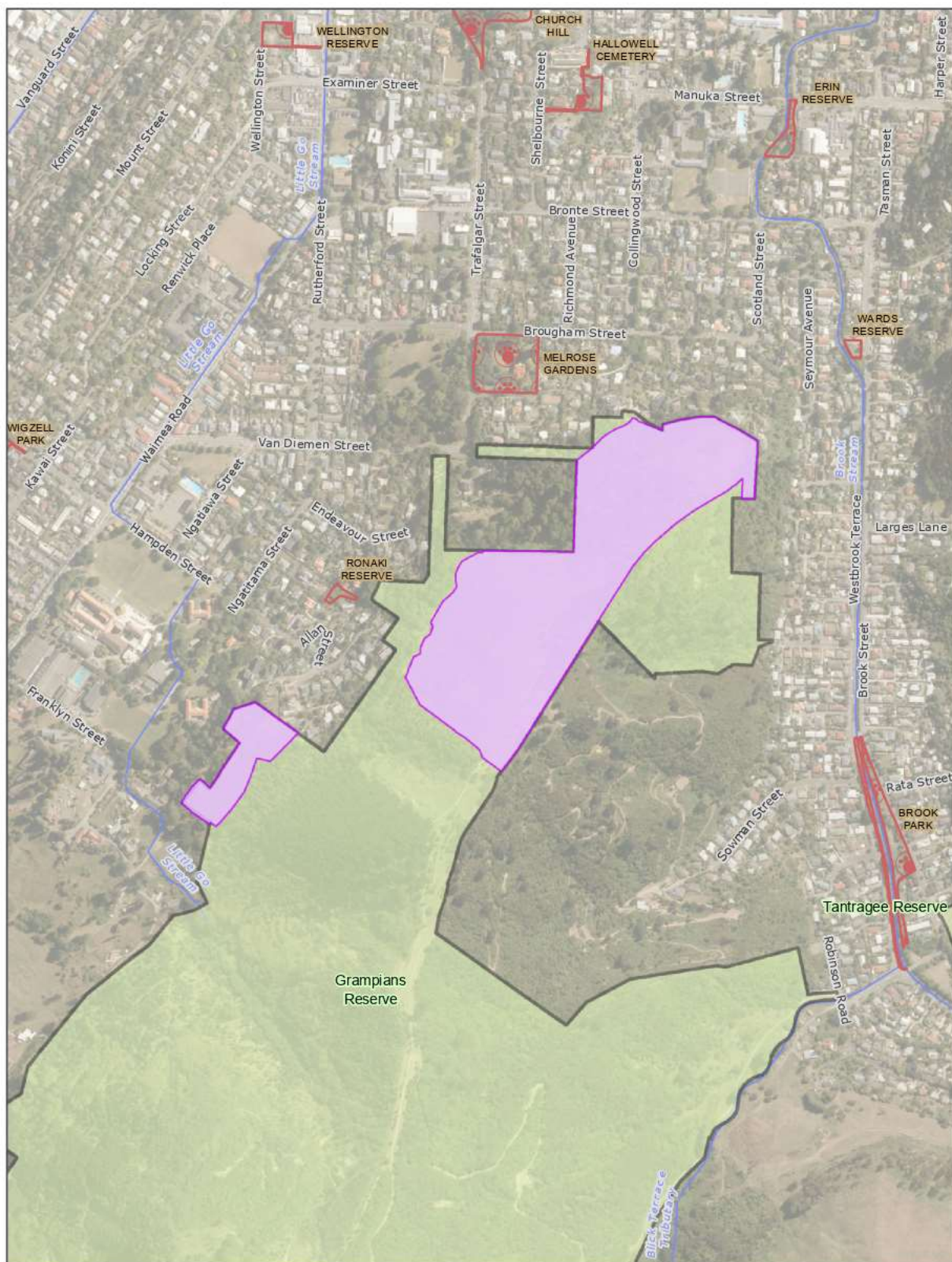
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## Dog Bylaw Changes Map 6

R9973



### Legend

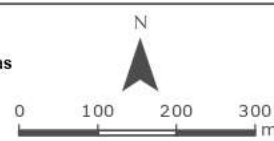
Proposed Dog Bylaw Changes

Off lead → On lead

Existing Dog Bylaw Areas

Dogs on Lead

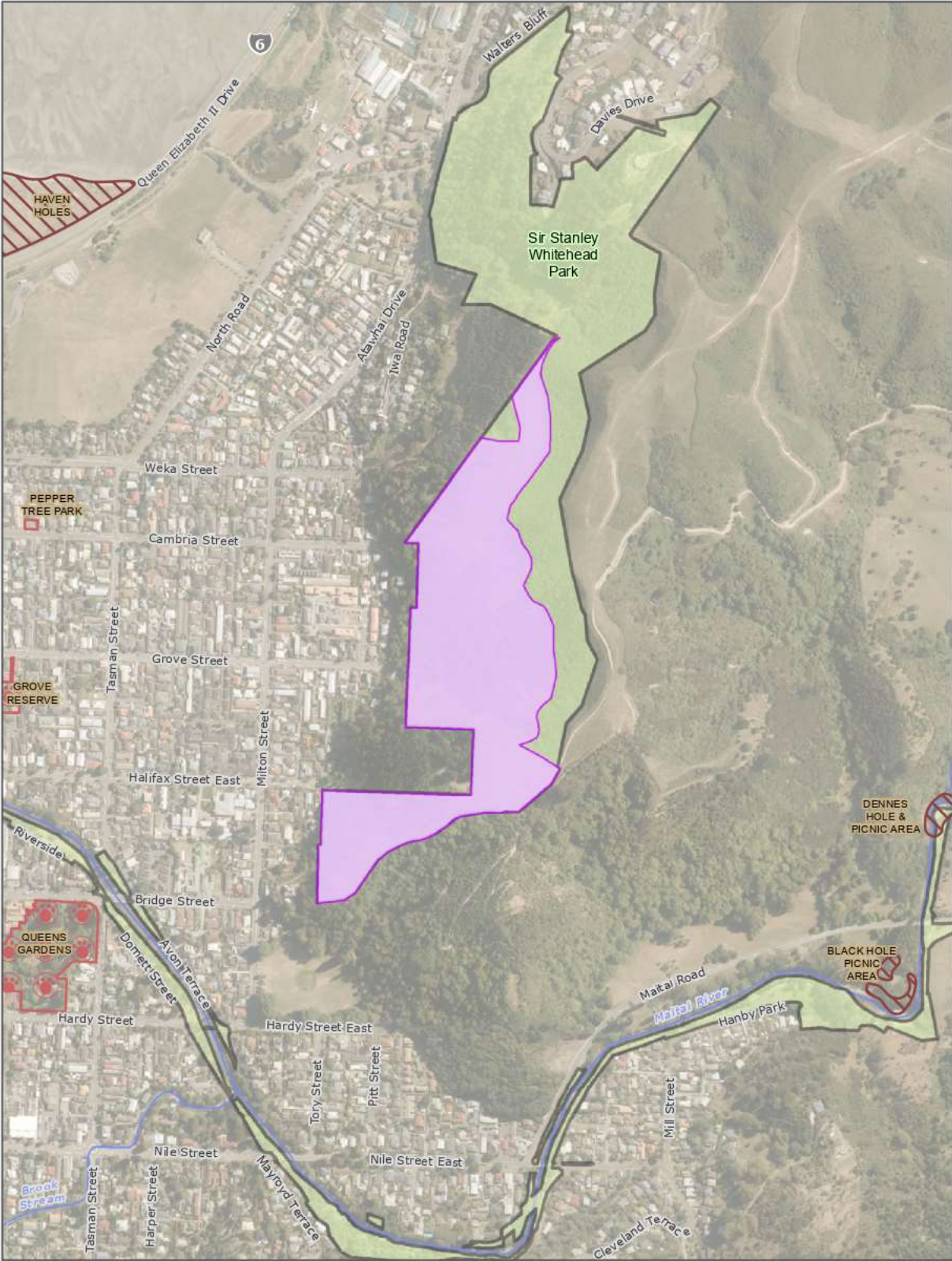
Park Boundaries



February 2019

File Ref: A2122940  
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**Dog Bylaw Changes Map 7**  
R9973

 **Nelson City Council**  
te kaunihera o whakatū

**Legend**

**Proposed Dog Bylaw Changes**

- Off lead → On lead

**Existing Dog Bylaw Areas**

- Dogs on Lead
- Dogs Prohibited

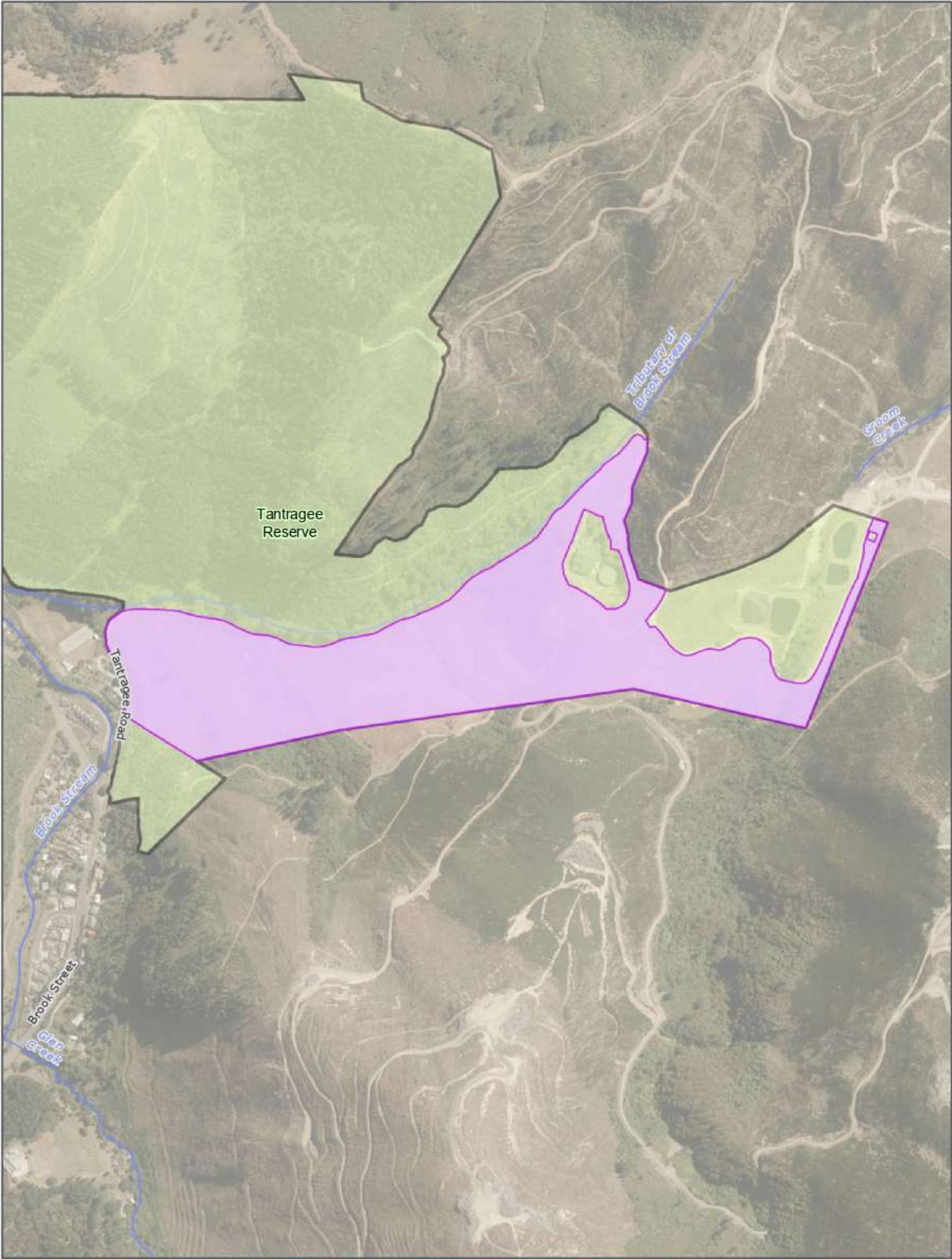
**Park Boundaries**

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0 100 200 300 m

February 2019





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**Dog Bylaw Changes Map 8**

R9973



**Nelson City Council**  
te kaunihera o whakatū

**Legend**

**Proposed Dog Bylaw Changes**

Off lead → On lead

**Park Boundaries**



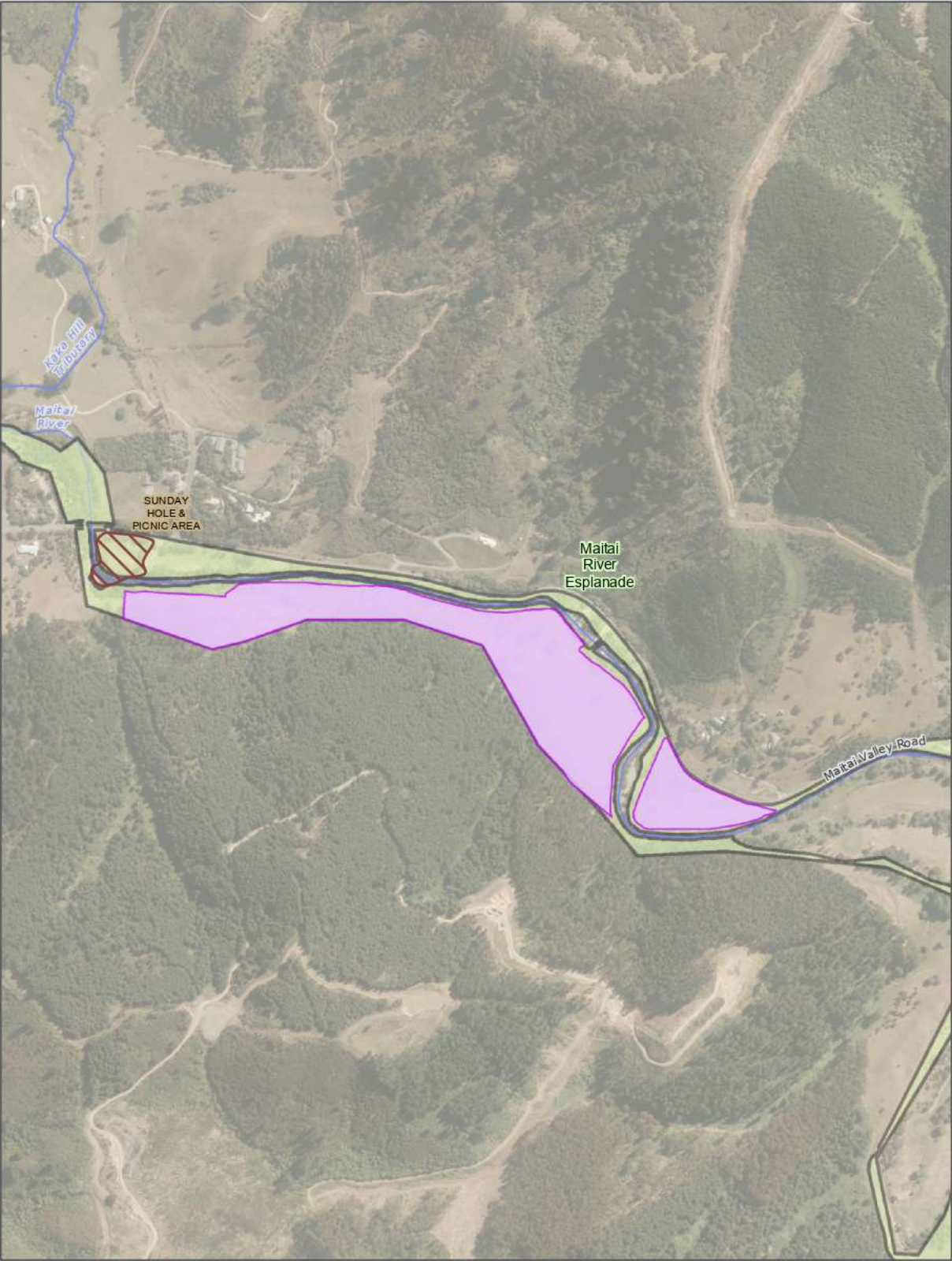
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**Dog Bylaw Changes Map 9**  
R9973

 **Nelson City Council**  
te kaunihera o whakatū

**Legend**

**Proposed Dog Bylaw Changes**

 Off lead → On lead

**Existing Dog Bylaw Areas**

 Dogs Prohibited

**Park Boundaries**



 N

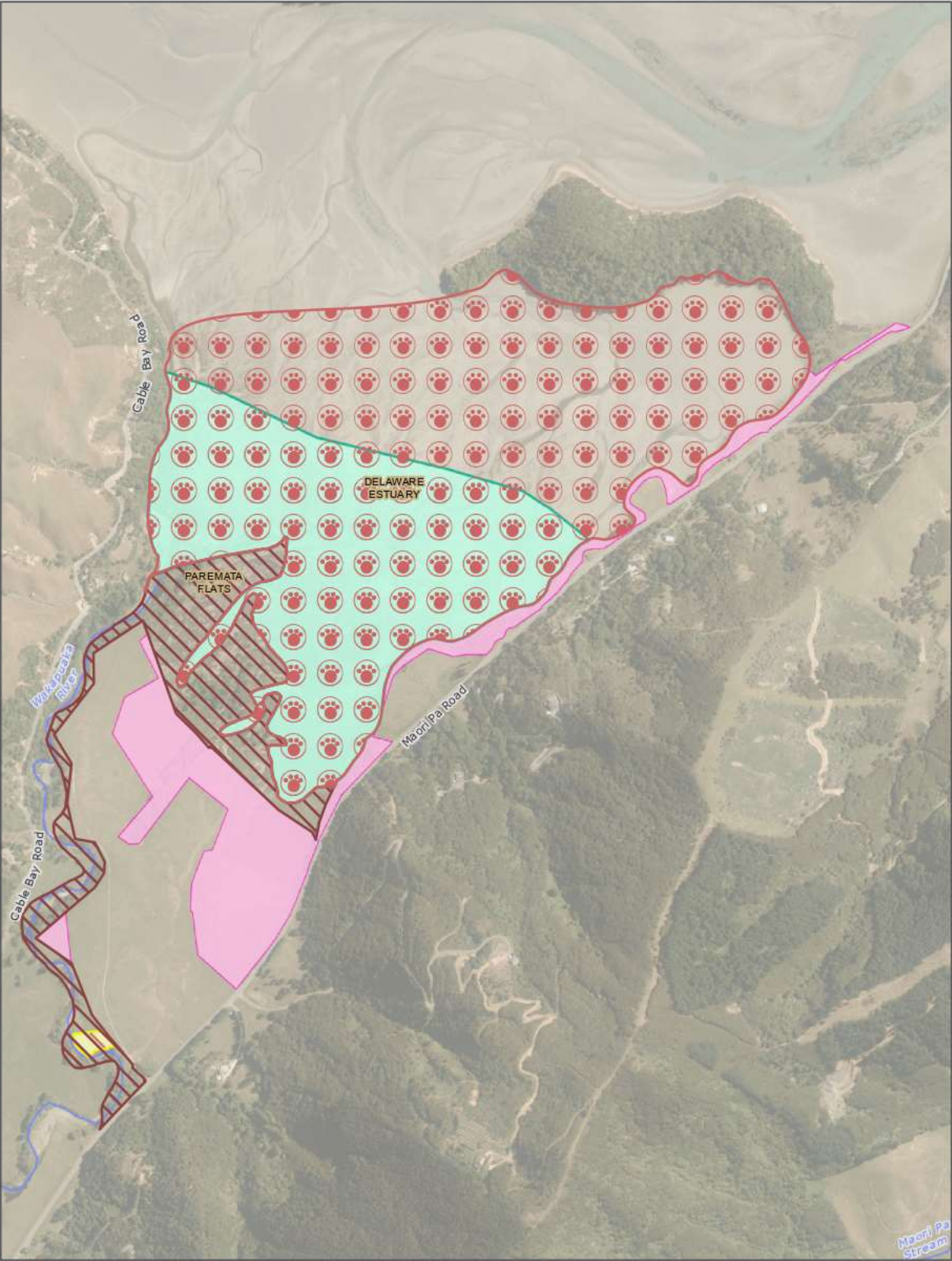
0 100 200 300 m

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**Dog Bylaw Changes Map 10**  
R9973

 **Nelson City Council**  
te kaunihera o whakatū

**Legend**

**Proposed Dog Bylaw Changes**

-  Off lead → Prohibited
-  On lead → Prohibited
-  Prohibited → Off lead

**Existing Dog Bylaw Areas**

-  Dogs on Lead
-  Dogs Prohibited

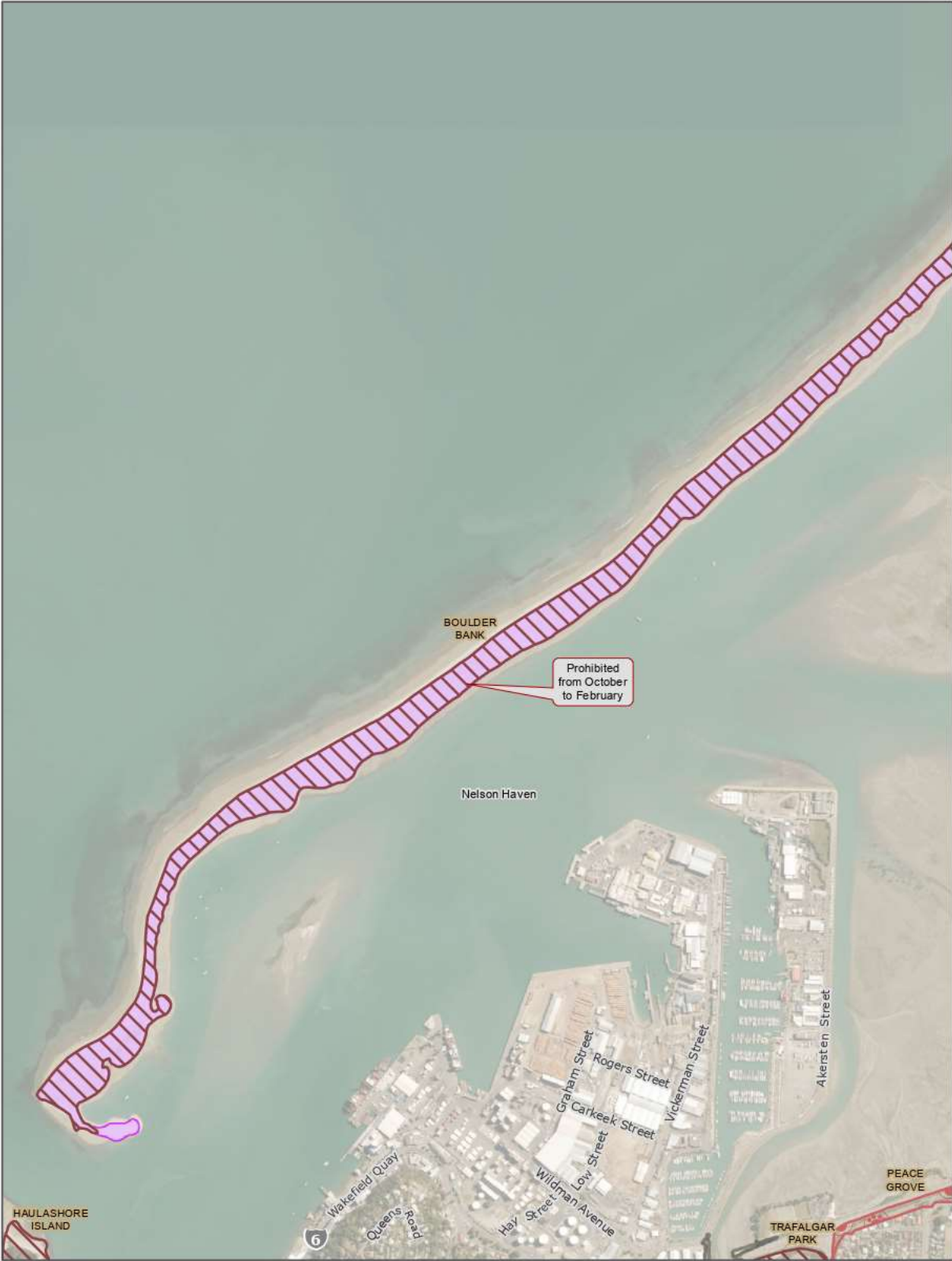
  
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February 2019

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**Dog Bylaw Changes Map 11**

R9973



**Nelson City Council**  
te kaunihera o whakatū

**Legend**

**Proposed Dog Bylaw Changes**

Off lead → On lead

**Existing Dog Bylaw Areas**

Dogs on Lead

Dogs Prohibited

**Park Boundaries**

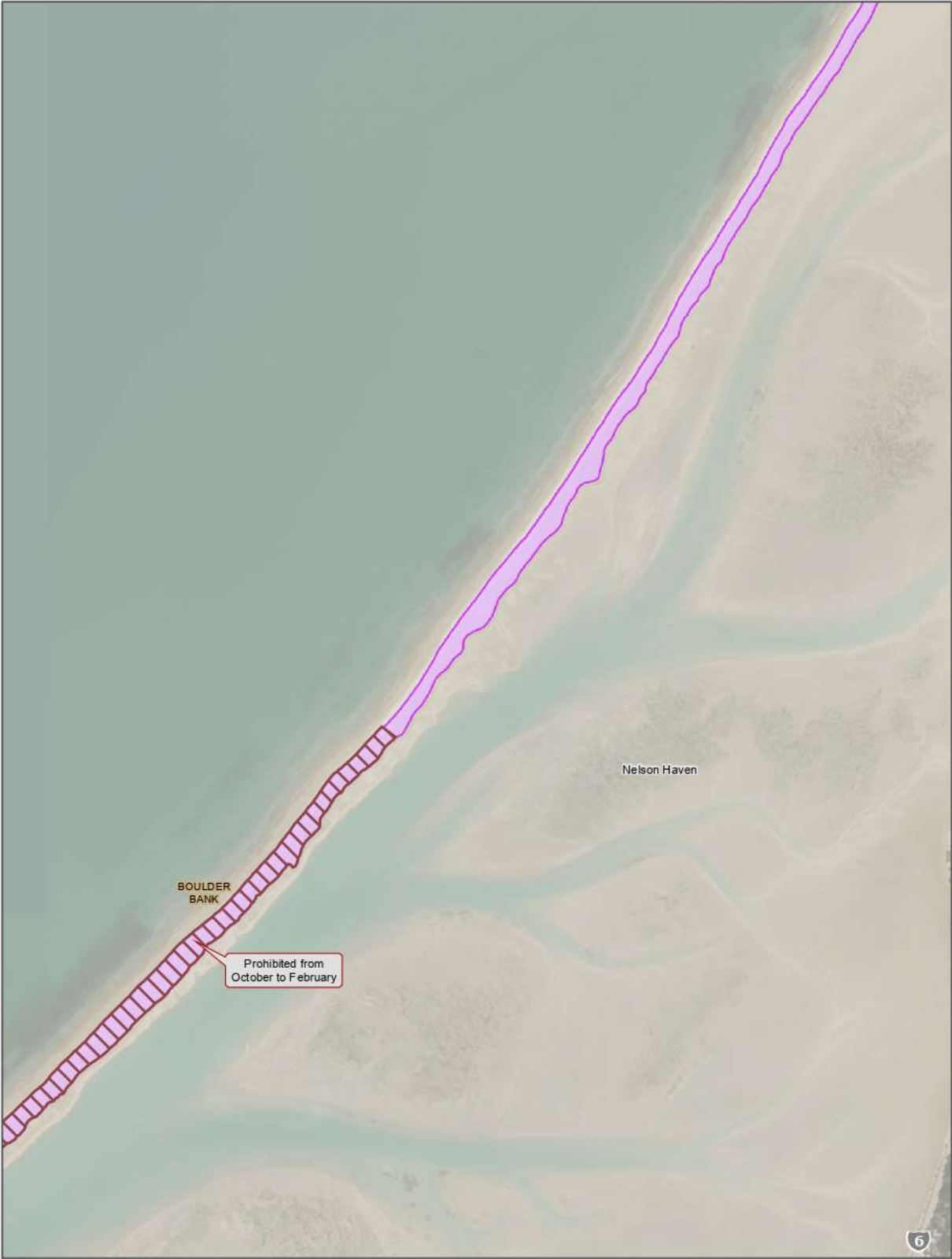
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**Dog Bylaw Changes Map 12**  
R9973

**Nelson City Council**  
te kaunihera o whakatū

**Legend**

**Proposed Dog Bylaw Changes**

Off lead → On lead

**Existing Dog Bylaw Areas**

Dogs Prohibited

0 100 200 300 m

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### Dog Bylaw Changes Map 13

R9973



**Nelson City Council**  
te kaunihera o whakatū

**Legend**

**Proposed Dog Bylaw Changes**

 Off lead → On lead

**Existing Dog Bylaw Areas**

 Dogs Prohibited



0 100 200 300 m

February 2019

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**Dog Bylaw Changes Map 14**

R9973

 **Nelson City Council**  
te kaunihera o whakatū

**Legend**

**Proposed Dog Bylaw Changes**

 Off lead → On lead

**Existing Dog Bylaw Areas**

 Dogs on Lead



0 100 200 300 m

February 2019

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File Ref: A2122940  
HD. Original map size A4.

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## **Plan Change 27 Approval**

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### **1. Purpose of Report**

- 1.1 To approve Plan Change 27 (PC27) pursuant to Clause 17, Schedule 1 of the Resource Management Act 1991.

### **2. Recommendation**

***That the Environment Committee***

***Receives the report Plan Change 27 Approval (R9694).***

Recommendation to Council

***That the Council***

***Approves Plan Change 27 to become operative.***

### **3. Background**

- 3.1 PC27 was approved for notification at the 28 May 2019 Planning and Regulatory Committee meeting following an initial consultation round on a draft PC27.
- 3.2 PC27 seeks to update engineering standard references within the Nelson Resource Management Plan from the 2010 Nelson Land Development Manual version to the jointly approved Nelson Tasman Land Development Manual 2019 (NTLDM). Alterations were also proposed to the building over drain rule.
- 3.3 PC27 was notified on 15 July 2019 with submissions closing on 12 August 2019. Four submissions were received as follows:
- 3.3.1 Ben Eggleston regarding the Tahunanui Cycle Lane.
- 3.3.2 Fire and Emergency New Zealand regarding the minimum width for private accessways.
- 3.3.3 Sky Landis seeking to change the approach to paid car parking in the city centre.

## Item 9: Plan Change 27 Approval

3.3.4 Joe Higgins to adopt a new bylaw relating to community gardens.

- 3.4 PC27 was notified at a similar time to Tasman District Council's (TDC) Plan Change 69 (PC69), which also sought to align TDC's Resource Management Plan with the NTLDM. PC69 attracted three minor submissions and these will be considered by TDC in November 2019.

## 4. Discussion

### Approve PC27 as Submissions Withdrawn

- 4.1 Plan Change 27 seeks to update references in the Nelson Resource Management Plan to align with the NTLDM and amend the building over drains rule. The NTLDM was jointly developed between Nelson City Council and Tasman District Council so that engineering standards could be aligned across both areas. The NTLDM went through a separate consultation process prior to Plan Change 27 being notified. The time to submit on the content of the NTLDM was as part of the earlier process.
- 4.2 Given that the scope of submissions received on PC27 related to either the content of the NTLDM itself (accessway standards) or to other matters (Tahunanui cycle land, paid parking, and community gardens) Council officers sought legal advice about the validity of the submissions. The legal advice confirmed that the submissions were not "on the Plan Change". Consequently Council officers engaged with submitters seeking that the submissions be withdrawn to avoid the need to progress to a hearing. All submitters have agreed to withdraw their submissions and have been put in contact with relevant Council staff so that their issues can be considered in the correct forum.
- 4.3 Clause 17 of Schedule 1 of the Resource Management act 1991 allows a local authority to approve a Plan Change where any minor alterations have been made and submissions have been disposed of. It is recommended that Council approve PC27 as operative due to all submissions being withdrawn.

## 5. Options

- 5.1 The Committee has two main options in considering the recommendations made in this report:
- 5.1.1 Option 1 – Recommend to Council that PC27 is approved.
- 5.1.2 Option 2 – Recommend to Council that PC27 is not approved.

## Item 9: Plan Change 27 Approval

<b>Option 1: Approve Plan Change 27</b>	
Advantages	<ul style="list-style-type: none"><li>• Provides for consistency and alignment between resource management plans in the Nelson and Tasman regions</li><li>• Provides administrative effectiveness and efficiency</li><li>• Completes a Council initiated Plan Change process</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• None</li></ul>
<b>Option 2: Do not approve Plan Change 27</b>	
Advantages	<ul style="list-style-type: none"><li>• None</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• Will result in regional inconsistency</li><li>• Will result in administrative ineffectiveness and inefficiency</li><li>• Does not complete the Council initiated Plan Change process</li></ul>

5.2 Option 1 is the preferred option for the reasons outlined above.

**Author:** Matt Heale, Manager Environment

### **Attachments**

Nil



<p><b>Important considerations for decision making</b></p>
<p><b>1. Fit with Purpose of Local Government</b></p> <p>Plan Change 27 aligns the Nelson Resource Management Plan with the Nelson Tasman Land Development Manual 2019 to help promote environmental and economic wellbeing by ensuring good quality infrastructure is established in a cost-effective and regionally consistent way that achieves Council's environmental outcomes.</p>
<p><b>2. Consistency with Community Outcomes and Council Policy</b></p> <p>PC27 is consistent with the community outcomes and will assist Council to achieve them, particularly "Our urban and rural environments are people friendly, well planned and sustainably managed" and "Our infrastructure is efficient, cost effective and meets current and future needs".</p>
<p><b>3. Risk</b></p> <p>The recommendation seeks the Committee recommend to Council the approval of PC27 following extensive stakeholder engagement on Draft PC27 and a formal submission process. Draft PC27 has been through a RMA/LGA feedback process which included a hearing and the Joint Council Hearing Panel has deliberated and recommended PC27 for notification. Notification of PC27 included public notice and letters to directly affected parties. This process has reduced risk by ensuring the Council gives consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter. It has also ensured that PC27 takes into account the views of the community and balances infrastructural and environmental aspirations.</p>
<p><b>4. Financial impact</b></p> <p>The financial impact of approving PC27 is minimal given that this generally seeks to implement the NTLDM which has already been jointly adopted for use by Nelson City Council and Tasman District Council.</p>
<p><b>5. Degree of significance and level of engagement</b></p> <p>This matter is of low significance because PC27 implements the NTLDM and both documents have undergone extensive stakeholder engagement and a formal LGA and RMA consultation process.</p>
<p><b>6. Climate Impact</b></p> <p>While future climate change impacts were not specifically considered in PC27 itself the network asset and infrastructure standards referenced from the NTLDM have been designed to avoid or minimise the risks associated with climate change.</p>



## **7. Inclusion of Māori in the decision making process**

Māori have not been specifically consulted in relation to PC27. Preliminary consultation has been undertaken with iwi via the Nelson Plan Iwi Working Group during the development of draft PC27 and through the notification of PC27.

### **• Delegations**

The Environment Committee has the following delegations to consider:

#### *Areas of Responsibility:*

- The Regional Policy Statement, District and Regional Plans, including the Nelson Plan

#### *Powers to Recommend to Council:*

In the following situations the committee may consider matters within the areas of responsibility but make recommendations to Council only (in accordance with sections 5.1.3 - 5.1.5 of the Delegations Register):

- Matters that, under the Local Government Act 2002, the operation of law or other legislation, Council is unable to delegate
- Approval of notification of any statutory resource management plan, including the Nelson Plan or any Plan Changes

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## **Biosecurity Annual Review**

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### **1. Purpose of Report**

- 1.1 To note the content of the Review of the 2018-19 Biosecurity Operational Plan and to approve the 2019-20 Biosecurity Operational Plan. This report will also be reported to Tasman District Council as our joint partner and management agency for the Tasman-Nelson Regional Pest Management Plan.

### **2. Summary**

- 2.1 Section 100B of the Biosecurity Act 1993 requires the management agency for every pest management strategy or plan to annually review the Operational Plan and report on its implementation.
- 2.2 The review of the 2018-19 Biosecurity Operational Plan (Attachment 1) summarises the activities undertaken during the 2018-19 financial year and comments on relevant biosecurity issues.
- 2.3 The annual report confirms Nelson City Council is meeting its biosecurity obligations and work undertaken was within budget.
- 2.4 Both Nelson City Council and Tasman District Council participate in the Top of the South Marine Biosecurity Partnership along with Marlborough District Council and the Ministry for Primary Industries. This continues to be an effective forum through which to prepare for and respond to marine pest incursions.

### **3. Recommendation**

#### ***That the Environment Committee***

- 1. Receives the report Biosecurity Annual Review (R12562) and its attachments (A2288852 and A2262413); and***
- 2. Approves the Operational Plan for the Tasman-Nelson Regional Pest Management Plan 2019/20 (A2262413), specifically as it relates to Nelson City Council's area.***

#### **4. Background**

- 4.1 Nelson City Council and Tasman District Council have operated a joint Regional Pest Management Strategy and an Operational Plan since the introduction of the Biosecurity Act 1993.
- 4.2 The 2018-19 Biosecurity Operational Plan activity was undertaken under the Tasman-Nelson Regional Pest Management Strategy 2012-2017 which ceased to have effect on 1 July 2019. That Strategy has now been superseded by the Tasman-Nelson Regional Pest Management Plan 2019-29 (RPMP). The RPMP carries forward many of the previous pest management programmes, however a small number of programmes have been dropped and a much larger number have been added.
- 4.3 The 2019-20 Biosecurity Operational Plan (Attachment 2) outlines the objectives and activities to be undertaken when implementing the RPMP in the Nelson region. The approved budget for delivery of the Operational Plan for the Nelson region is \$207,000. This includes an increase on previous funding of \$40,000, approved through the 2019-20 Annual Plan for control of Taiwan cherry and Sabella. The total annual cost for implementation of the RPMP across both Tasman and Nelson regions is \$632,000.
- 4.4 The Operational Plan based on the pests and programmes contained in the new Plan along with the requirements of National Policy Direction for Pest Management 2015. It is therefore a very different Operational Plan than in previous years.
- 4.5 There are five types of pest management programmes to be carried out under the RPMP. These are summarised below, along with a number of key projects which highlight the range of activities covered in the programme.
- Exclusion pest programme – preventing 12 high threat pests from establishing in the Tasman and Nelson regions.
  - Eradication pest programme – eliminating 24 high threat pests from the regions (or parts of a region).
  - Progressive containment pest programme – containing and reducing the extent of seven pest plants across the regions.
  - Sustained control pest programme – ongoing control of 23 widespread pest plants and other organisms to reduce their impacts and spread to other properties.
  - Site-led pest programmes – control of named pests to reduce their impacts on natural biodiversity values at specific places. There are three key sites or places covered by the RPMP, all of them are in Tasman District Council region.

## **5. Discussion**

- 5.1 The joint Regional Pest Management Plan came into force in July 2019. This report and its associated documents are focused on the closing out of the existing Strategy and the transition to the new Regional Pest Management Plan and its associated Operational Plan.
- 5.2 The Review of the 2018-19 Operational Plan examines the results of Tasman District Council's work as the Management Agency for implementing the Tasman-Nelson Regional Pest Management Strategy (now superseded).

### **Total Control pests**

- 5.3 In the Strategy there are 13 Total Control pests, where the long-term aim is eradication. On all known sites, plant numbers have been reduced but for some pests, new sites have been found and this may extend the time required for eradication. All new, active and monitoring sites of Total Control Plant Pests (African feather grass, Bathurst bur, boxthorn, cathedral bells, climbing spindleberry, *Egeria*, entire marshwort, hornwort, Madeira vine, *Phragmites*, saffron thistle, Senegal tea and *Spartina*) were inspected during the year. All live plants found were destroyed, and/or control programmes initiated and plant numbers reduced.
- 5.4 Madeira vine sites are on Glen Road, Atawhai Drive and Haven Road.
- 5.5 Saffron thistle and African feather grass sites are on Council land in the Maitai Valley.
- 5.6 13 properties from the Glen to Todds Valley were inspected for cathedral bells. Only one property in Todds Valley had any active growth.
- 5.7 6 sites were checked for climbing spindleberry. Titoki Reserve has not had any active growth since 2013. A property in Dodson Valley continues to have small vine growths; and Founders, Grampians and the Brook (all Council sites) continue to be monitoring sites.

### **Progressive Control pests**

- 5.8 In the Strategy there are 18 Progressive Control pests - 12 plants, five fish and one bird (rooks) – where the aim is to reduce the density and distribution. All reports of new infestations were investigated within thirty days of being reported. All sites classified as New, Active and Monitoring sites were inspected and occupiers advised of the required actions. The distribution and density of Progressive Control pests have been reduced at most sites.
- 5.9 Inspections were carried out at known sites of boneseed (North Nelson), variegated thistle (Marsden Valley/Wakapuaka/Panorama Drive), Nasella tussock (Barnicoat Range), and white-edged nightshade (Dodson Valley/Brook Valley), revealing a reduction in these plants. Disturbance/development at select sites created a significant increase in

## Item 10: Biosecurity Annual Review

variegated thistle or white-edged nightshade and control was undertaken by property managers and consent holders.

### **Containment pests**

- 5.10 There are fourteen Containment Pests - four plants (purple pampas, *Lagarosiphon*, and gorse and broom only in the Howard-St Arnaud area), seven mammals (feral cats, rabbits, hares, possums, mustelids), two insects (ants) and one bird (magpies). The aim with these pests is to stop their spread to properties that are not infested. Activity largely related to identifying and requiring control of isolated infestations and provision of advice.
- 5.11 The continuing spread of Argentine and Darwin's ants, despite a significant commitment of resources, highlights the challenges of dealing with highly-organised social insects and the limitations of existing tools. Monitoring of Argentine ant populations show the various infestations within the Nelson and Richmond urban areas are joining up and over the next few years are likely to form a super-colony.

### **Boundary Control pests**

- 5.12 The Strategy has 11 Boundary Control pests which are generally widespread throughout Nelson and Tasman. The aim is to control the spread of these pests to land that is clear, or being cleared, of them.
- 5.13 Staff have dealt effectively and efficiently with requests for intervention largely resolving the matters through negotiation.
- 5.14 Advice has been given regarding setback control provisions for gorse.

### **Surveillance**

- 5.15 Biosecurity management requires extensive general surveillance in order to identify new or developing pest incursions. Most of these pests are outside the Regional Pest Management Strategy and many of the pest plants recorded during surveillance have now been included in the new RPMP programme (i.e. Taiwan cherry, yellow jasmine, kiwifruit wildings, pink ragwort, and Asian knotweed).

### **Biocontrol**

- 5.16 The operational activity also includes support of the National Biological Control Collective and the introduction of the biological control agents developed. Biocontrol agents have also been collected from local sites once they have successfully established and released into new sites. The following biocontrol agents have been released in Nelson:
- 5.16.1 Broom gall mites are well established on a site in the Maitai Valley and have now colonised broom plants from the Whangamoa Ranges through the Richmond Hills. A significant impact on the health of broom plants in these areas have been observed

## Item 10: Biosecurity Annual Review

- 5.16.2 Gorse soft shoot moth is now widespread throughout Nelson.
- 5.16.3 Honshu white admiral butterfly (biocontrol for Japanese honeysuckle) site on the Grampians was visited – it will take a few years to become well established.
- 5.16.4 Two releases of privet lace bugs have been undertaken on the Railway Reserve.
- 5.16.5 Scotch thistle gall fly is widespread throughout the region.
- 5.16.6 Tradescantia leaf beetle was released at a site in Poorman's Valley Stream and Tradescantia stem beetle was released onto a site on Tahunanui Hillside. Both beetles were released at a site adjacent to Fairfield House along with the Tradescantia tip beetle – agents at this site have expanded to 125 metres, and at the Moana Avenue site to 55 metres.
- 5.16.7 Tradescantia yellow spot leaf fungus infected plants were placed in the Murphy Street Reserve in April.

### **Advice and Education**

- 5.17 Biosecurity staff work closely with staff from the Ministry for Primary Industries/Biosecurity NZ by inspecting nurseries and plant retail businesses to ensure that none of the high risk plants identified in the National Plant Pest Accord (NPPA) are being sold. All plants in the Accord are classified as Unwanted Organisms and this prevents their sale, propagation and distribution. Occasional visits to householders have been required when NPPA pest plants have been advertised on Trade Me.
- 5.18 Pet shops were visited to inform them of the new pest status of (Indian ring-necked parakeets and red-eared slider turtles) where section 52 and 53 of the Biosecurity Act 1993 applies. All listed pests, except those in site led programmes, are banned from sale, propagation or distribution.
- 5.19 Advice was provided on the following range of pest issues:
  - 5.19.1 Loan of possum and stoat traps.
  - 5.19.2 Feral goats in Dodson Valley/Bayview Subdivision area – liaised with parties involved in this issue.
  - 5.19.3 Control of ants, wasps, rats, cats, rabbits, magpies, rats, gorse, deer and old man's beard.
  - 5.19.4 Plant or plant disease identification.

### **Top of the South Marine Biosecurity Partnership**

- 5.20 Tasman and Nelson Councils participate in the Top of the South Marine Biosecurity Partnership (the Partnership) along with Marlborough District

## Item 10: Biosecurity Annual Review

Council and the Ministry for Primary Industries. The funding contribution from the three Councils and the Ministry for Primary Industries has been used to fund a contractor group to undertake liaison, research, education, monitoring, contingency planning and technical advice. Work undertaken includes review of marine biosecurity threats, maintaining networks with marine organisations, stakeholder groups and businesses, surveys of the fouling status of vessel hulls both in the water and at service yards and questionnaire surveys of vessel operators to establish vessel travel movements and operator understanding regarding marine biosecurity. There is regular consultation with marine industry groups and ongoing work assisting with preparation of industry marine biosecurity plans associated with their operation.

- 5.21 An extensive summer vessel survey was undertaken during the summer of 2018/19. It included 521 vessels and 401 coastal structures (mainly swing moorings and jetties) as well as 47 seabed sites with seventeen days on the water with Top of the South Harbourmasters visiting vessels, inspecting their hulls and seeking travel and maintenance information from their operators. Within Tasman and Nelson waters 122 vessels and 41 structures (mainly swing moorings) were surveyed. The data from this work compliments that collected in previous years and comprises a total of 2683 survey records.

## 6. Options

- 6.1 The review of the 2018-19 Operational Plan details work completed in the last financial year. There are no options other than to receive the review.
- 6.2 The 2019-20 Operational Plan sets the programme of work that has already been budgeted for and recently considered by both Nelson and Tasman Councils as part of preparation for the new Regional Pest Management Plan. The options are to accept or amend this Operational Plan.

<b>Option 1: Approve 2019-20 Operational Plan (Preferred option)</b>	
Advantages	<ul style="list-style-type: none"><li>• Continue work to effectively implement the Regional Pest Management Plan.</li><li>• Work is budgeted for.</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• Minimal as meets the requirements of the Plan and is within budget.</li></ul>
<b>Option 2: Amend 2019-20 Operational Plan</b>	
Advantages	<ul style="list-style-type: none"><li>• Provides for changes if deemed inconsistent with the Regional Pest Management Plan.</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• Creates delays/reprioritisation of work.</li><li>• Potential additional costs.</li><li>• Potential significant risk of not controlling pest plants and animals.</li></ul>



## **7. Conclusion**

- 7.1 This report details the implementation of the joint Regional Pest Management Strategy and associated biosecurity matters.
- 7.2 The 2018-19 annual Biosecurity Report outlines how Council has implemented the Strategy on biosecurity matters and associated obligations. The report confirms the actions are appropriate and meet all requirements.
- 7.3 The 2019-20 Operational Plan provides for a consistent and efficient approach to biosecurity management across both Nelson and Tasman. The Plan ensures the Council meets statutory obligations and activities are within budget.

## **8. Next Steps**

- 8.1 This is the first year of the new Tasman-Nelson Regional Pest Management Plan and the new style of operational plan. Reporting on deliverables under the new Plan will be provided in next year's report and review of the Operational Plan.

**Author:** Richard Frizzell, Environmental Programmes Officer

### **Attachments**

- Attachment 1: A2288852 Review of Operational Plan for the Tasman-Nelson Regional Pest Management Strategy 2018-19 (*Circulated separately*) [⇒](#)
- Attachment 2: A2262413 Operational Plan 2019-20 (NCC) for the Tasman-Nelson Regional Pest Management Plan (*Circulated separately*) [⇒](#)

<b>Important considerations for decision making</b>
<p><b>1. Fit with Purpose of Local Government</b></p> <p>The report and recommendations achieve a consistent and cost-effective approach to pest management across the Nelson-Tasman Regions by working jointly with the Tasman District Council. It also provides a valuable service for the Nelson community, ensuring environmental and economic risks from pests are effectively addressed.</p>
<p><b>2. Consistency with Community Outcomes and Council Policy</b></p> <p>The report and recommendations detail implementation of the regional Pest Management Strategy and align with the strategy vision of “Enhancing community wellbeing and quality of life” by providing a framework for efficient and effective pest management and making the best use of available resources. This contributes to the Council’s following Community Outcomes in particular:</p> <ul style="list-style-type: none"> <li>• Our unique natural environment is healthy and protected</li> </ul> <p>Our urban and rural environments are people-friendly, well planned and sustainably managed.</p>
<p><b>3. Risk</b></p> <p>The Operational Plan for 2019/20 will meet the Council’s requirements under the Tasman-Nelson Regional Pest Management Plan. Any changes would risk delaying ongoing implementation of the Plan.</p>
<p><b>4. Financial impact</b></p> <p>The 2019/20 Operational Plan has a total budgeted allocation of \$207,000. This funding has been approved in the Annual Plan 2019/20.</p>
<p><b>5. Degree of significance and level of engagement</b></p> <p>This matter is of low significance because it is essentially of a process nature. This annual report is a statement of accountability and while the activity affects a large number of landowners, it has not historically been contentious. The Operational Plan identifies programmed work which falls within budget limits. The activity is important for those landowners who are involved with managing pests, but receiving the Operational Plan is not a significant decision.</p>
<p><b>6. Climate Impact</b></p> <p>Climate change has not been considered within this report. However it is acknowledged that it will have implications for future biosecurity risks and incursions and responding to these.</p>

## **7. Inclusion of Māori in the decision making process**

No engagement with Māori has been undertaken in preparing this report.

## **8. Delegations**

The Environment Committee has the following delegations to consider the review of Operational Plans for the Tasman-Nelson Regional Pest Management Strategy/Plan:

### *5.4.1 Areas of Responsibility:*

- *Environmental science matters including... biosecurity (marine, freshwater and terrestrial)...*

### *5.4.2 Delegations:*

The committee has all of the responsibilities, powers, functions and duties of Council in relation to governance matters within its areas of responsibility, except where they have been retained by Council, or have been referred to other committees, subcommittees or subordinate decision-making bodies.

The exercise of Council's responsibilities, powers, functions and duties in relation to governance matters includes (but is not limited to):

- *Developing, approving, monitoring and reviewing policies and plans....*

## **Omnibus of Submissions to National Policy Statement and Environmental Standard Proposals**

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### **1. Purpose of Report**

- 1.1 To present the Officer submissions on the following topics for retrospective approval by the Committee:
- Proposed National Policy Statement on Urban Development.
  - Draft National Policy Statement for Freshwater Management.
  - Proposed National Environmental Standards for Freshwater.
  - Draft Stock Exclusion Section 360 Regulations.
  - New Zealand Biodiversity Strategy.
- 1.2 To note that a submission was not made on the proposed National Policy Statement on Highly Productive Land.

### **2. Recommendation**

***That the Environment Committee***

- 1. Receives the report Omnibus of Submissions to National Policy Statement and Environmental Standard Proposals (R12542) and its attachments (A2280520, A2275062, A2277745, A2270025); and***
- 2. Approves retrospectively the attached Nelson City Council submissions on the proposed National Policy Statement Urban Development (A2280520 and A2280523); the Freshwater Proposals (A2277745); and the New Zealand Biodiversity Strategy (A2270025).***

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## **2. Background**

### **Proposed National Policy Statement Urban Development**

- 2.1 The Ministry of Housing and Urban Development and the Ministry for the Environment sought views via a questionnaire on a number of aspects proposed in the National Policy Statement Urban Development. This proposed NPS will replace the current National Policy Statement on Urban Development Capacity.
- 2.2 As part of the Governments Urban Growth Agenda, the National Policy Statement on Urban Development (NPS-UD) gives national direction under the Resource Management Act (RMA). It intends to help local authorities make good decisions about making room for growth, both up and out, in suitable areas.
- 2.3 The NPS-UD focuses on the role of the planning system in enabling growth and regulating land use in urban areas.
- 2.4 The NPS-UD contains objectives and policies in four key areas:
  - 2.4.1 Future Development Strategy – requires some councils to carry out long-term planning to accommodate growth and ensure well-functioning cities.
  - 2.4.2 Making room for growth in RMA plans – requires councils to allow for growth ‘up’ and ‘out’ in a way that contributes to a quality urban environment, and to ensure rules do not unnecessarily constrain growth.
  - 2.4.3 Evidence for good decision-making – requires councils to develop, monitor and maintain an evidence base about demand, supply and prices for housing and land, to inform planning decisions.
  - 2.4.4 Processes for engaging on planning – ensures council planning is aligned and coordinated across urban areas, and issues of concern to iwi and hapū are taken into account.
- 2.5 Consultation on the proposed NPS-UD closed on 10 October and took the form of a questionnaire, which officers from Nelson City and Tasman District Councils made a joint submission on. A copy is provided in attachment 1 (A2280520). In addition, the Mayors of Nelson City Council and Tasman District Council wrote a joint cover submission letter, a copy of which is provided in Attachment 2 (A2280523). The key matters raised are:
  - 2.5.1 The need to provide a more inclusive distinction between high growth urban environments in New Zealand, rather than one that focuses on large cities.
  - 2.5.2 Strengthening the role of Future Development Strategies in the RMA Statutory framework.

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- 2.5.3 The need to ensure that all current proposed National Policy Statements consider the requirements of and effects on each other, any hierarchy in priorities or statutory tools.

**Freshwater Proposals**

- 2.6 The Ministry for the Environment sought views on a range of freshwater proposals released in September 2019. These proposals are summarised in *Action for healthy waterways: A discussion document on national direction for our essential freshwater* and include:
- 2.6.1 Draft National Policy Statement for Freshwater Management.
- 2.6.2 Proposed National Environmental Standards for Freshwater.
- 2.6.3 Draft Stock Exclusion Section 360 Regulations.
- 2.7 The Government wants to improve the current management of freshwater. It is proposing new requirements that would:
- 2.7.1 Strengthen Te Mana o Te Wai (integrated holistic health and wellbeing of waters from the mountains to the sea) as the framework for freshwater management.
- 2.7.2 Better provide for ecosystem health (water, fish and plant life).
- 2.7.3 Better protect wetlands and estuaries.
- 2.7.4 Better manage stormwater and wastewater, and protect sources of drinking water.
- 2.7.5 Control high-risk farming activities and limit agricultural intensification.
- 2.7.6 Improve farm management practices.
- 2.7.7 Streamline the plan change process for Freshwater Plans.
- 2.8 An analysis was undertaken to understand the implications of the proposals for the Draft Nelson Plan and Councils wider work programme. Consideration was also given to the content of the submission made by Local Government New Zealand.
- 2.9 Included in Attachment 3 (A2277745) is a copy of the submission. The submission generally seeks:
- 2.9.1 Additional Government support to implement the proposed requirements.
- 2.9.2 Confirmation that the work undertaken to date with iwi and the community will not be lost.

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- 2.9.3 The broadest interpretation of “Freshwater Plan” where restricted appeal rights are concerned.
- 2.9.4 Improvements to the provisions in the Draft National Environmental Standards and Stock Exclusion regulations.
- 2.10 The Government’s Essential Freshwater Package proposals have implications for the Nelson Region in both the urban and rural catchments including stock exclusion rules, compulsory freshwater farm plans, improved management of stormwater and wastewater, and raising standards for freshwater eco-system health. A whole of catchment approach is required and discussions have been underway across Council teams to ensure the various responsibilities of a unitary Council are considered in the proposed new regulatory environment.
- 2.11 The proposed new attributes and requirements in the National Policy Statement Freshwater Management include monitoring, and maintaining or improving, freshwater in relation to nutrients, sediment, and fish and macroinvertebrate numbers. This is likely to result in a need for increased monitoring of the Region’s rivers and streams.

**Proposed New Zealand Biodiversity Strategy (NZBS)**

- 2.12 The Department of Conservation (DOC) is leading the development of a New Zealand Biodiversity Strategy (NZBS). The new strategy will set a vision and guide biodiversity work for the next 50 years. The discussion document on the proposed strategy is called *Te Kōiroa o te Kōiora*, and Nelson City Council staff provided input into the development of the document. Consultation on the discussion document closed on 22 September 2019 and the submission can be found in Attachment (A2270025).
- 2.13 The submission endorsed the goals of the NZBS; acknowledged the necessity for wide scale change in the way biodiversity protection is regulated; the need for collaboration between community, Iwi, industry and Government in order to achieve the greater vision; the need for extensive scientific research; and the role technology could play in achieving long range biodiversity targets.
- 2.15 It was noted that the proposed NZBS would benefit from more detail around the biggest obstacles to achieving the goals set out in the document, especially those related to the limitations of the current systems, consistent policy for protecting biodiversity, resourcing issues, and the importance of keeping up with technological advancements when time is of the essence.



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**Proposed National Policy Statement on Highly Productive Land  
(NPS-HPL)**

- 2.16 The NPS-HPL proposes 3 Objectives and 7 policies to improve how highly productive land is managed. The key focus of the NPS-HPL is on maintaining the availability of HPL and protecting HPL from inappropriate subdivision, use and development. The intent is not to provide absolute protection of HPL. As a summary, the potential implications/requirements of the 7 policies for Council can be summarised as follows:
- 2.16.1 Policy 1 – requires Council to identify and map HPL within 3 years of the NPS being gazetted.
- 2.16.2 Policy 2 – at a Regional Policy Statement and District Plan level Plans need to ensure the availability and productive capacity of HPL is maintained.
- 2.16.3 Policy 3 – directs urban expansion to not be on HPL. It is clear that this excludes areas identified in operative and proposed plans as future development areas, however it does not clarify whether it includes areas identified through other statutory processes such as the Future Development Strategy.
- 2.16.4 Policy 4 – requires District Councils to implement methods (i.e. min lot sizes, incentives) in their Plans to manage rural subdivision to avoid fragmentation and loss of productive capacity of HPL. The definition of rural areas in the NPS excludes rural lifestyle zones.
- 2.16.5 Policy 5 – relates to reverse sensitivity effects for sensitive or incompatible activities within or adjacent to HPL and requires methods in Plans to provide for this.
- 2.17 Before determining the implications and suitability of the proposed objectives and policies of the NPS-HPL for Council, and therefore the need to make a submission or not, Officers have considered how relevant this NPS is to Nelson. In the absence of Councils identifying and mapping the HPL the NPS relies on the Land Use Capability (LUC) as provided by NZ Land Resource Inventory and defines HPL as land with a LUC of 1, 2, or 3. From the Officer review of the LUC map for Nelson, LUC 2 or 3 land is located as follows:
- Raines Farm (predominantly where the FDS has identified this area for future growth).
  - Mid-Maitai Valley between Sharland & Groom Creeks (rural zoning, largely Council reserves).
  - Area north of Marybank (subject to Wakapuaka SHA).

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- Heads of Dodson & Todd Valleys (zoned for small holdings/rural lifestyle).
- Wakapuaka Flats (zoned general rural).
- Lud & Hira Valley floors (largely zoned for small holdings/rural lifestyle).
- Wakapuaka at Delaware (largely conservation zoning).
- Wakapuaka 1B and Hollyman Farms at Delaware (zoned general rural).
- Whangamoa River Valley along SH6 near Graham Stream and Collins River, and Valley out to Kokorua (zoned general rural).

- 2.18 The highlighted areas above are the only areas where the NPS would be relevant to Council. Given the zoning of these areas it is considered the NPS outcomes are achieved.
- 2.19 The NPS as proposed has implications on Council through the requirements to map all HPL within the set timeframe (policy 10). It is noted that this has been raised by other organisations in submissions on the NPS, in particular the Land Monitoring Forum and Tasman District Council and therefore it would be duplicating concerns already raised. The Land Monitoring Forum is seeking that the mapping be undertaken at national level.
- 2.20 The only other potential issue is in Policy 3 where the direction to not have urban expansion on HPL omits other strategy documents such as the FDS in determining what urban expansion is excluded. Tasman District Council has raised this concern and have sought in their submission that recognition of future urban areas as identified in non-statutory strategies, as encouraged by other national planning instruments, is provided.
- 2.21 Submissions closed on the NPS HPL on 10 October. Officers will support Tasman District Council as necessary to ensure the points raised are considered.

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### Attachments

Attachment 1: A2280520 - Submission on Proposed National Statement Urban Development [↓](#)

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Attachment 2: A2275062 - Mayoral Submission on Proposed National Policy  
Statement Urban Development [↓](#)

Attachment 3: A2277745 - Submission on Freshwater Proposals [↓](#)

Attachment 4: A2270025 - Submission on New Zealand Biodiversity Strategy  
[↓](#)

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### NPS-UD

**Overview of the National Policy Statement on Urban Development (see discussion document, page 15)**

**Question 1. Do you support a national policy statement on urban development that aims to deliver quality urban environments and make room for growth? Why/Why not?**

Position ☐ (Not specified) ☐ Yes ☒ Somewhat ☐ No ☐ Unsure

#### Notes

We support a national policy statement on urban development that aims to deliver quality urban environments nationally, not just prioritising the defined major urban centres.

The proposed NPS, and/or other measures need to address housing affordability and this is currently absent from the proposals.

**Are there other tools under the RMA, other legislation or non-statutory tools that would be more effective in achieving a quality urban environment and making room for growth?**

#### Notes

The NPS alone is unlikely to achieve quality urban environments. Huge housing pressures have led to a number of ad hoc measures and special legislation due to the limitations of the Resource Management Act (RMA) e.g. Board of Inquiry process, Housing and Special Housing Areas legislation, Independent Hearing Panels to determine Plans and Plan Changes. There needs to be change to the RMA in addressing urban planning. If the RMA was amended to address urban planning and specify the outcomes desired, it would give more coherence to the proposed NPS and make its aims less isolated.

**Targeting cities that would benefit most (see discussion document, page 18)**

**Question 2. Do you support the approach of targeting the most directive policies to our largest and fastest growing urban environments? Why/why not?**

Position ☐ (Not specified) ☐ Yes ☐ Somewhat ☒ No ☐ Unsure

#### Notes

The Councils support Government's attempts to improve the urban environment and encourage intensification of housing. However as a medium growth authority under the current National Policy Statement on Urban Development Capacity (NPS-UDC), the proposed NPS-UD fails to address our housing market problems – those of a fast growing population and serious housing unaffordability. The proposed NPS-UD broadens the areas it applies to compared with the NPS-UDC but the previous medium and high growth areas are no longer identified. The focus on major urban centres limits the potential effectiveness of the instrument.

The title of the consultation document "Planning for successful cities" suggests that the urban planning of our towns is not important. The Local Authorities that comprise the selected major urban centres encompass 60% of New Zealand's population. That still leaves just under half the population outside of these major urban centres without directive policies to help secure quality urban environments.

The assumption that "costs and benefits of planning decisions are compounded in bigger cities" is somewhat flawed. High growth rates in smaller centres like Nelson/Tasman puts the costs of new infrastructure onto a smaller rating base so the costs to rate payers and the community is proportionately higher than in larger centres.

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The NPS-UD proposes major urban centres (MUCs) and urban environments as the areas it predominantly applies to. Urban environments are still defined as an area of land containing, or intended to contain, a concentrated settlement of 10,000 people or more and any associated business land, irrespective of local authority or statistical boundaries.

With just the two classifications, it assumes urban environments outside of the MUCs are similar in size, growing at the same rate, are experiencing the same problems and they are treated the same. This is not the case.

The Nelson Urban Area is home for 63,300 people according to the 2013 census. The most recent Stats NZ population projections for Main Urban Areas (September 2017) found that the Nelson Urban Area would be medium growth at 9.95% between 2013 and 2023 (i.e. growing at less than 10% over 10 years). There have not been any projections since but the most recent population estimates from Stats NZ found that Nelson Urban Area's population grew by almost 7% between 2013 and 2018. This equates to high growth as defined by the NPS-UDC (more than 1% per annum between 2013-2023 and has a population of more than 30,000). The population of Nelson urban area is now estimated to be at least 68,000 people.

Furthermore there are only 6 other main urban areas in New Zealand that have been growing more quickly than the Nelson urban area, based on Stats NZ's latest population estimates over this period. These are Auckland, Tauranga, Hamilton, Christchurch, Whangarei and Wellington. So Nelson urban area is the 7<sup>th</sup> fastest growing main urban area nationally between 2013-2018.

**Relief sought:** Target less directive policies to high demand urban environments experiencing sustained housing unaffordability as indicated by the Government's own monitoring. Suggestions are provided below of how to do this.

**Do you support the approach used to determine which local authorities are categorised as major urban centres? Why/why not?**

### Notes

No.

The proposed NPS-UD proposes major urban centres (MUCs) and urban environments as the areas it predominantly applies to. Major urban centres are not defined in the document. The absence of a definition and how they have been selected confuses the rationale of the proposed NPS-UD. They are listed as the following authorities with jurisdiction over a major urban centre: Auckland, Hamilton, Tauranga, Wellington, Christchurch, Queenstown.

The consultation paper states at page 19 that "*the policies requiring the most work by local authorities would only apply to larger urban centres with growing populations and where pressure on housing is creating national impacts.*" This seems to be the criteria that has resulted in the major urban centres selection.

We have described above how we are a high growth area. The Nelson urban area is also an urban centre with serious pressure on housing, creating national impacts:

According to Massey University's Home Affordability Index (June 2019), Tasman is the second least affordable region in the country, after Auckland. According to MBIE's own housing affordability measures (HAM buy), for the year to March 2018, 87% of first-home buyer households in Tasman, could not comfortably afford a typical 'first-home' priced house. MBIE's HAM Rent measure for Tasman District indicates that at March 2018, 63.5% of rental households in Tasman, cannot comfortably afford typical rents.

Talent attraction issues in our region are also creating national impacts by affecting regional productivity: Earlier this year the Nelson Regional Development Agency undertook talent attraction and retention research in Nelson and Tasman. 105 businesses responded to the survey and comprised a wide spread of sectors, business size and length of time in business. Three quarters of the businesses report that they are growing at a rapid or reasonable pace.

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Talent attraction is one of the top 3 issues faced by over 60% of organisations and is a concern for 88%.

Almost 6 in 10 employers believe it is going to become more difficult to recruit the talent they need in the future, with senior technical and executive roles the most difficult to fill. The current recruitment process is taking an average of 2-3 months to fill more difficult roles, but for 16% of employers it is taking 6 months or more. The region's reputation for paying low wages was the most common aspect cited for difficulties in talent attraction and other common aspects included Nelson's high cost of living and rental/house availability.

The top three initiatives that employers think we most need to focus on to ensure the region can attract the talent it needs include affordable housing and many employers commented on housing being a key barrier to attracting talent.

Nelson and Tasman based ventures have received in excess of \$12M in funding from the Provincial Growth Fund to date. This is a positive step in trying to grow our economy (on a per capita GDP basis), but if we struggle to attract the talent to fill roles to help these businesses, due to high rents and house prices, then its potential will not be realised. Such barriers to enabling prosperity are currently being ignored by Government. The major urban centre focussed policies in the NPS-UD do nothing to complement the Government's investment in the regions.

Page 19 of the proposed NPS states : *"The NPS-UD shifts the focus to larger cities and urban centres where the national impact of housing challenges is greatest. This is to ensure it focuses on the urban environments that would benefit most from meeting the more detailed requirements, while keeping down costs for small local authorities with more limited resources."* The NPS-UDC has been in force since 2016 and has many monitoring and reporting requirements. Tasman District Council took the decision to create a position in light of these requirements as well as growth pressures generally and other Authorities have done the same, hence those resources are now in place.

Page 35 also states that the MUCs are the areas where *"the benefits could be maximised: for example where there is, or is intended to be, good access to jobs and proximity to public and active transport links or town centres, and where there is high demand for more intensive development (as indicated by prices)."* Again, as the second least affordable region in the country, demand for intensive housing is increasing, simply because it is all a large proportion of people can afford. The more densely populated a town becomes the stronger the business case for public transport linking major towns in the urban area.

**Relief sought:** - see response to question below.

**Can you suggest any alternative approaches for targeting the policies in the NPS-UD?**  
**Notes**

While our cities probably do deserve to be prioritised in the NPS-UD, as they are more densely populated, it should not be at the expense of other fast growing areas. The MUCs only house 60% of our population. There should be some distinction between the remaining urban environments, by their size, rates of growth and/or sustained lack of housing affordability, as evidenced by the Government's own monitoring. Urban environments of between 10,000-20,000 people are very different to e.g. the Nelson urban area that houses at least 68,000 people (according to latest estimates) and is growing at more than 1% per annum.

**Relief sought:**

1. An alternative approach would be the creation of three tiers of urban environments, distinguished by their current populations, projected rate of population growth and housing affordability.

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2. The high demand urban environments, facing high population growth and serious housing unaffordability would have a second tier policy approach, beneath the MUCs. This policy approach would not be as directive as for MUCs, but would encourage the development of medium density intensification areas where appropriate, according to a set of criteria. The criteria could cover factors such as those in proposed policy 6A – proximity to employment opportunities, urban amenities and services being available, high demand for housing and best use can be made of existing or planned infrastructure, services and facilities.
3. The policy approach should also “*strongly encourage*” the preparation of a Future Development Strategy (FDS) for such areas as well as being required to undertake housing and business monitoring and reporting.
4. Further, we consider that recognition of such urban environments that have already voluntarily adopted a FDS is appropriate, by FDSs becoming more binding than currently, by their role being strengthened to inform RMA plans and strategies, prepared under other legislation. We consider it would be advantageous to empower spatial planning by inserting it into our legislative framework and making it integral to our planning system.
5. For the high demand urban environments that prepare an FDS, then it must consider/address all the FDS policies proposed in the NPS-UD.
6. The third tier of policy would be for all other urban environments, outside of these high demand urban environments.

### Future Development Strategy (FDS) (see discussion document, page 20)

**Question 3. Do you support the proposed changes to FDSs overall? If not, what would you suggest doing differently?**

Position ☐ (Not specified) ☒ Yes ☐ Somewhat ☐ No ☐ Unsure

#### Notes

As a Local Authority that has prepared a Future Development Strategy (FDS) very recently, we can confirm from experience that the proposed amendments for FDSs (listed in 7 bullet points on page 21) are worthwhile and necessary and therefore support them. Our FDS has considered all these factors. However under objective O1, if a council chooses not to do a FDS then there is no way to implement the objective because none of the policies apply.

#### Relief sought:

1. Policies – as written it can be interpreted that not all of the associated FDS policies have to be complied with which could lead to inconsistency and FDSs that don't address all the policies.
2. Also there is no explicit requirement to take into consideration climate change, hazards or highly productive land.
3. Page 21 under rationale refers to additional requirements for FDSs in future “*identifying where urban development should be avoided (e.g. sites of significance to Maori including wahi tapu, highly productive land and areas of significant indigenous biodiversity).*” In our experience it will not be easy nor advisable to identify no go areas based on significance to Maori. Such information is obtained by working with iwi and hapu on the FDS (as we did), but due to secrecy surrounding such sites, particularly recent finds, we doubt it would be acceptable to highlight such areas on an FDS map. Instead such information informed the multi criteria analysis for the option sites in the FDS and frequently led to them being scored poorly on these criteria and not progressed. Identifying areas where urban development should be avoided based on its versatility and productive value, is proposed in the NPS on highly productive land and would be more straightforward.

We consider that more needs to be done to strengthen the role of the FDS, over and above the proposed amendments in the NPS-UD. FDSs becoming more binding than currently, by their role

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being strengthened to inform RMA plans and strategies, prepared under other legislation. We consider it would be advantageous to empower spatial planning by inserting it into our legislative framework and making it integral to our planning system. Page 22 of the consultation paper notes that the upcoming comprehensive review of the RMA will look at options for making spatial planning integral to our planning system. The wording in Policy P1D d) needs stronger direction than 'contributes to'. Suggested wording of the policy is set out below:

- d)                broad locations for residential intensification that contributes to will enable the achievement of high quality urban environments

4. We hope that by having adopted a Nelson Tasman FDS, it will place us in a better position to work with Government departments and agencies such as Education and transport and DHBs, in planning in a coordinated fashion for the growth of our region.

**Do you support the approach of only requiring major urban centres to undertake an FDS? Would there be benefits of requiring other local authorities to undertake a strategic planning process?**

### Notes

No

**Relief sought:** Neither Councils are identified as a major urban centre in the proposed NPS-UD. Given the benefits we have found from preparing a spatial strategy jointly, perhaps local authorities in high demand urban environments, growing quickly and facing serious housing unaffordability should be "*strongly encouraged*" rather than "*encouraged*" to include an FDS in their planning framework. Spatial planning is a highly effective way of articulating capacity planning, especially when Local Authorities are sharing jurisdiction of an urban area. It hopefully will result in efficiencies in infrastructure investment, as well as assisting realisation of intensification, by prioritising it ahead of major greenfield expansion.

The NPS-UD will need to provide flexibility and guidance as to the extent of work and analysis needed to reflect the 'scale and significance' of the issue for each local authority.

**What impact will the proposed timing of the FDS have on statutory and other planning processes? In what ways could the timing be improved?**

### Notes

Since we are a medium growth authority under the NPS-UDC and therefore had flexibility over preparing an FDS, the timetable that we adopted with Nelson City Council for preparation of the FDS was as follows:

- July 2018 – LTP 2018-2028 adopted
- November 2018 – Housing and business capacity assessment submitted to Government, based on LTP
- Work commenced on the Nelson Tasman FDS in November 2018 and was informed by the housing and business capacity assessment. The FDS was adopted July 2019.
- The Adopted FDS will now inform the LTP 2021-2031 and the associated Infrastructure Strategy and Regional Land Transport Plan. Work on these has recently commenced.
- The Adopted FDS will also inform the review of both the Regional Policy Statement and the District and Regional Plan which has recently started
- The process will be cyclical with a review of the FDS the year before the next LTP is to be prepared (2022-2023).

This timescale appears to have worked satisfactorily for both Nelson and Tasman Councils.

**Describing quality urban environments (see discussion document, page 25)**

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**Question 4. Do you support the proposed approach of the NPS-UD providing national level direction about the features of a quality urban environment? Why/why not?**

Position ☐ (Not specified) ☒ Yes ☐ Somewhat ☐ No ☐ Unsure

### Notes

It is unclear currently as drafted whether the objectives and policies on quality urban environments refer to both greenfield and brownfield sites or just one. Given generally such environments would be easier to secure from a planning perspective in brownfield locations, (due to proximity to jobs, services and transport options) perhaps the objectives and policies need to indicate this preference?

**Do you support the features of a quality urban environment stated in draft objective O2? Why/why not? (see discussion document, page 26)**

### Notes

#### Relief sought:

1. Parts of proposed policy 2A (beneath objective O2) seem unfeasible and some important features are missing: e.g. (a) *"enabling a range of dwelling types"* – Resource Management Plans can zone for a range of lot sizes and to an extent dwellings types. Eg lifestyle blocks, standard size houses or more intensive typologies, but has less control over the type of development that results. Frequently in a zone, more than one type of residential development is possible, although the activity status can vary. Developers and the market will determine the type of housing that eventuates. It is recommended that *"range of dwelling types"* is removed.
2. (d) *"limit as much as possible the adverse impacts on the competitive operation of land and development markets"* – it is not clear what is meant by this, it is ambiguous. Is the intention to have a competitive market to keep prices down? Or a market that competes to get the highest prices as in real estate? It is recommended that this clause is removed.
3. The preamble proposed on factors that contribute to quality environments would not have legal weight according to the proposed NPS. We consider it would be advantageous to empower spatial planning by inserting it into our legislative framework and making it integral to our planning system, including quality urban environments as one of the aims. Also if the matters identified are important for a quality urban environment then the matters should be codified in the NPS.
4. Neither the preamble nor the proposed policies explicitly refer to good urban design as a feature of a quality urban environment. Ecologically sensitive design is included but not the standard of design itself. This is a key factor in creating a quality urban environment. There needs to be some reference to the RMPs and decisions ensuring that developments function well, and add to overall quality of the area, are visually attractive, (good architecture, layout and appropriate landscaping), establish or maintain a strong sense of place, creating attractive welcoming and distinctive places to live, work and visit etc. It is recommended that reference to achieving quality urban design is included as a feature of a quality urban environment.
5. As mentioned earlier, our population is ageing. So while intensification is to be encouraged we also need typologies suitable for older people e.g. single storey or apartments with lifts. Universal design (housing catering for accessibility and adaptability to allow ageing in place) is also important, yet any consideration of such requirements is completely absent in the NPS-UD's proposals. We need to building the right type of

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housing stock. It is recommended that reference to the requirements for typologies suitable for older people and universal design is included.

### Amenity values in urban environments (see discussion document, page 27)

**Question 5. Do you support the inclusion of proposals to clarify that amenity values are diverse and change over time? Why/why not?**

Position ☐ (Not specified) ☒ Yes ☐ Somewhat ☐ No ☐ Unsure

#### Notes

The inclusion of policy P3A will remind decision makers that amenity values can change over time. In this regard preparing a FDS is valuable, as indicating futuristic areas that may be suitable for high density development in the future, sets the scene and to an extent paves the way for a type of development currently hard to envisage in that location. However policy P3A does not give effect to objective 4 as it lacks the "how".

**Relief sought:** Redraft P3A to include clear direction on how it will lead to achieving the objective 4.

### Enabling opportunities for development (see discussion document, page 30)

**Question 6. Do you support the addition of direction to provide development capacity that is both feasible and likely to be taken up? Will this result in development opportunities that more accurately reflect demand? Why/why not? (see questions A1 - A5 at the end of the form for more questions on policies for Housing and Business Development Capacity Assessments)**

Position ☐ (Not specified) ☐ Yes ☒ Somewhat ☐ No ☐ Unsure

#### Notes

Capacity that is likely to be 'taken up' is an important consideration in terms of planning for future demands. The Tasman growth model adopts this approach in identifying likely capacity, by including consent planners and development engineers in the process who know about developer's likely future intentions. MfE and MHUD noted this approach in its evaluation of Tasman's housing and business capacity assessment (June 2019) and found it to be more realistic than other Authorities that had simply assumed all capacity would be taken up. That said, there are limitations for a council in knowing whether capacity is likely to be taken up and therefore it will not result in highly accurate opportunities reflecting demand. Landowner/developer intentions are fickle.

There exist a number of other constraints that are beyond our control, in ensuring serviced zoned land becomes residential and business floorspace, meeting identified demand. These include:

- land ownership concentration -this can lead to land banking, as developers release capacity on to the market at a price that maximises their return, hence there are incentives to produce new housing slowly
- capacity of skilled labour in the construction industry and the methods of housing construction
- construction costs rising several times rate of general inflation according to "A Stocktake of New Zealand's housing"
- developers' and house builders' preference to provide larger homes when in places like Richmond the majority of demand is for small homes. Rising land values in some cases favour larger lot sizes and properties in order to be commercially feasible.
- policies of banks on lending finance to developers

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- developer covenants on subdivisions that usually have the effect of adding to the cost of building, to a varying degree dependent on the extent of the covenants
- the recent gazettal of a number of SHAs in Richmond West on inappropriately zoned land has anecdotally had the effect of encouraging nearby landowners of business zoned land to withhold it from the market in anticipation of it being turned into further housing land as SHAs.

Verifying that all development capacity is feasible (defined as “commercially viable in terms of the developer’s cost and revenue”) can be difficult as noted on page 72 of the proposed NPS. There are some proposals to address the shortcomings of the previous methodology on page 73 of the proposed NPS but these have not yet been tested and councils will likely need guidance on incorporating these methodologies.

### **Relief sought:**

1. Recognise that there are other factors that influence the taking up of capacity in objective 5 and policy 4A
2. Proposed policy 4A is unrealistic in its wording – requiring that Local Authorities must ensure that the capacity is likely to be taken up to meet the demand for dwellings (in terms of location, typology and price). Local Authorities cannot control the price of housing for reasons of the external factors identified above. It is also difficult for Local Authorities to control the end typology, and it needs to be recognised that different residential and business areas have different/complementary functions and roles to play in the overall structure and operation of an urban environment. It is recommended that this reference to typology and price is removed from policy 4A.

Due to the reasons identified above we do not consider that this direction on feasibility and capacity likely to be taken up will result in development opportunities that more accurately reflect demand, given so many uncertainties exist in establishing feasibility and likelihood of being taken up.

### **Ensuring plan content provides for expected levels of development (see discussion document, page 31)**

### **Do you think requiring zone descriptions in district plans will be useful in planning documents for articulating what outcomes communities can expect for their urban environment? Why/why not?**

The requirements of this policy appear to be inconsistent with the National Planning Standards. The National Planning Standard 8 Zone Framework Standard includes mandatory requirements that can’t be changed. The zone descriptions are mandatory requirements so the requirements to include zone descriptions as set out in P5A are in direct conflict with the planning standard.

Further, RMA S75 does not provide for the statement of ‘zone descriptions’ as either a ‘must’ or a ‘may’. The inclusion of visions, directions, descriptions, explanations, advice notes etc within district plans has been determined by the Courts as being neither an objective, policy or rule and accordingly cannot be given any consideration or weight. The purpose of an objective is to articulate the outcomes sought (ie the “what”) to be achieved through the resolution of a particular issue. An objective clearly states what is aimed for in overcoming the issue or promoting a positive outcome, or what the community has expressed as being desirable in resolving an issue. Accordingly, the emphasis should be on crafting objectives and supporting policies to clearly articulate outcomes, including the amenity values. There should be no zone descriptions.

The proposal would be too prescriptive in describing the type and nature of development for each urban zone. It may restrict development coming forward as not flexible enough? E.g. we currently

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have developers that have obtained consent for two storey residential but are now submitting a new RC application for single storey residential as they find the two storey is not commercially viable. So a degree of flexibility has to be maintained if we are to see any development at all.

**Relief sought:** remove this requirement for zone descriptions

**Providing for intensification (see discussion document, page 33)**

**Question 8. Do you support policies to enable intensification in the locations where its benefits can best be achieved? Why/why not? (for more detail on the timing for these policies see discussion document, page 53)**

Position ☐ (Not specified) ☒ Yes ☐ Somewhat ☐ No ☐ Unsure

### Notes

The more directive approach on intensification, applying to major urban centres seems appropriate due to e.g. lack of public transport opportunities in urban environments, but intensification should be encouraged in the high demand fast growing urban environments.

### Relief sought:

1. Intensification should be encouraged in high demand, fast growing urban environments as well as the MUCs (as suggested in objective O7 and policy 6A), wherever possible. We have proposed two tiers of urban environments earlier in this submission, distinguished by their current populations, projected rate of population growth and housing affordability. The high demand urban environments, facing high population growth and serious housing unaffordability could have a second tier policy approach, beneath the MUCs. This policy approach would not be as directive as for major urban centres, but would encourage the development of intensification areas where appropriate, according to a set of criteria. The criteria could cover factors such as those in proposed policy 6A – proximity to employment opportunities, urban amenities and services are available, high demand for housing and best use can be made of existing or planned infrastructure, services and facilities.
2. The policy approach should also “strongly encourage” the preparation of a Future Development Strategy (FDS) for such areas as well as being required to undertake housing and business monitoring and reporting.
3. Proposed objective 7 “*To provide for the benefits of urban intensification by allowing for increased density in areas where those benefits are best realised*” is weak and inconsistent with policy PB6 that uses the term ENABLE. The term “allow” should be changed to “enable” or “promote”.

**What option/s do you prefer for prescribing locations for intensification in major urban centres? Why?**

Position ☐ (Not specified) ☒ Option 1 (the descriptive approach) ☐ Option 2 (the prescriptive approach)

### Notes

The two options at first glance do not appear to be that different in practice. Clause (a) of the prescriptive approach has a get out clause anyway (“*except where evidence demonstrates intensification should not be enabled*”). Presumably this is to allow for constraints such as heritage or iwi cultural significance.

However the main difference appears to be in the definition of high density development with the descriptive approach defining it as “*a concentrated bulk of building such as terraced housing and apartments.*” This is not sufficiently different to medium density. Medium density can comprise

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terraced housing and low rise apartments. The prescriptive approach defines high density as a minimum overall density of 60 residential units per hectare. It is not clear whether this is a net density (refers to land covered by residential development only) or gross density (includes eg. parks).

Density itself should not be viewed as a reliable guide to the form or quality of residential development. International research indicates that features of successful higher density schemes include: good sound insulation between dwellings; the relationship with the surrounding area in terms of connectivity, scale and integration; proximity to good (reliable, clean and safe) public transport; priority for pedestrians and cyclists; high-quality open space to provide visual relief and recreation; some usable private outside space, such as patios or balconies; clear demarcation between public and private spaces; and adequate level of car parking that does not dominate the street scene. (*Better Neighbourhoods: making higher densities work* by CABA 2005).

It is important to avoid a one policy fits all approach in prescribing density. All the objectives of planning policy in relation to residential development cannot be achieved through a density standard.

**Relief sought:** Remove the prescriptive approach. Consider redefining the definition of high density under the descriptive approach to better distinguish it from medium density.

**If a prescriptive requirement is used, how should the density requirement be stated? Please provide a suggestion below (for example, 80 dwellings per hectare, or a minimum floor area per hectare).**

**Notes**

Disagree – descriptive approach should be used for reasons above.

**Providing for further greenfield development (see discussion document, page 36)**

**Question 9. Do you support inclusion of a policy providing for plan changes for out of sequence greenfield development and/or greenfield development in locations not currently identified for development?**

Position ☐ (Not specified) ☐ Yes ☐ Somewhat ☒ No ☐ Unsure

**Notes**

No.

Standard density greenfield development can compete with intensification, as an easier form of development for developers and potentially more appealing to buyers in NZ who generally are not as familiar with more intensive forms. Therefore by allowing out of sequence greenfield development and/or greenfield development in locations not identified by e.g. a future development strategy, this could be to the detriment of the take up of intensification – also something that proposed policy 4A requires Local Authorities to estimate (the take up of its capacity).

By allowing for greenfield development in locations not currently identified for development, such a policy could conflict with proposed policy P5A – where major urban centres are to include a zone description that describes the expected levels of type and nature of development, consistent with growth identified in the FDS. It would also generally go against the whole premise of an FDS, to strategically plan for the next 30 years development. Fast growing authorities such as ourselves are under pressure to release easy to develop greenfield land for developers and to allow this uncoordinated approach would undermine the adopted FDS, as well as potentially

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jeopardise intensification targets. FDSs are reviewed every 3 years in any case and this should build in sufficient flexibility to plan for future growth demands.

Also by allowing for greenfield development in locations not currently identified for development, for authorities such as ourselves, this could lead to more pressure to develop highly productive rural land, working against the objectives of the proposed NPS on highly productive land. Such an approach leads to ad hoc unplanned development and raises the potential for reverse sensitivity effects. Agglomeration of development by building up towns is important for reducing carbon emissions and building a case for active or public transport.

It is unnecessary to include a policy that provides for plan changes for out of sequence greenfield development, or development in locations not anticipated. The process for a private plan change is set out in the First Schedule of the RMA. Any person may request a change to a resource management plan and council must consider that request. Council has four options on how to proceed when receiving a private plan change request:

- to adopt the request
- to accept the request
- to reject the request, or
- to convert the request into a resource consent application.

In our experience, private plan changes are generally very expensive for an applicant and unlikely to be a popular way of pursuing a proposal in conflict with the resource management plan anyway. A non-complying resource consent is likely to be the most popular route.

For the above reasons we do not support the inclusion of such a policy therefore. It would not achieve the aims of some other policies in the proposed NPS-UD, conflicts with other Government proposals e.g. NPS-HPL and Climate Change Response (Zero Carbon) Amendment Bill 2019.

**Relief sought:** The proposal is flawed and undermines the intent of the proposed NPS. Remove the proposal.

However should this proposal proceed it is recommended that the policy should also require that private plan changes show the following:

- Meet the same principles and outcomes that applied to the development of the FDS;
- How the FDS is failing to provide for urban growth and that whatever those failings are cannot be readily resolved;
- Not compromise the staging, location and type of urban growth anticipated through the FDS;
- Not compromise the provision of all forms of infrastructure planned and funded through the Long Term Plan, Annual Plan, Infrastructure Strategy, Reserve Strategy and other local authority planning documents;
- Show how the proposed development would integrate not only physically, but also socially and community wise with existing and planned urban areas.

**How could the example policy better enable quality urban development in greenfield areas (see discussion document, page 37)?**

**Notes**

We do not agree with the concept that private plan changes should be encouraged for out of sequence greenfield urban development, or in areas not identified. In relation to the example



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policy, it is not clear on clause (e) ("infrastructure to enable the long term development of the land can be provided"), whether this is to be funded by the Local Authority or developer.

A quality urban environment is likely to work better in a brownfield situation within an urban centre rather than a peripheral greenfield location due to proximity to jobs, services and transport options.

**Are the criteria sufficiently robust to manage environmental effects to ensure a quality urban environment, while providing for this type of development? (see example policy in discussion document, page 37)**

No, the criteria proposed for allowing such Plan Changes contains only very basic assessment criteria and does not include consideration of climate change, hazards, highly productive land, biodiversity, or impacts on freshwater. The criteria are not sufficiently robust.

**To what extent should developers be required to meet the costs of development, including the costs of infrastructure and wider impacts on network infrastructure, and environmental and social costs (recognising that these are likely to be passed on to future homeowners/beneficiaries of the development)? What impacts will this have on the uptake of development opportunities?**

### Notes

Tasman District Council has submitted on the Local Government funding and financing draft report by the Productivity Commission. The Commission has considered a number of factors that are putting pressure on local government funding in its draft report. The ageing of the population (and associated proportion of the population on fixed incomes) is highlighted with Tasman being listed as the council with the second highest projected proportion of population 65 years or older in 2043 (Figure 4.1). The Commission's report also discusses the funding and financing pressures of growth, tourism and climate change. It considers that the existing funding mechanisms are not adequate to meet the pressures from these factors and recommends adjustments to funding arrangements for each one.

All of these factors significantly affect the Tasman District. The cumulative and combined impact of all of these factors has a major effect on Council's finances now and in the future.

As stated in response to a question in our submission, a system of payments to territorial authorities based on new residential building work put in place could act as a good incentive for councils to invest in growth related infrastructure. This is our preferred approach. We consider it would be effective in incentivising councils to keep the supply of consented land (greenfield and brownfield) and local infrastructure responsive to growth pressures, although the interaction of this proposed funding and development contributions charges needs clarity.

In terms of whether developers should be required to meet the costs of development including the costs of infrastructure and wider impacts on networks of infrastructure – there are arguments for and against whether developers should pay full cost of impacts of growth outside the bounds of their development via DCs or a similar capital charge up front, but in the end it is a judgment call on competing interests considered under s 101(3) of the LGA. There is a good case for arguing a charge of some basis on new developments, in the form of a capital charge up front. The rest of a development's cost is recovered when sold, so why not the offsite infrastructure costs?

The LGA already requires us to carefully consider causation and beneficiaries when we allocate costs. S 101(3) again and more explicitly in S 199 of the LGA. This generally means many projects undertaken for growth are not actually recovered 100% from growth because council considers who else benefits.

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It is not clear what is meant by the term “wider impact on network infrastructure”. We provide this infrastructure mainly because no individual development needs all of the capacity and/ or an individual development’s impact is diffuse (e.g. roading). As a consequence, the market will not provide these because of free rider/public good problems. These costs are real but not all projects are immediately essential to the supply of the section. E.g. if you don’t have a sufficiently large trunk main or treatment plant capacity you don’t get past go. Other impacts and the imposition on society is more diffuse – some roading impacts and some reserves for example. So it is not clear what type of impacts are being referred to in the question. It’s easy to see what will happen if there is no dedicated capital funding source related to growth for these - they won’t be invested in unless there is a dedicated funding source.

It is worth mentioning that the overall message on infrastructure funding for growth seems confused currently in the proposed NPS-UD and media releases, evidenced by the references below:

- media coverage of the proposed NPS, supposedly based on an interview with Minister Twyford (<https://www.stuff.co.nz/national/115157876/government-plan-to-free-up-council-planning-rules-to-help-fix-our-failing-cities>) indicates that councils should not go to the taxpayer or ratepayer for financial assistance and to make sure the developer can cover infrastructure costs
- in the proposed NPS-UD it is not clear whether the MUC designations are intended to signal potential funding availability for infrastructure?
- page 15 refers to the “new tools for infrastructure funding and financing” through wider UGA work
- page 22 also refers to “other work under the UGA aims to support private funding for infrastructure. If the funding is available from other sources this would help local authorities to be flexible in timing the release of land for development”
- the proposed NPS refers to a new policy to notify the Minister for the Environment if a local authority cannot meet requirements under the NPS-UD for development capacity (for any reason) and begin the discussion with the Government about how to address this (page 30);
- page 36 signals that if the Government is to allow for plan changes for out of sequence development or development in areas not identified in FDSs, then the onus for infrastructure should not fall on the local authority when not provided for by their long term plan and/or development plan process.

### **What improvements could be made to this policy to make development more responsive to demand in suitable locations beyond areas already identified for urban development?**

Implementation plans for FDSs will be key, supported by regular monitoring and reporting on take up of residential zoned land, building consents, creation of section and demands according to up to date population projections.

This will allow progress to be monitored and may signal Plan Changes that are required if capacity is not keeping up with demand, or if e.g. housing preferences are changing and more of a certain type of residential zoning is required.

### **Removing minimum car parking requirements (see discussion document, page 39) Question 10. Do you support limiting the ability for local authorities in major urban centres to regulate the number of car parks required for development? Why/why not?**

Position ☐ (Not specified) ☒ Yes ☐ Somewhat ☐ No ☐ Unsure

Notes

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Greater public and active transport options are available in the MUCs, so residents are more likely to consider purchasing/renting a property without dedicated car parking. This will help achieve the aims of the Government's zero carbon bill.

### Which proposed option could best contribute to achieving quality urban environments?

Position ☐ (Not specified)

- ☐ Option 1: removing the ability for local authorities to regulate the requisite number of car parks
- ☐ Option 2: removing the ability for local authorities to set minimum car park requirements
- ☒ Option 3: removing the ability for local authorities to set minimum car park requirements in areas providing for more intensive development.

### Notes

Option 3 on basis that intensive development areas generally have more transport options other than the private car. Not requiring car parking in an area that has few other transport options simply creates congestion on street, which in turn does not provide a quality urban environment.

### How would the 18 month implementation timeframe impact on your planning processes?

Since neither Councils are identified as a major urban centre, these directive policies from the NPS that would need to be implemented via plan changes within 18 months do not apply. However if they did apply the timing would be awkward since we have recently embarked on a review of our Regional Policy Statement, District and Regional Plans.

### More directive intervention to enable quality urban development (see discussion document, page 41)

### Question 11. Do you think that central government should consider more directive intervention in local authority plans?

Position ☐ (Not specified) ☐ Yes ☒ Somewhat ☐ No ☐ Unsure

This section suggest rules similar to the powers in the current S360D of the RMA. Those powers are probably best placed for this type of intervention.

### Which rules (or types of rules) are unnecessarily constraining urban development?

### Notes

In preparing Plan Change 66 – Richmond Housing Choice, Tasman District Council formed an advisory group of external stakeholders. They concluded on factors constraining intensification, which did not solely include rules of the resource management plan. They are listed below (the plan change addressed them):

- Generally - Council needs to commit to Richmond's intensification and proactively help support it instead of just passively providing opportunity in the Tasman Resource Management Plan (TRMP) for people to seek resource consent if they are committed to pursue it.

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- **Location** - Opportunity for different forms of housing should be maximised across all locations, but Council can provide particular leadership in signalling certain locations are more suitable, both currently and in the future, by unblocking some constraints. Where there are areas of particular suitability resulting from the analysis, there should be a more enabling process.
- **Form** - There is a need to maximise the development potential of every site to help meet demand. A clear framework approach is required that provides for a variety of form and approach.
- **Feasibility and Non-Regulatory Options** - Council needs to improve its understanding of risk associated with higher density residential developments including time, costs and little profitability. Action is required to improve the feasibility of such developments. Council should be a facilitator not just a regulator. Council should explore ways of making internal systems more streamlined and helping applicants through the decision making process. Council needs to improve the efficiency, positive support and consistency of plan administration.
- **Regulatory** - The TRMP has to be not only much more enabling in terms of outcomes, but also more positive and encouraging in terms of setting up that framework. The TRMP needs to support change in Richmond to meet the community's changing needs as a priority. Controlled activity status for subdivision and land use consents is favoured but a Restricted Discretionary status for each could be appropriate if:
  - i) there were clear non-notification provisions
  - ii) the policy framework was written to enable and encourage intensive housing as an inherently beneficial outcome for Richmond that should occur where possible.
  - iii) there was a framework of "Permitted" bulk and location controls that give basic certainty for developers.
- **Stormwater** – This is the number-one constraint affecting intensive housing in Richmond. An "acceptable solutions" approach based on Permitted activity status in the TRMP is desirable. Enabling regulatory provisions should be accompanied by a public information programme about reasonable expectations for stormwater management.

A recognised constraint to urban development is notification of resource consents, as it causes increased costs and can cause delays. Clear non-notification provisions were acknowledged as a key requirement by the advisory group that informed Tasman's intensification plan change (plan change 66). Consequently council decided in its decisions that applications for RC for controlled subdivision within Richmond intensive development area (RIDA) that comply with the conditions of this rule would be non-notified (without limited and public notification). Restricted discretionary applications for subdivision within RIDA that comply with the conditions of this rule are decided without public notification. Restricted discretionary applications for building construction or alteration within RIDA that comply with the conditions of the rule are also decided without public or limited notification.

### **Can you identify provisions that are enabling higher density urban development in local authority plans that could be provided for either nationally or in particular zones or areas?**

During preparation of Plan Change 66 to the Tasman Resource Management Plan we evaluated the appropriateness of key provisions in our s.32 report. It was apparent from that evaluation that different provisions are required according to the area being rezoned. It is not a case of one size fits all, as it depends heavily on the prevailing typology of the area. When retrofitting a higher density to an established area, it is the impact on those existing dwellings that is a constraint, during the period that the area transforms to higher density.

It is not clear from the consultation paper what activity status the prescribed rules from Government may have but presumably they would be permitted? In this case it is very difficult to

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write permitted rules that will work in every situation and not have an adverse effect on neighbour's amenity, for example in relation to building height. Such rules need to sit within a set of complementary provisions that, in combination, are designed to protect neighbours and neighbourhood amenity (eg on setbacks from road and title boundaries, outdoor living areas and access.)

In relation to the example rule on minimum floor areas/apartment sizes, the Tasman RMP sets no minimum size for house footprint, but private developer covenants do sometimes apply minimum floorspace thresholds and limit certain design/types of buildings in subdivisions. Tauranga City Council research into this issue has shown that private developer covenant can increase the cost of both sections and building. The Productivity Commission looked into covenants as part of its inquiry into land and housing. In its final report entitled "Using Land for Housing", September 2015, the Commission noted that:

*"Private covenants can be a barrier to growth by restricting the current and future development capacity of land. Yet they can also create incentives for development and allow private individuals to make arrangements that increase their wellbeing. The Commission does not see a strong case to regulate the content of covenants or give local authorities the power to overturn covenants. However, the Commission considers that time limits on covenants, and reforms which make it easier for landowners to modify or extinguish covenants, have merit."*

Examples of key provisions evaluated for Plan Change 66 are provided below, that show the tensions between changing one rule and the impact on urban form and environmental effects:

**Number of storeys/building height** - In enabling site design flexibility for developers by increasing permitted residential building height, this may subsequently impact on privacy of neighbours, if the rule does not sit within an adequate framework. If a significantly increased height was permitted it could lead to residents erecting fences and walls which have their own effect on urban form, street scene, natural surveillance of public spaces. Consideration was given to further increasing building height from 7.5m to 10m (three storeys) as a permitted rule, but due to the knock on effect on dwelling size (due to compliance with height to boundary rule) it was not proposed as a permitted rule at this stage. A restrictive discretionary level of consent was chosen for building construction and alteration for the intensive area, in order that consent could be refused should Council consider that the matters of restricted discretionary that apply to the rule on building height are not adequately addressed

**Density and subdivision standards** - To enable intensive housing, lot size and site coverage need to be reviewed in the rule framework. Environmental effects such as poor amenity could be more than minor from such rules by themselves and maintaining privacy is an important aspect of intensification. Rules on lot size and coverage therefore need to sit within an overall coherent framework that addresses potential environmental effects arising from other design restrictions, e.g. building envelope, setbacks, outdoor living space, height, building length, etc. to minimise such environmental and economic cost.

**Building setbacks** - Side boundary setbacks in the TRMP can lead to inefficient space that is not usable, particularly side boundary setbacks. However if setbacks are inadequate with denser dwellings, adverse effects on neighbour amenity and privacy can occur. Conversely multiple setback requirements can become difficult for applicants to incorporate in a small development and it can add unnecessary complication. The proposed privacy controls were ultimately based on existing rules in the TRMP, other councils' rules and discussions held with the stakeholder group (RRAG). They have been tested by Officers, using live proposals and are proposed as efficient and effective controls while enabling intensification. Instead of proposing a rule on window privacy, an amendment was included to the accompanying Urban Design Guide which encourages sensitive placement of windows in dwellings in close proximity.

**Relief sought:** In relation to our response to the previous question and a constraint to urban development being notification of applications, provisions nationally that discourage notification

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of applications for intensification that comply with the rules could be encouraged. The proposed NPS-UD could remind councils to encourage use of sections 95A and 95B of the RMA where a rule in the Resource Management Plan can preclude public and limited notification of an application.

**Should a minimum level of development for an individual site be provided across urban areas (for example, making up to three storeys of development a permitted activity across all residential zones)?**

No see above.

**Using market information to make decisions (see discussion document, page 45)**

**Question 12. Do you support requirements for all urban environments to assess demand and supply of development capacity, and monitor a range of market indicators? Why/why not?**

Position ☐ (Not specified) ☒ Yes ☐ Somewhat ☐ No ☐ Unsure

### Notes

As medium growth authorities under the NPS-UDC we have found the monitoring, reporting and capacity planning requirements to be useful, informing all areas of work across Council. Tasman District Council has always undertaken its own growth planning to inform its LTPs but monitoring and reporting inbetween prior to the NPS-UDC has been less regular. The adoption of a joint FDS with Nelson City Council has been very useful in articulating capacity planning. It is hoped that it will also lead to efficiencies in infrastructure planning across the two regions.

Will the MHUD dashboard of indicators be extended to include prices and rents for business land? The data available on business is much less than residential currently.

We agree that the price efficiency indicators for urban environments work less well, with the exception of the price cost ratio. This is often because the urban area is shared between two Councils' jurisdictions and hence the data does not fit as well as for cities.

**Taking into account issues of concern to iwi and hapū (see discussion document, page 48)**

**Coordinated planning (see discussion document, page 50)**

**Question 14. Do you support amendments to existing NPS-UDC 2016 policies to include working with providers of development and other infrastructure, and local authorities cooperating to work with iwi/hapū?**

Position ☐ (Not specified) ☒ Yes ☐ Somewhat ☐ No ☐ Unsure

### Notes

Both Councils worked with iwi/hapu, NZTA, the DHB and Ministry of Education when preparing the FDS, as well as a large range of other stakeholders. We agree this is important and hope that in implementation of the FDS an ongoing relationship will be maintained with these infrastructure providers. Working with such providers is easier once an FDS is being prepared or is adopted. It was much harder to work with infrastructure providers with special housing areas as they were ad hoc and often unplanned. Infrastructure providers were in a position of reacting to proposals belatedly rather than involved in the planning for them.

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**Timing (see discussion document, page 53)**

**Question 15. What impact will the proposed timing for implementation of policies have?**

### Notes

Since our Councils are not designated as a major urban centre, these directive policies from the NPS that would need to be implemented via plan changes within 18 months do not apply. However if they did apply the timing would be awkward since we have both embarked on a review of our Regional Policy Statements, District and Regional Plans.

**Guidance and implementation support (see discussion document, page 55)**

**Question 16. What kind of guidance or support do you think would help with the successful implementation of the proposed NPS-UD?**

### Notes

- Ongoing guidance with monitoring reports and the status of some of the Government's indicators on the MHUD dashboard.
- Increased data on business markets on the MHUD dashboard
- Assistance with the new feasibility methodologies outlined on page 73 of the proposed NPS-UD
- Some best practice for incentivising intensification would be useful.
- Page 72 comments that HBAs that have been undertaken to date could have provided some additional information. Such as *"more explicitly considering the impacts of increased capacity on housing affordability"*. There is no Government guidance on this currently and it is needed. The proposed NPS-UD fails to comment on ways to improve affordability. The rationale behind the proposed NPS-UD seems to be that an increase in housing supply and increase in density will improve affordability, however no evidence is provided to prove this. There are a number of factors that influence affordability, as outlined in the response to question 6. Evidence indicates that higher density housing in some locations (e.g Nelson urban area) is built for the higher end of the market, which only exacerbates unaffordability.

**Alignment with other national direction under the RMA (see discussion document, page 57)**

**Question 17. Do you think there are potential areas of tension or confusion between any of these proposals and other national direction? If so, please identify these areas below and include any suggestions you have for addressing these issues.**

Position ☐ (Not specified) ☒ Yes ☐ Somewhat ☐ No ☐ Unsure

### Notes

The consultation paper does not make many links with the proposed NPS on highly productive land and indeed at times seems to work against it (e.g. proposal on page 16 to direct local authorities of MUCs to consider plan change requests for urban development in locations that are out of sequence or outside of areas identified.) This is in comparison with the proposed NPS-HPL, where e.g. policy 3 makes the link between the two NPSs.

The statement on page 58 *"The NPS-UD's increased focus on higher density development.....complements the NPS-HPL, as it will help alleviate pressure for outward development onto the highly productive land resource."* This statement is only true if

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intensification works and is successful. It is questionable whether the proposed NPS-UD goes far enough in ensuring that intensification will be delivered, due to infrastructure funding constraints and lack of guidance on how to incentivise intensification.

We have outlined the confusion in the proposed NPS-UD surrounding funding of infrastructure for growth under an earlier question.

The following is suggested as a hierarchy that could be incorporated into the proposed NPS-UD:

- (a) 'give effect' to the National Policy Statement for Freshwater Management;
- (b) 'give effect' to the New Zealand Coastal Policy Statement;
- (c) 'have particular regard' to the National Policy Statement for Indigenous Biodiversity;
- (d) 'consider' National Policy Statement for Highly Productive Land;
- (e) 'consider' National Policy Statement for Renewable Electricity Generation; and
- (f) 'consider' National Policy Statement on Electricity Transmission.

**Question A3. Are the margins proposed in policies AP3 and AP12 appropriate, if not, what should you base alternative margins on? (for example, using different margins based on higher or lower rural-urban price differentials)**

Position ☒ (Not specified) ☐ Yes ☐ Somewhat ☐ No ☐ Unsure

As a urban environment under the proposed NPS-UD, we understand from a MHUD response received to a question, that we could apply demand margins where it makes most sense to do so, or not at all.

**Question A5. Do you support the approach of targeting the HBA requirements only to major urban centres? Why/why not?**

Position ☐ (Not specified) ☐ Yes ☐ Somewhat ☒ No ☐ Unsure

**Notes**

See answer to question 12

Item 11: Omnibus of Submissions to National Policy Statement and Environmental  
Standard Proposals: Attachment 2



10 October 2019

National Policy Statement on Urban Development Consultation  
Ministry for the Environment  
PO Box 10362  
Wellington 6143

Dear Sir/Madam

**Submission on proposed National Policy Statement on Urban Development  
"Planning for Successful Cities"**

Tasman District Council and Nelson City Council welcome the opportunity to make a submission on the proposed National Policy Statement on Urban Development (NPS-UD).

The Councils support Government's efforts to improve the urban environment and encourage intensification of housing. However, the proposed NPS-UD fails to provide appropriate policy direction for urban areas outside of the Major Urban Centres (MUCs), such as ours, that are contending with housing market problems – those of a fast growing population and serious housing affordability issues. High growth rates in smaller centres like Nelson City Council and Tasman District Council (Nelson/Tasman) puts the costs of new infrastructure onto a smaller rating base so the costs to rate payers and the community is proportionately higher than in larger centres.

The proposed NPS-UD does nothing for regions such as ours that house a significant population, are growing fast and have serious housing affordability problems. 40% of NZ's population lies outside of the Major Urban Centres (MUCs) listed in the proposed NPS. We outline our housing market characteristics and talent attraction issues below and make recommendations for the proposed NPS-UD for authorities like ourselves.

**Characteristics of the Nelson Tasman regions' housing market**

The Nelson urban area (Nelson, Stoke and Richmond) is the 7<sup>th</sup> fastest growing main urban area nationally between 2013-2018, with population increasing on average 1.4% per annum and it is ageing. By 2038, residents aged 65+ are predicted to make up more than a third of our population. We are experiencing serious housing issues including affordability problems, high rents and a shortage of rental accommodation. Approximately 85% of first home buyers cannot comfortably afford a typical "first home" priced house (according to MBIE indicators) and 64% of rental households cannot afford typical rents. According to the Massey University home affordability index, Tasman District is the second least affordable region in the country after Auckland, and Nelson City is the third. This is creating a barrier to attracting and retaining the people we need to maintain and grow our economy. This serious housing unaffordability is against a backdrop where supply of housing (building consents and vacant buildable sections) is meeting demand (creation of households), total building consents have increased in recent years and the number of sections created in urban areas continue to increase.

A2275062

### **Talent attraction issues**

Earlier this year the Nelson Regional Development Agency undertook talent attraction and retention research in Nelson and Tasman. The top three initiatives that employers think government and local government most need to focus on to ensure the region can attract the talent it needs, include affordable housing. Many employers also commented on housing being a key barrier to attracting talent, including Nelson's high cost of living and low rental/house availability.

Three quarters of the 105 businesses who responded, report that they are growing at a rapid or reasonable pace. Talent attraction is one of the top three issues faced by over 60% of organisations, and is a concern for 88%.

### **Provincial Growth Fund**

Nelson and Tasman based ventures have received in excess of \$12M in funding from the Provincial Growth Fund to date. This is a positive step in trying to grow our economy on a per capita GDP basis, but if we struggle to attract the talent to fill roles to help these businesses, due to high rents and house prices, then its potential will not be realised. Such barriers to enabling prosperity are currently not being addressed by Government. The Major Urban Centres (MUCs) focussed policies in the NPS-UD do nothing to complement the Government's investment in the regions.

### **Proposed NPS-UD - requested changes**

1. There needs to be some distinction between the urban environments, by size, rates of growth and/or sustained lack of housing affordability. We propose three tiers of urban environments, distinguished by their current populations, projected rate of population growth and housing affordability:
  - a. Major Urban Centres (MUCs),
  - b. High Demand Urban Environments, and
  - c. All other urban environments.
2. Nelson and Tasman regions would fall within the second tier, along with similar regions and districts facing high population growth and serious housing unaffordability. The policy would not be as directive as for MUCs, but would encourage the development of medium density intensification areas where appropriate, according to a set of criteria such as those in the proposed policy. The policy approach should also "strongly encourage" the preparation of a Future Development Strategy (FDS) for such areas as well as being required to undertake housing and business monitoring and reporting.
3. Urban environments that have already voluntarily adopted a FDS need to be recognised in the NPS-UD by ensuring that these FDS documents are better recognised in the RMA planning hierarchy. The role of FDSs should be strengthened to inform RMA plans and strategies prepared under other legislation. We consider it would be advantageous to empower spatial planning by inserting FDSs into our legislative framework and making them integral to our planning system, more than just referencing them under "management plans and Strategies prepared under other Acts".
4. High demand urban environments that prepare an FDS must consider/address all the FDS policies proposed in the NPS-UD. We hope that having adopted a Nelson Tasman FDS, this will place us in a better position to work with Government departments and agencies responsible for education, transport, housing, health,

## Item 11: Omnibus of Submissions to National Policy Statement and Environmental Standard Proposals: Attachment 2

and social services, in planning in a coordinated fashion for the growth of our regions.

### **Important considerations currently missing from the features proposed in the NPS-UD to achieve quality urban environments**

1. **Issue** - our population is ageing and we need urban environments that are suitable for people to age in place.

**Recommendation** - this issue needs to be acknowledged in the NPS-UD definition of high quality urban intensification, as well as across all Government policy relating to medium density housing in high demand urban environments and incorporation of universal design principles.

2. **Issue** - recognition that good urban design is essential for quality urban environments. Neither the preamble nor the proposed policies explicitly refer to good urban design being important for quality urban environments. Ecologically sensitive design is included but not the standard of urban design itself. This is a key factor in creating a quality urban environment.

**Recommendation** - include reference in the proposed NPS to Resource Management Plans and decisions ensuring that developments function well, establish or maintain a strong sense of place, and create attractive welcoming and distinctive places to live, work and visit.

3. **Issue** - there is potential for confusion between the proposed NPS-UD and other proposed NPSs. The most significant example for the effectiveness of an NPS-UD is the proposed inclusion of a policy providing for plan changes for out of sequence greenfield development and/or development in locations not currently identified. This policy would lead to more pressure to develop highly productive rural land, working against the objectives of the proposed NPS on Highly Productive Land and undermining other objectives of the NPS-UD.

**Recommendation** - remove the proposal for providing for plan changes for out of sequence greenfield development and/or greenfield development in locations not currently identified.

4. **Issue** - further measures to improve housing affordability. The rationale behind the draft NPS-UD appears to be that an increase in housing supply and increase in density will improve affordability, however no evidence or guidance is provided on this and this has not been the case in Nelson and Tasman. Our evidence indicates that higher density housing in the Nelson Urban Area is built for the higher end of the market, which only exacerbates unaffordability. The urban growth agenda has a focus on housing affordability but the proposed NPS does nothing to address this. Providing affordable housing is complicated with a number of interrelated factors influencing such provisions.

**Recommendation** - either acknowledge in the proposed NPS-UD that there are a number of factors affecting housing affordability, or include some effective proposals to assist with unaffordability.

The annex provided with this letter provides some further detailed responses to key questions in the consultation document "Planning for successful cities."

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Standard Proposals: Attachment 2

We look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rachel Reese'.

Mayor Rachel Reese JP  
**Mayor of Nelson**

A handwritten signature in black ink, appearing to read 'Richard Kempthorne'.

Mayor Richard Kempthorne  
**Mayor of Tasman**



# Item 11: Omnibus of Submissions to National Policy Statement and Environmental Standard Proposals: Attachment 3



29 October 2019

Ministry for the Environment  
PO Box 10362  
Wellington 6143

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PO Box 645, Nelson 7040, New Zealand

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Submitted to: <https://submissions.mfe.govt.nz>

## **Nelson City Council (NCC) Submission on:**

- A. *Action for healthy waterways: A discussion document on national direction for our essential freshwater***
- B. Draft National Policy Statement for Freshwater Management**
- C. Proposed National Environmental Standard for Freshwater management**
- D. Draft Stock Exclusion Section 360 Regulations.**

## **A. GENERAL COMMENTS**

1. Thank you for providing NCC the opportunity to feedback on the *Action for healthy waterways* discussion document, the Draft National Policy Statement for Freshwater Management, the Proposed National Environmental Standard for Freshwater management, and the Draft Stock Exclusion Regulations. Council officers would like the opportunity to be heard in relation to this submission.
2. Council officers have contributed to and reviewed the Local Government New Zealand submission and support the general intent. NCC's submission has a direct focus on the implications for Nelson City and the relevant Council work programmes.
3. In general terms NCC supports the broad direction of the freshwater proposals to:
  - Strengthen Te Mana o Te Wai as the framework for freshwater management
  - Better provide for ecosystem health (water, fish, and Plant life)
  - Better protect wetlands and estuaries
  - Better manage stormwater and wastewater, and protect sources of drinking water
  - Control high-risk farming activities and limit agricultural intensification
  - Improve farm management practices
  - Streamline the plan change process for Freshwater Plans
4. Over recent years NCC has undertaken substantial work with the Community to develop plans and undertake physical works to improve water quality in Nelson in accordance with the National Policy Statement for Freshwater Management (NPSFM). This work will need to be adapted to meet the proposed requirements such as developing a long term

Internal Document ID: A2277745

Nelson The Smart Little City  
He tāone tōrire a Whakatū

 Nelson City Council  
te kaunihera o whakatū

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vision, and establishing additional water quality attributes. In addition NCC will be required to provide additional detailed reporting and accounting resources including data management and technical support. This submission highlights some of the specific issues with what is proposed.

### 5. Broadly NCC seeks:

- Government assistance and technical guidance relating to land management advice, data management and monitoring, adequate technical support for plan reviews and hearings, and financial support.
- Clearer direction on parameters to be used to define minimum standards
- That the good work that Councils have undertaken to date with the community and iwi will not be lost (eg) identification of freshwater values
- Consistency in national reporting requirements and that these are not too onerous at the expense of environmental outcomes
- That the hierarchy of obligations recognises other key factors such as the risk to human life
- The broadest possible interpretation of "freshwater plan" is used to determine where restricted appeal rights will apply to ensure the process and content is fully integrated
- Clarification of attribute monitoring
- Provide tools and resources for mapping wetlands
- Legislative change so that Councils can control the quality of private stormwater from individual sites
- Clarification on how 'naturally occurring processes' can be factored into monitoring
- Improvements to NES definitions to provide greater clarity and certainty
- Improvements to NES rules to improve clarity, focus on the most relevant environmental considerations (eg Restricted Discretionary activities instead of discretionary), and enforceability.
- Greater clarity and guidance for stock exclusion regulations.

### Specific Comments

6. The remainder of this submission identifies key issues and where necessary detailed relief in relation to the specific proposals. The submission follows the format of the freshwater proposals for ease of interpretation.

## **B. ACTION FOR HEALTHY WATERWAYS: A DISCUSSION DOCUMENT ON NATIONAL DIRECTION FOR OUR ESSENTIAL FRESHWATER**

### Section: Ministers Message

1. NCC is advancing a combined Regional Policy Statement, Regional Coastal Plan, Regional Land and Freshwater Plan and District Plan. It will replace existing RMA Plans, some of which were prepared many years ago. In the course of this work, NCC has confronted the actual state of waterways in Nelson and examined what needs to change to reverse water quality degradation and to achieve improved ecological health. NCC has committed to achieving in-stream water quality standards, set above current and draft NPS-FM national bottom line levels, to improve water quality and ecosystem health by 2030. NCC is midway through its Plan development process and is committed to publicly notifying the proposed Plan before the 2023 deadline proposed by the Ministers. NCC



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has undertaken detailed research and analysis to understand the causes of degradation in waterways and is deeply aware of the effort that will be required across multiple sectors of industry and by communities to achieve improvement. A mix of regulatory and collaborative initiatives and financial assistance will be required and it will take time. NCC agrees there is a need to set targets and time deadlines for improvement, and has done so itself in its Plan drafting. The implementation price tag, for all related initiatives, is potentially enormous and needs to be affordable for all communities (including small communities such as Nelson City that have a relatively small population and a limited rating base). For example NCC has committed \$3.7 million over 10 years to managing inflow and infiltration to reduce wastewater overflows.

2. There is a lot going on. The Government's reform agenda, across numerous topics, is challenging for councils and for communities. The interactions between urban development, climate change impacts and natural hazards, freshwater improvement and infrastructure investment are all critical issues for the Nelson community, requiring big decisions in the near future, including big ticket spending decisions. It will also be challenging to provide for new growth in accordance with the Draft NPS Urban Development and ensure that Draft NPS Productive Land and Freshwater bottom lines are achieved. Communities and local government cannot respond to these challenges alone. NCC endorses the Government's commitment to providing technical advice and financial assistance to communities and councils to enable us to achieve the improvement that we all agree is needed.

### **Section: Overview**

3. NCC agrees with the Government's three stated objectives for freshwater reform and has already taken those on board in preparing its replacement RPS and regional plan freshwater and land management provisions.

### **Section: 1.3 Broader Reform Context**

4. Improvement to a healthy state will require significant shifts in landuse and practices that contribute to key stressors. This requires a collaborative approach with industry and the farming sector, with support to maintain employment and economic growth whilst responding to the world market and environmental changes from climate change. Healthy ecosystem state could be achieved in some regions within a generation, though nationally there will be challenges to reform or diversify industry to more environmentally sustainable practices. NCC has proposed a 2030 deadline for phasing out over-allocation in water quantity and for achieving a step-change improvement in freshwater quality (eg) ceasing all wastewater discharges including "accidental discharges". That aligns with the Government's proposed 2025 date for finalising plans plus 5 years for immediate improvement. If achieved, the measures proposed will achieve material improvement by 2030 – but they are acknowledged to be ambitious and NCC has not yet commenced community engagement on its Draft Nelson Plan provisions, or on the Long Term Plan funding that will be required, to test whether these deadlines can be achieved. NCC has adopted the approach that action is necessary and is proposing measures to achieve improvement as early as practicable. Importantly, NCC and all councils need to get buy-in from our communities for these potentially expensive measures. Government assistance, in the form of financial assistance for key sectors as well as technical guidance will be important, including:

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- (a) technical and resource support for addressing urban water issues;
  - (b) development of data management and reporting systems for NZ;
  - (c) support for improvement of monitoring programmes to drive national consistency;
  - (d) clear direction on the parameters to be used to define minimum standards; and
  - (e) financial support is likely to be needed for some communities to improve stormwater and wastewater infrastructure.
5. NCC's own work has highlighted the potential perverse outcome that the proposed new bottom line attribute standards will not represent improvement in some catchments. NCC has committed, in its Draft Nelson Plan, to improvement beyond the national bottom lines on the basis that the step changes required should deliver more than just 'bottom line' quality. Also, there is a risk that regional councils, as the Government's enforcement agent, will become bogged down in the detail of reporting requirements if the attribute framework becomes too detailed and cumbersome. There is a strong risk that the apparent cost of the step changes required will be resisted by communities.
6. A centralised national body responsible for all aspects of freshwater management will potentially take a long time to become properly established and its success would depend on the personnel appointed. All councils are aware of the difficulty of recruiting and retaining experts in freshwater science, planning, and management. It would be regrettable if the creation of such a body were to strip regional councils of the skill sets they need to continue undertaking the on-the-ground work directed by the national body. It would also be regrettable if the complexity of local detail were lost in a central 'machine' that homogenises information nationally without maintaining freshwater quality and ecosystem health at the local level of detail. NCC questions the merits of a central body and suggests that regional councils are well placed to continue their work – if properly resourced by Government.

### Section: 4.2 Te Mana o te Wai

7. NCC has endeavoured, in developing the Draft Nelson Plan framework of objectives, policies and rules for freshwater management, to strike an appropriate balance between restoration of freshwater natural values and water quality, the essential health needs of people (as well as farmed animals) and economic use of water. Priority is given to the preservation of natural character, the protection and restoration of habitats of threatened species, phasing out over-allocation to restore ecosystem health and improvement in water quality but not to the exclusion of economic use. Recognising that it is going to take some time to achieve the freshwater improvements discussed in the Discussion Document, the 'hierarchy of obligations' risks undermining the legitimacy of existing authorised water uses. Further discussion is needed about what the hierarchy means for community drinking water supplies that are required to meet more than just the 'health needs of people'. Other valid considerations are risks to life, for example in considering investment options for flood risk, and trade-offs between open channel flow capacity (and minimising flood hazard risk) and the need to maintain or enhance instream values. As with other elements of the freshwater reforms, the balance struck between the values listed in the 'hierarchy of obligations' needs to be practical, sustainable and supported by the community, with an achievable time frame.

#### **Section: 4.3 Strengthening Maori Values**

8. NCC has engaged in detail with tangata whenua representatives about tangata whenua values held for **freshwater** resources in Nelson catchments. Central to that work was the identification by the Iwi Working Group of a local definition for Te Mana o te Wai as well as the values that contribute to it. Working together over the last five years, NCC has already identified a broad range of values important to tangata whenua in its Draft Plan (including mahinga kai, mauri, kaitiakitanga, wairua, mana and tauranga waka). Whichever option is adopted by Government, NCC requests that the NPS-FM enable Councils to rely on the processes they have already engaged in to identify tangata whenua values and to maintain the momentum already gained and not have to start 'from scratch'.

#### **Section: 4.4 New Planning Process for Freshwater**

9. Whilst the timeframe for notification and decisions is supported by NCC as this aligns with the timing of Nelson Plan notification, it is likely to be difficult for some Councils particularly those that have recently completed Plan process. Funding should be made available to ensure adequate technical support for hearing panels along with confirmation that matters associated with freshwater will also be available for restricted avenues of appeal such as coastal water, earthworks and subdivision provisions given the integrated nature of unitary plans. This will allow all issues impacting water to be dealt with in an integrated way.

#### **Section: 5.2 Reporting on Ecosystem Health**

10. Additional funding should be provided to Councils to meet additional monitoring requirements. We currently spend approximately \$250,000 per annum across our science water quality/quantity programme as well as \$580,000 over 10 years in our Infrastructure team on monitoring. New monitoring requirements will be costly.

#### **Section: 5.3 Ecosystem Health**

11. Further discussion is necessary about how attributes are to be monitored. For example, attributes for nutrients are applicable in waterways with nutrient and periphyton issues. Nitrate and Ammonia toxicity is less meaningful in waterways with low N and not subject to significant point discharges (e.g. from landfills/effluent). Stressor-specific attributes (e.g. MCI-sediment) might be more informative and could be included in action plans where contaminant sources/water quality issues are known. The development of action plans where deterioration occurs might be difficult to implement in the short term because of the need for 5-10 year trend data to detect degradation or improvement.

#### **Section: 5.4 Aquatic Life**

12. NCC supports the identification of threatened species as a compulsory value. NCC's Draft Nelson Plan includes this value, along with objectives, policies and rules to protect the habitats of threatened indigenous species. It is not clear from the discussion document, or the Draft 2019 NPS-FM, what specific additional measures are required by the inclusion of this value in Appendix 1A therefore further clarity is required.

**Section: 5.6 and 5.7 Wetlands and Streams**

13. NCC's Draft Nelson Plan includes objectives, policies and rules that seek to protect wetlands and prevent stream loss. Further work will be required to map and ground-truth the extent and condition of inland wetlands. Government could assist by making available mapping resources or tools to advance that process for all councils.

**Section: 5.8 Nutrient Pollution**

14. The proposed limits align with limits adopted in the Draft Nelson Plan. NCC supports adoption of these bottom line limits, as triggers for action plans to address sources of nitrogen and phosphorus in catchments. The limits need to recognise natural variation in N and P associated with geology (e.g. the mineral belt in Nelson region), climate and landuse that operate at different temporal scales. Trends in N and P should be flow adjusted to provide bench marks for comparing similar size catchments and prioritising land use management to improve water quality. In relation to the recommendation to remove the 'productive class' definition for the periphyton attribute: the chlorophyll *a* benthic periphyton sampling is labour intensive and costly. The visual cover RAM2 provides meaningful data that can be used in place of chlorophyll\_*a*. It is therefore recommended that RAM2 should be used for the periphyton attribute.

**Section: 5.9 Reducing Sediment**

15. Overall, the approach is supported, and might help address the 'death by 1000 cuts' impact on receiving environments from multiple or long term staged resource consents for subdivision. However in practice it will be relatively difficult to implement. It would rely on improvements being made to monitoring regimes and catchment models like CLUES or Sednet to put things into context and to allow Council to set appropriate policy.
16. TSS/turbidity is an important attribute to monitor, and staff support the inclusion of the attribute.
17. However, monitoring sites may need to be re-evaluated to provide meaningful data. SOE and hydrology networks were not originally located for sediment monitoring, though will typically be used for sediment monitoring because of existing infrastructure (eg telemetry). Also, most sediment discharges occur during storm events which don't align with SOE monthly monitoring. Data will not be representative if it is based on a monthly sampling. Consequently additional guidance and financial support is requested to support additional monitoring requirements.
18. NCC has recently jointly adopted a Future Development Strategy (FDS) under the NPS Urban Development with Tasman District Council. The FDS supports growth including green-field areas. One key risk from growth areas is sediment at the time of subdivision. Regardless of stringent and erosion and sediment there are discharges. NCC recently successfully prosecuted a developer for sediment discharge and, whilst the stream was remediated, there were significant impacts. Therefore growth comes at a cost and there is no clear priority/ranking given for the NPS Freshwater and the NPS Urban Development. It is critical that this is clarified.

**Section: 5.10 Water Quality for Summer Swimming**

19. There needs to be more detail on what the action plan requirements are as this has implications for resourcing. Council already has programmes targeting E. coli at source, including infiltration/inflow across the stormwater and wastewater infrastructure as well as catchment community programmes including our Nelson Nature/Healthy Streams programme. This programme has a budget of approximately \$500,000 per annum as well as \$8000 for recreational bathing and additional budget for E.coli monitoring.
20. There also needs to be consideration given to the best indicator of risk to human health when swimming - it could be suspended sediment, or campylobacter, or a viral marker. E.coli levels are often highest after rain, so maybe visual clarity is an acceptable proxy and much faster than waiting for E.coli results.

**Section: 5.11 Water quantity – minimum flows and 5.12 Real-time reporting of abstraction**

21. Some guidance on monitoring ecological effects of low flow would be helpful. Most of Nelson's consented takes are less than 5 l/s but for any new consents or renewals we are requiring telemetry. NCC doesn't currently have a system to receive telemetered data yet as we haven't found a system that is sophisticated enough to meet our needs yet cost effective for the number of consents (~40 and not all telemetered yet.). For takes less than 5 l/s it is useful to consider the volume proportional to the size of the stream when requiring telemetry.

**Section: 6.3 Proposed Amendments to Drinking Water NES**

22. While NCC supports the proposed enhanced Drinking Water standards, the Council cautions against these being applied so restrictively that it prevents community resilience or innovation in water supply. For example, consider providing for poor quality water source so long as the treatment mechanism is robust. The regulations shouldn't preclude the use of recycled water in the future as a response to climate change and droughts. Further there are a number of small (less than 10 household) private drinking water supplies. The cost of monitoring and enforcing these across will be considerable.

**Section: 7.2 NES for Wastewater Discharges and Overflows**

23. The discussion does not reference the likely cost for communities and how that will be funded or the scale of the issue - it's large and it's long term. A national response will be required. As noted NCC has already committed significant funds to addressing inflow of wastewater into the stormwater system. The cost of achieving net accidental discharge from pump stations is \$4.8 million over 10 years.
24. Also needs to consider the location of existing and proposed wastewater plants to ensure they will not be at risk of failure relating to climate change impacts (rainfall intensity), sea level rise, earthquakes or other natural disasters. In particular, sea level rise (and rising water tables) is an important consideration when consenting wastewater plants and their associated in-ground infrastructure, as well as the cost of replacing historical systems with alternative sites, routes or methods.

#### **7.4 Stormwater and Wastewater Risk Management Plans**

25. In general, the scope of proposed risk management plans is appropriate. There need to be well defined parameters to work to (event types, ages of systems etc). This detail needs to be worked through. Risks relating to these assets and their performance need to be considered holistically. The scope of the proposed risk management requirements for stormwater is limited to 3 aspects, but it extends beyond improvement of ecosystem health. There is insufficient information provided on the proposed content of these in the Discussion Document to make an informed response. However trade-offs will be required in balancing management of environmental, people, and property risks. Additionally, flood risk to people and property is not limited to the pluvial flooding associated with the level of service provided by the stormwater network. The scope could be reframed as risks and opportunities: For example: is there potential for flood mitigation in the design of the stormwater system? Is there potential for water conservation/re-use in the design of the system?
26. Risk management plans should include receiving environments (whole catchment) - not just what comes out the pipe in any given place. Cumulative effects on receiving environments are important.

#### **Section: 7.4 Stormwater and Wastewater National Guidance**

27. Overflows from the network are useful and solid indicators of the scale of the issue (i.e. flows through pump stations and wastewater treatment plants in excess of dry weather flow). Frequent sampling at point of discharge that gives a true representation of discharge quality provides good information.
28. Targets need to be set for stormwater discharges from individual properties (at source) as well as for the receiving environment. Stormwater discharge quality should not be considered in isolation from the quality of stormwater inflows to the network. Monitoring costs need to be considered when setting the metrics and frequency of sampling.
29. The scale of the issue is significant with respect to wastewater overflows. In many situations stormwater misdirected from private (commercial and residential) property is a significant contributor to overflows. There is a regulatory gap in this space that makes it difficult for network operators to enforce change: stormwater that is captured on individual sites and piped to connect to a stormwater network is not, as defined by the RMA, a 'discharge' to water or land (until it discharges to a water body). Therefore, regional councils cannot easily control the quality of piped stormwater from individual sites through RMA Plan rules. To improve WW network performance this regulatory gap needs to be closed (either through the Building Act or the RMA).

### **C. DRAFT NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT**

#### **Policy 5**

1. Nelson City Council has worked extensively with the community and the eight iwi of Te Tau Ihu in identifying freshwater values over the last five years. Policy 5 requires that both iwi and hapu are involved in freshwater management. This will have significant

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implication for the ability to deliver the freshwater package on time. Policy 5 should be amended to remove "hapu" as it is for iwi to determine how hapu are engaged with. Alternatively the policy could be re-phrased to refer to tangata whenua (as per 3.3) rather than iwi and hapu with Councils and iwi to determine how tangata whenua are involved.

### **Policy 12**

2. NCC anticipates that the annual and five-yearly reporting on freshwater attributes will add significantly to Council's administrative and monitoring costs and will divert key staff from other work. NCC is concerned about the number of attributes and the volume of work required. Some national consistency in reporting would be sensible. It would be reassuring to know that the information reported is in a consistent format and that it will actually inform the national picture. There is a risk data will be collated with no clear reporting framework of why it is needed and what it informs.

### **3.2**

3. Clauses (7) and (8) are unhelpful, unnecessary and should be deleted. The annual reporting required by 3.21 will provide the assessment of whether waterbodies can sustain the pressure on them. Clause (7) does not specify the mechanism or output from the assessment required. Clause (8) suggests that an enormous and unwieldy body of information may have to be considered in all reports on future applications for resource consent. This is not achievable. The outcome of the discussions will be the vision and that is what should be considered. That will be required, anyway, by s. 104 of the RMA for applications for consent and by s. 67 of the RMA for the preparation and change of regional plans.

### **3.4(4)**

4. Clarification is needed as to whether local authority co-operation for shared catchments will require joint regional plans for freshwater and groundwater bodies.

### **3.4 (5) & (6)**

5. RPS direction for District Plans is relevant for regional councils but not for unitary authorities such as NCC which have or are preparing combined RPS, regional plans and district plans. 3.4 (5) and (6) should exempt unitary authorities.

### **3.23**

6. A reduced target attribute state for naturally occurring processes is potentially relevant for Nelson, due to the influence of the ultramafic mineral belt on background pH and DRP in some waterways. No detail is provided on the nature of evidence or assessment detail required to support an application for this exception. Some clarification or separate guidance would be helpful.

### **Appendix 1B**

7. A key additional value is flood capacity and drainage due to the importance of maintaining existing infrastructure and of flood management, drainage and erosion



protection, particularly in light of the national importance of managing natural hazards under s. 6 (h) of the RMA and of public access (s. 6 (d) of the RMA, noting that these may, in some circumstances, necessitate localised adverse effects. Appendix 1B should include Flood capacity and drainage as an additional value.

#### Appendix 2A and 2B

8. NCC supports action plans being published separately to the regional plan to avoid the need for ongoing plan changes.

### D. PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR FRESHWATER MANAGEMENT

#### Definitions

1. The definition of 'natural wetland' should include examples of situations that do not qualify as 'natural wetlands'. For example, by including the following in the definition of 'constructed wetland':

'bodies of water specifically designed, installed and maintained for any of the following purposes:

- i. water storage ponds for:
  - i. public water supply; or
  - ii. firefighting; or
  - iii. irrigation; or
  - iv. stock watering; or
- ii. ponds for containing or treating:
  - i. wastewater; or
  - ii. stormwater; or
  - iii. nutrients; or
  - iv. sediment; or
  - v. animal effluent; or
- iii. beautification, landscaping, amenity; or
- iv. drainage.

2. Delete or clarify the expression 'that does not already exist' in the definition of constructed wetland (which is ambiguous and may unintentionally, and perversely, discourage the restoration or reconstruction of former wetlands that have been drained). Include the following in the definition of 'natural wetland':

*a) wet pasture or paddocks where water temporarily ponds after rain in places dominated by pasture, or that contain patches of exotic sedge or rush species; or*  
*b) constructed wetlands **and areas of wetland habitat that have established or been artificially established around constructed wetlands;** or*  
*c) geothermal wetlands.*

3. The 'Vegetation Destruction' definition refers to 'significant indigenous vegetation' but this term is not defined. A definition is required that focuses on indigenous vegetation that has botanical or ecological values recognised within the region as qualifying as section (6) RMA values.

## Item 11: Omnibus of Submissions to National Policy Statement and Environmental Standard Proposals: Attachment 3

4. The NES uses the term 'earth disturbance' whereas expressions commonly used are 'soil disturbance' and 'land disturbance'. The operative Nelson Resource Management Plan and Draft Nelson Plan adopt the expression 'soil disturbance' and there is potential confusion between that and the Draft NES definition, and the National Planning Standards.
5. The earth disturbance definition should also clarify that it pertains to 'land disturbance' only in relation to activities within and near natural wetlands.

### **Rules**

#### **Rules 10 & 11 - General Earth Disturbance.**

6. Given the relatively confined and known scope of potential adverse effects associated with earth disturbance it is recommended that all activities (for public and non-public purposes) could be adequately evaluated through a restricted discretionary activity consent process, with the evaluative matters specified as restricted discretionary matters.

#### **Rules 12, 13 & 14 Earth Disturbance for Drainage**

7. It is overly complex to include evaluative thresholds in Rules 12 and 13. These should be simplified to require, either: discretionary activity for public purposes and non-complying activity for non-public purposes, or non-complying activity for all earth disturbance for drainage purposes within natural wetlands and within 100m of natural wetlands.

#### **Rules 15, 16 & 17 Water Take Activities (Natural Wetlands)**

8. It is unclear what the intended consent status is for a water take activity that is not for a public purpose but which does not result in the detrimental effects described in Draft Rule 17 (b).
9. Using evaluative thresholds in determining consent status in Rules 16 and 17 is inappropriate and impractical.
10. All thresholds used to determine consent status should be measurable.
11. Simplify the rules to provide for either permitted activity or controlled activity consent for water take activities for all purposes subject to a condition limiting the reduction in water level, with a default (for all purposes) to non-complying, noting that s. 14 of the RMA provides for the taking of water for an individual's reasonable domestic needs and for animal drinking water (provided this does not have an adverse effect on the environment).

#### **Rule 18 Infilling the Bed of a River**

12. The scope of Draft NES Rule 18 is unclear as there is no definition of 'infilling', therefore a definition of infilling is requested to align with the RMA definition of reclamation.
13. Draft NES Rule 18 potentially conflicts with Draft NES Rule 21 in the consent status of the 'infilling' aspect of culverts.

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14. Oppose the discretionary consent status for necessary public flood management and erosion protection activities, noting that NCC has concluded that many of these can be permitted, subject to conditions to protect environmental quality.
15. NCC has developed, over the last 2 years, a Code of Practice for flood management and erosion protection activities in the beds of rivers, to protect environmental quality.
16. Oppose the lack of provision for unavoidable emergency and urgent works required to address health and safety or hazard risk to significant public assets.
17. Oppose the non-complying consent status to the extent that it applies to culverts and fords (and request permitted consent status for these, subject to standards).
18. Request discretionary status for necessary flood management and erosion protection activities that do not comply with specified standards.
19. Support non-complying consent status for all other 'infilling' and reclamation of the beds of rivers and streams.

### **Rules 19 to 24 Fish Passage**

20. Request permitted status for fords as well as culverts (subject to conditions to address potential adverse effects and to provide a basis for monitoring).
21. Request clarification that 'infilling' excludes the construction of culverts, weirs and fords.
22. Adoption of the proposed permitted minimum culvert spans in 21 (1) d) may require significant modification of the river banks, and bed width. Bankfull width can be substantially greater than bed width, and it is not clear why a width greater than bankfull width has been proposed. This is likely to require site specific consideration. If this is to be made a permitted activity there needs to be additional conditions in relation to how the river or stream bank upstream and downstream should be re-profiled to transition to the width of the culvert span.
23. The general wording in clause 21 (3) (a) could equally be applied to subsequent clauses on weirs, fords and flap gates.
24. There should be a specific definition for non-passive flap gates referred to in clause 24. The definition for passive flap gates should further clarify whether these are only for flap gates on streams and rivers, or whether flap gates at stormwater network outlets are also included where there is no upstream open channel section that would support fish habitat.

### **Sub Part 1 29 Other Stock Holding Areas**

25. Oppose the restricted discretionary activity consent status and the complexity and detail of requirements for stock holding areas.
26. Request a clearer definition in preference to having to judge whether or not pasture maintenance is 'precluded' or not.
27. Request permitted activity consent status, subject to sensible (measurable) standards.

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### **Sub Part 1 30 Intensive Winter Grazing**

#### *Permitted activity (1)*

*Intensive winter grazing on a farm is a permitted activity if it complies with the following conditions:*

- a) slope: less than 10 [or 15] degrees;*
  - b) maximum area (does not occur over more than 30ha [or 50 ha];*
  - c) grazing on sloping land takes place progressively downhill from the top of the slope to the bottom;*
  - d) stock is not grazed in any critical source area;*
  - e) a vegetated strip of 5m [or 20m] is maintained between the grazed area and any water body or drainage ditch and all stock are excluded from this strip during grazing;*
  - f) the grazed paddock is re-sown within 1 month, or as soon as practicable, after the end of grazing;*
  - g) pugging to a depth of more than an average of 20cm [or 10cm] does not occur over more than 50% of the paddock*
28. The practicality of enforcement by a local authority of some of the permitted requirements is questionable (e.g. (b), (c),(d), (f), and (g). Easy to understand standards are necessary to achieve a permitted activity status.
29. Significant enforcement resource is likely to be required to effectively implement this rule so funding is requested.
30. Clarity is needed as to whether (e) applies to ephemeral streams and critical source areas or only ephemeral streams when water is present or flowing (noting that cattle can damage ephemeral streams even when water is not present). Given that vegetation is critical for shading it is assumed that this should apply to wet or flowing streams.

### **Sub Part 2 31 – 36**

31. Clarification is needed for how the baseline land use information is going to be able to be verified, when Farm Plans are not required until 2025.

### **Sub Part 3 Freshwater Farm Plans**

32. The Council anticipates that there will be significant additional staff costs associated with receiving and managing Farm Plans. NCC requests that consideration be given to funding the additional tasks required. At the least, there needs to be a national template for farm plans to ensure they can be transacted, audited and monitored as efficiently as possible. Staff with the necessary skill set will not be available by 2025 across the country. Experience is necessary and there are not many experienced practitioners.

## **E. DRAFT STOCK EXCLUSION SECTION 360 REGULATIONS**

1. The stock exclusion provisions are generally supported, noting that NCC has included stock exclusion requirements (although without the 5m setback distance) in its Draft Nelson Plan rules.

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2. There are practical issues arising from fencing stream lengths with a 5m setback (weed control) and the cost to farm operations of the fencing and the consequent management (including usable land lost) and the need to ensure the requirements are simple to implement and practical for farmers.
3. It is unclear how the 5m is averaged across a farm.
4. There is a need for fine-tuning to match on-farm circumstances, particularly on smaller farms that are not required to prepare Farm Plans, where slope detail may not be available at an appropriate scale.
5. Some provisions may be difficult to enforce such as interpretation of slope and confirming that crossing points are used no more than twice per month.
6. Training should be provided to Councils to ensure consistent interpretation.



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## **Te Koiroa O Te Koiora Submission**

### **1.0 Background**

This submission was written in response to specific questions in the discussion document, and was emailed to NZBS@doc.govt.nz. The link to the submission page is <https://www.doc.govt.nz/biodiversity-consultation>

### **2.0 Submission content**

*This submission was written by Council Officers from the Nelson City Council Science and Environment team and has not been presented to Council. Therefore this submission does not represent the views of Nelson City Council as an organisation.*

- 2.1 This discussion document does a thorough job of laying out the importance of protecting biodiversity across a wide range of ecosystems in Aotearoa and the many ways biodiversity is woven into our society from our economy to our cultural heritage. It comes at a crucial time when we are seeing continual societal shift towards environmentalism and increasing recognition from everyday New Zealanders that having healthy and abundant native ecosystems is fundamental to who we are as a nation. It also comes at a time when we are still seeing declines in biodiversity across many of our native ecosystems so it's great that these discussions are happening now.
- 2.2 Te Koiroa o te Koiora sets out aspirational goals across terrestrial, marine and freshwater ecosystems that need to be accomplished by 2050 and emphasises the importance of achieving them. It acknowledges the necessity of wide scale change in the way biodiversity protection is regulated across governmental agencies and emphasises the need for collaboration between community, Iwi, industry and government in order to achieve the greater vision. This is an essential step towards achieving meaningful biodiversity outcomes in the future.
- 2.3 The document would have benefited from providing specifics around how the long range targets can be achieved, the limitations of the current systems and how addressing these limitations will affect biodiversity in Aotearoa. There needs to be more emphasis on delivering policy that achieves consistent and adequate protection to native biodiversity across the country. Addressing the complexities of protecting biodiversity across the range of policies which impact upon it (NES-PF, NES-FW, NPS-IB, and NZCPS etc.) would have been useful.
- 2.4 There is very little mentioned of coastal and marine biodiversity, specifically in the goals, and system shift sections. Some specific targets for marine biodiversity, incl. protection (e.g. XX% of the EEA protected by 2050), healthy fisheries/fish stocks &

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bycatch reduction, and other ecological impacts from fishing, mining, aquaculture etc. (e.g. dredging/trawling) should be included.

- 2.5 The discussion document acknowledges the need for extensive scientific research and the role technology could play in achieving long range biodiversity targets. This area is incredibly important and will require significant resourcing. The document could have included some insight as to how it all might be resourced and stressed the benefits of keeping up with technological advancements when time is of the essence. This area particularly is where missed opportunities could spell the difference between achieving the strategy's goals and continuing to see decline in native biodiversity.
- 2.6 The overall recognition that there's room for improvement and that we should be striving to deliver better biodiversity outcomes should be applauded; however, it would have been good to see some more detail around the biggest obstacles to achieving the goals set out in the document, along with some discussion about potential perverse outcomes and how they can be avoided.

Submission date: 22 September 2019

Approved: Clare Barton, Group Manager Environmental Management, 20 September 2019



## **Environmental Management Group - Quarterly Report - 1 July-30 September 2019**

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### **1. Purpose of Report**

- 1.1 To provide a quarterly update on Environmental Management Group functions: Building, City Development, Consents and Compliance, Planning, and Science and Environment. The report also provides a legal proceedings update relating to the Environmental Management Group functions.

### **2. Recommendation**

#### ***The Environment Committee***

- 1. Receives the report Environmental Management Group - Quarterly Report - 1 July-30 September 2019 (R12534) and its attachments (A2281289, A2044411 and A2288730); and***
- 2. Approves the establishment of a Governance Liaison Group for the Nelson Plan to include the Chair and Deputy Chair of the Environment Committee; and***
- 3. Approves amending the indicative timeline for the Draft Nelson Plan to provide a Council briefing ahead of release of the Draft in December 2019 with community engagement to run from February to May 2020.***

### 3. Summary

Activity	Level of service	Achievement
Building	Compliance with statutory requirements.	Compliance with Building Consent timeframes are 89% overall for the quarter with September 2019 improving to 97%. Compliance with Code Compliance is 98% overall. Statistics are included in Attachment 1 (A2281289)
City Development	Coordinated growth with infrastructure. A well planned City that meets the community's current and future needs.	The City Centre Programme Plan was adopted, and work has now begun on the Spatial and Delivery Plans. The Four Lanes Event was undertaken. Deliberations on Upper Trafalgar Street approved the Pedestrian Mall The scope of the Intensification Action Plan was agreed. The last Four Special Housing Areas were gazetted.
Consents and Compliance	Compliance with statutory requirements.	Compliance with resource consent timeframes averaged 97% for the quarter. Application numbers are on the rise leading up to Christmas. Statistics are included in Attachment 1 (A2281289).
Planning	Resource management plans are current and meet all legislative requirements.	Councillor and iwi briefings on the Draft Nelson Plan were completed in August 2019. The Nelson Plan and Coastal hazards work programmes have been reviewed. Plan Change 27 submissions have been resolved. Officers have reviewed the Draft National Policy Statement Highly Productive Land, Urban Development, and Freshwater Proposals.
Science and Environment	Compliance and reporting against relevant policy statements	There were no exceedances of the National Environmental Standards for Air Quality in the quarter. The freshwater continuous water quality programme is expanding to include turbidity and suspended

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Activity	Level of service	Achievement
	and standards.  Delivery of all programmes.	<p>sediment monitoring in the Wakapuaka and Whangamoa Rivers.</p> <p>An estuarine monitoring programme was initiated with NMIT undergraduate students to assess benthic communities and sediment oxygenation layers in the Nelson Haven.</p> <p>Nelson Nature contractors completed the second of a multi-year control programme to reduce the impact of animal pests in the Maitai/Roding catchment. Over a two week period 160 deer, goats and pigs were removed.</p> <p>The first round of the Environmental Grant Scheme saw 24 applicants supported to improve Nelson's natural environment. A total of \$167,000, including 19,105 native plants, was awarded across the Sustainable Land Management, Healthy Streams and Nelson Nature programmes.</p>

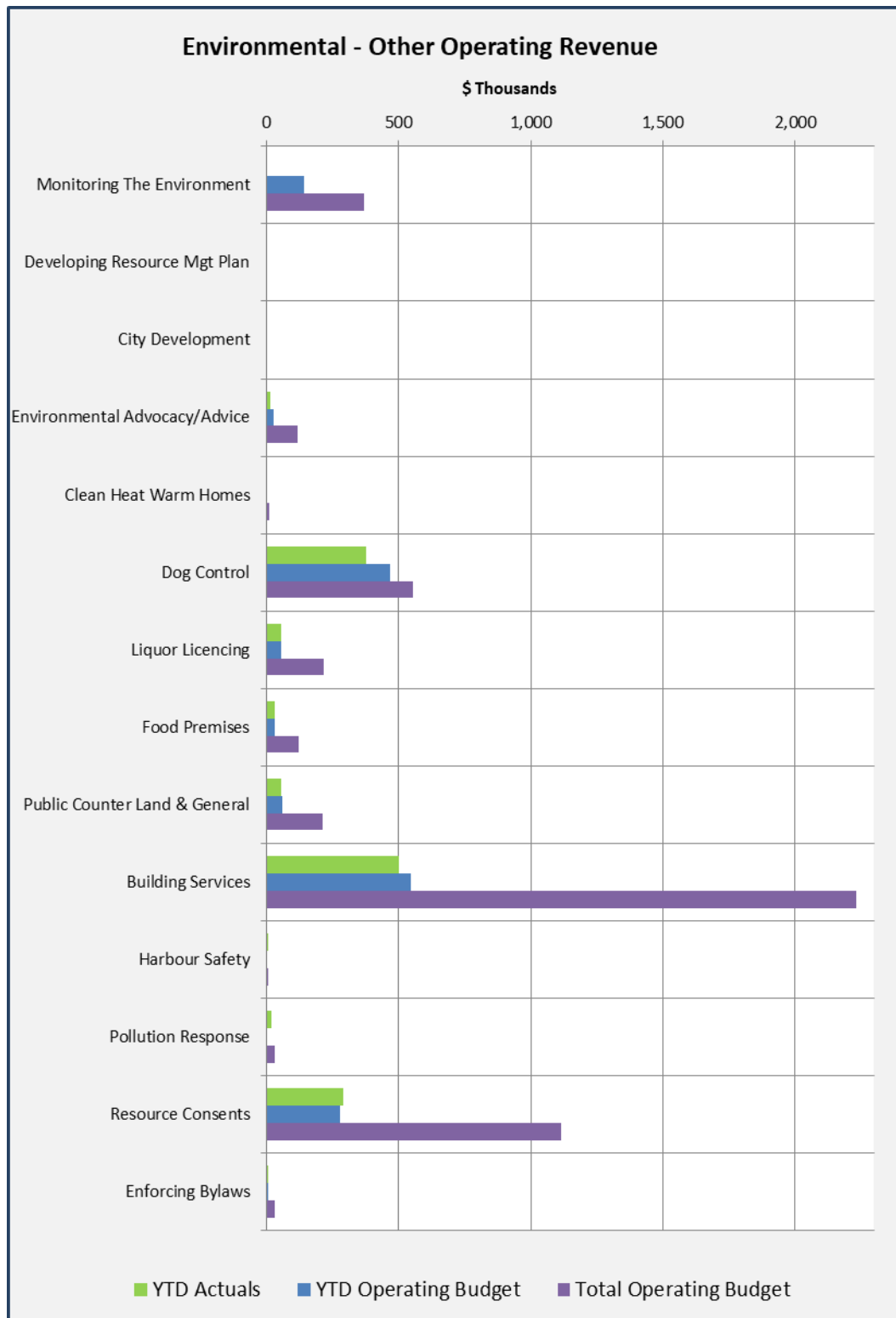
#### 4. Discussion – Financial Results

Environmental	YTD Actuals	YTD Operating Budget 2019/20	YTD Variance	Total Operating Budget 2019/20	Total Annual Plan Budget 2019/20
<b>Income</b>					
Rates Income	(2,159)	(2,159)	0	(8,636)	(8,636)
Other Income	(1,344)	(1,603)	259	(5,012)	(4,972)
<b>Total Income</b>	<b>(3,503)</b>	<b>(3,762)</b>	<b>259</b>	<b>(13,648)</b>	<b>(13,608)</b>
<b>Expenses</b>					
Staff Operating Expenditure	2,064	1,908	156	7,720	7,575
Base Expenditure	977	914	63	3,783	3,783
Unprogrammed Expenses	55	38	17	60	60
Programmed Expenses	140	405	(265)	1,952	2,057
Finance Expenses	17	18	(1)	73	73
Depreciation	14	12	2	48	48
<b>Total Expenses</b>	<b>3,267</b>	<b>3,295</b>	<b>(28)</b>	<b>13,636</b>	<b>13,596</b>
<b>(Surplus)/Deficit</b>	<b>(236)</b>	<b>(467)</b>	<b>231</b>	<b>(12)</b>	<b>(12)</b>

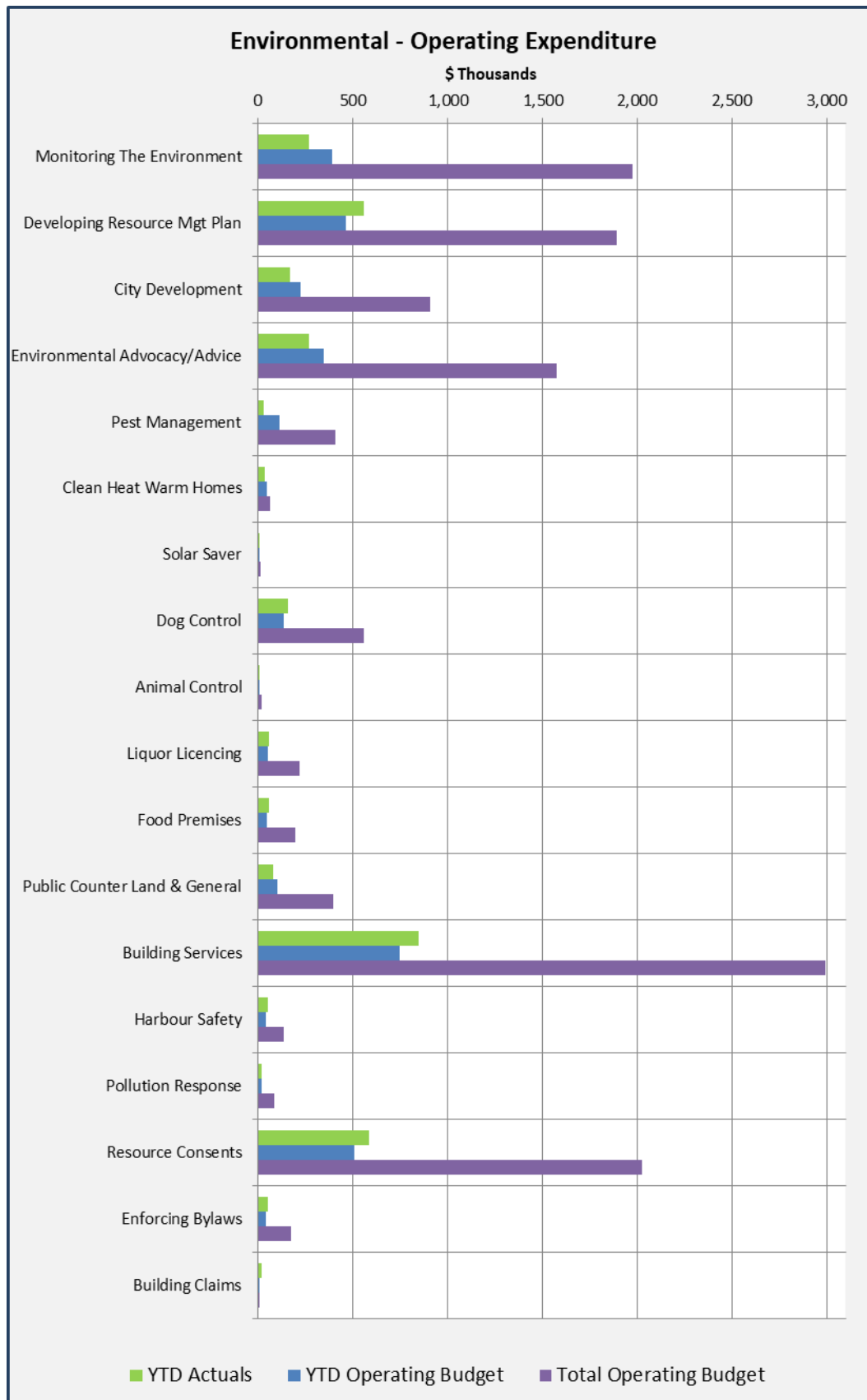
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- The "Total Operating Budget" differs from the "Total Annual Plan Budget" in that it includes carry forwards and reallocations made after the final approval of the Annual Plan.
- Base Expenditure is expenditure that happens year after year, for example yearly contracts or operating expenses.
- Programmed Expenditure is planned, or there is a specific programme of works. For example, painting a building.
- Unprogrammed Expenditure is reactive or unplanned in nature, for example responding to a weather event. Budgets are included as provisions for these expenses which are unknown.

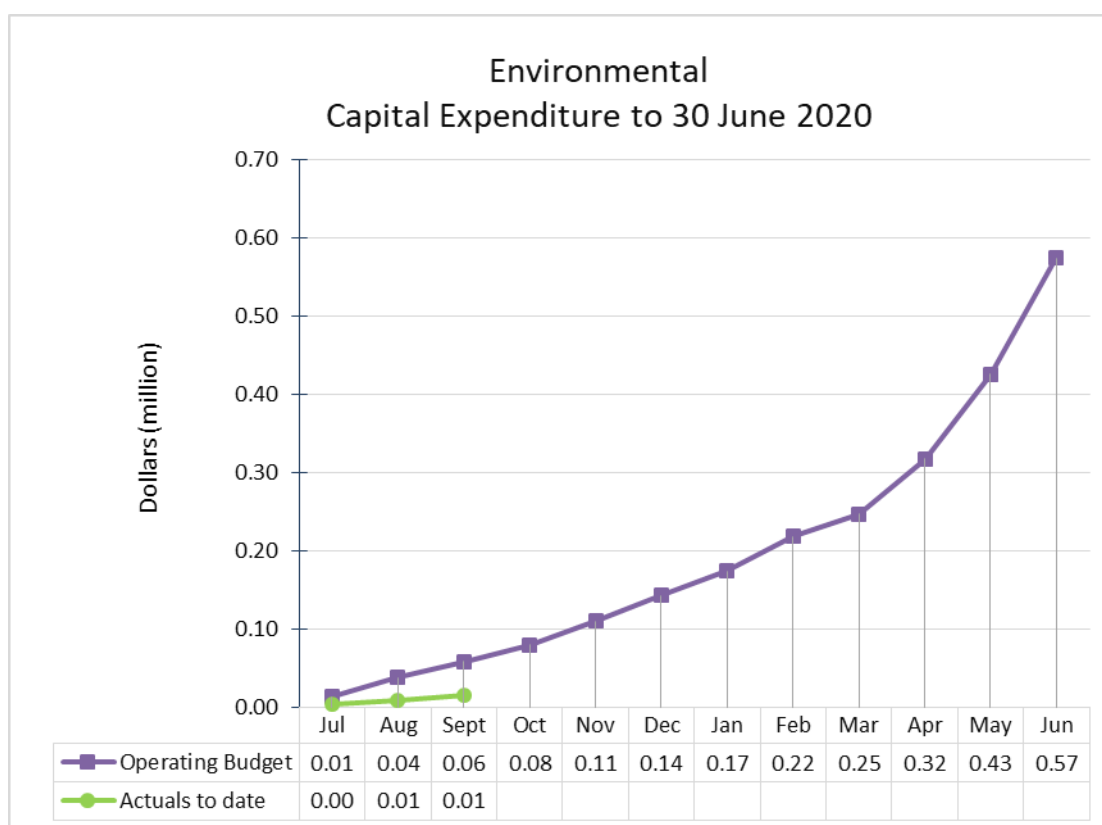
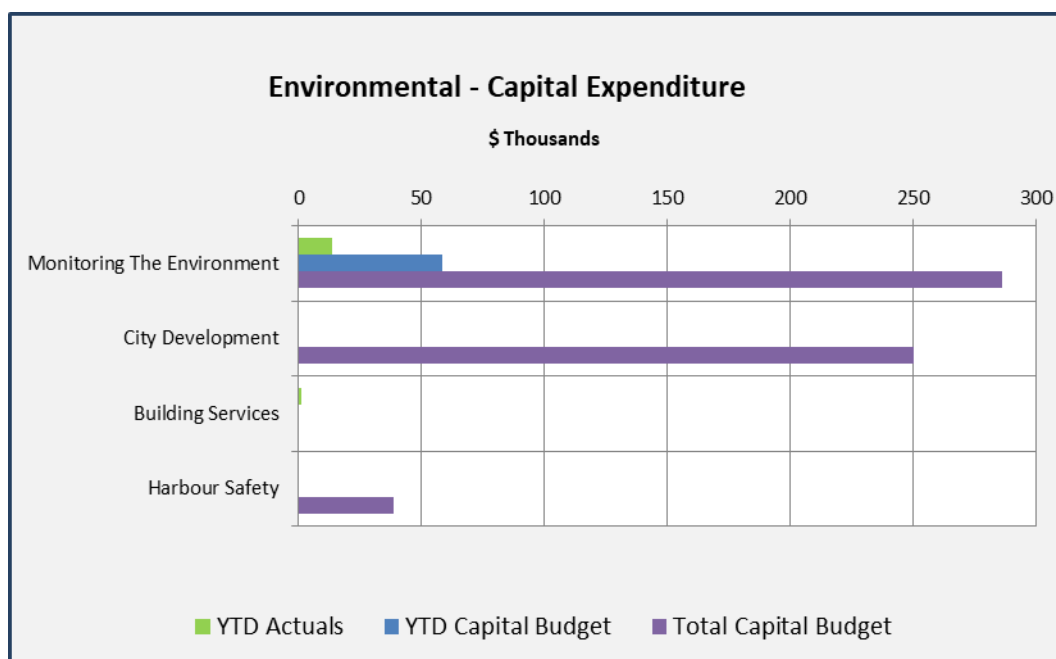
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- 4.1 Staff costs are overall ahead of budget by \$155,000 across the Environmental Management Group. \$60,000 for contractors in Building and \$50,000 in the Planning Team for temporary staff to deal with a vacancy. Staff costs include all expenditure relating directly to the employment of staff, as well as some overheads which are allocated to cost centres on the same basis as staff time.



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- 4.2 Individual variances in the cost centres are noted below where significant. In each case, these variances may be the result of actuals occurring in a different cost centre than budgeted, timing, or cost variances (overspends or underspends).
- 4.3 **Monitoring the Environment income is less than budget by \$140,000.** Additional Section 36 Recovery income of \$140,000 was budgeted in the first quarter in error. This budgeting error will be remedied in the second quarter. Total Section 36 Recovery income of \$60,000 is expected in quarter four.
- 4.4 **Monitoring the Environment expenditure is less than budget by \$121,000.** Staff costs are behind budget by \$46,000. Tasman Bay monitoring and research expenditure is behind budget by \$51,000 with no spend to date. This item relates to operational funding for the marine portfolio, and is awaiting the appointment of a new team leader. Other items are behind budget due to timing, including Air Quality Gasses study (\$8,000) and air quality inventory (\$19,000). These will be completed in quarter four.
- 4.5 **Developing Resource Management Plan (Note: there are two GL's and this one is for things other than the Nelson Plan) expenditure is greater than budget by \$92,000.** Staff costs are ahead of budget by \$27,000. Urban Design Panel expenditure is over budget year to date by \$35,000, and over budget for the full year by \$18,000. This item occurs as requested by developers, and timing of legislation (the Special Housing Areas) in the current year meant that there was an influx of design panel sessions. It is anticipated that the Urban Design Panel overspend may be alleviated by offsetting income.
- 4.6 **Nelson Plan expenditure is currently over budget by \$30,000.** This variance is the result of using consultants to complete work due to staff vacancies (the Principal Planner role has been unsuccessfully recruited for four times). It is anticipated that this trend will continue if vacancies are not filled. An additional overspend is forecast as engagement is focussed this financial year, rather than over two financial years. A more detailed forecast will be reported to the Governance and Finance Committee once the engagement phase is more fully scoped.
- 4.7 **City Development expenditure is less than budget by \$60,000.** City development projects (\$39,000) and consultants (\$25,000) are behind budget.
- 4.8 **Environmental Advocacy and Advice income is less than budget by \$12,000.** This is a timing variance, relating to the receipt of grants. **Environmental Advocacy and Advice expenditure is less than**

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**budget by \$79,000.** Staff operating expenditure is ahead of budget by \$75,000 which largely relates to paying contractors to cover a vacancy which has been unable to be filled. Expenditure is behind budget across several codes due to timing, including Nelson Nature waterways biodiversity (\$22,000), Nelson Nature terrestrial biodiversity (\$49,000), insulation program grant (\$51,000) and air quality programme (\$25,000).

4.9 **Pest Management expenditure is less than budget by \$81,000.**

This is a timing variance, including providing biosecurity (\$42,000) and Top of the South marine biosecurity partnerships (\$37,000).

4.10 **Dog Control income is less than budget by \$89,000.** Dog registration fees are under budget by \$86,000. Income budget was adjusted by approximately \$100,000 for this year to match expenditure. The income is not able to be achieved. Fees will need to be adjusted but this cannot happen before next year. Registration fees to date are around \$10,000 ahead of registration fees at the same time as last year but will not meet the total budget. Interest income is under by \$2,000. These variances are expected to exacerbate over the remainder of the year, with full year variances of \$100,000 and \$6,000 respectively. **Dog Control expenditure is greater than budget by \$21,000.** Staff operating expenditure is greater than budget by \$10,000. The cost of providing dog control services are over budget by \$5,000 and the provision of doggie doo bags are over budget by \$3,000. SPCA grant expenditure is ahead of budget by \$4,000 due to timing.

4.11 **Public Counter Land and General expenditure is less than budget by \$19,000.** Staff operating expenditure is behind budget by \$19,000. This is because of the timing in the Budget forecast as to when the swimming pool invoices are sent out.

4.12 **Building Services income is less than budget by \$47,000.** Pre-paid simple building consent income and BCA Levy income are behind budget by \$16,000 and \$5,000 respectively due to timing. Building consent income is behind budget by \$17,000 year to date. Consent dollar values are behind last year. If current trends continue, this income variance could increase with a larger deficit for the full year. **Building Services expenditure is greater than budget by \$100,000.** Staff operating expenses are ahead of budget by \$94,000. This variance includes the use of contractors and consultants within the Building Team. A possible shift in the building consenting system will enable the costs to be reduced. Unbudgeted costs of \$8,000 have been incurred for the GoShift Central initiative contribution.

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4.13 **Harbour Safety expenditure is greater than budget by \$12,000.**

Provision of harbour master services and harbour safety education are both over budget, due to additional hours required. This is expected to be offset by grant income.

4.14 **Pollution Response income is greater than budget by \$19,000.**

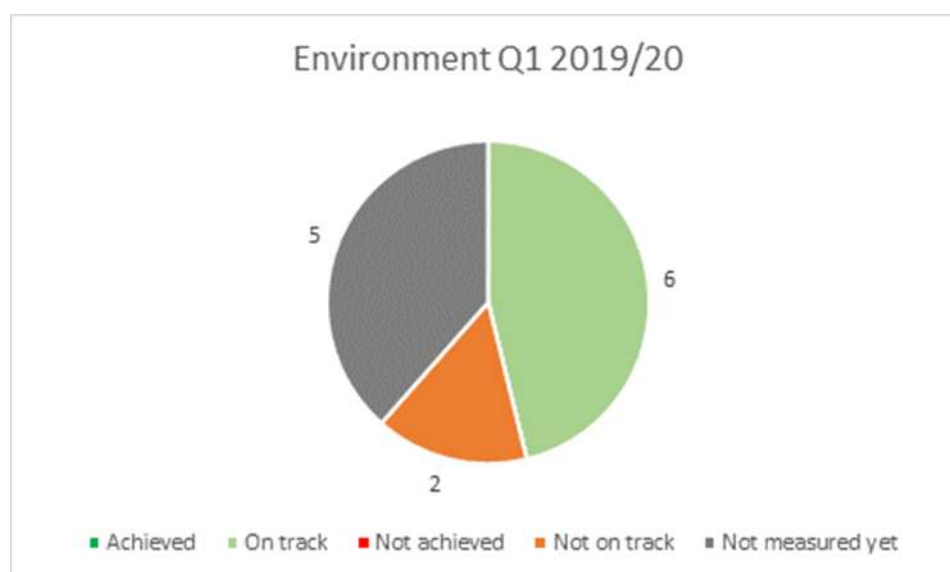
This is a timing variance.

4.15 **Resource Consent income is greater than budget by \$10,000.** Fee income is ahead of budget. **Resource Consent expenditure is greater than budget by \$78,000.** The cost of providing resource consent services is over budget by \$37,000 to date, with a full year overspend of \$113,000 currently forecast. This item includes contract and geotechnical costs. Resource consent fee expenditure is over budget by \$43,000. This is due to the use of consultants to date. As the team is now fully staffed this variance should level out.

4.16 **Building Claims expenditure is greater than budget by \$17,000.**

Claim expenditure of \$16,000 has been incurred against a nil budget. There are currently four claims that have not been budgeted including one Weathertight Housing Resolution Service (WHRS) claim.

4.17 Key Performance Indicators – Long Term Plan



4.18 Details of the status of the indicators are contained in Attachment 2 (A2044411). The two LTP indicators not on track are:

- 97% of non-notified resource consents were issued on time – the target is 100%; and
- Compliance with Building Consent timeframes are 89% overall for the quarter with September 2019 improving to 97%. Compliance with Code Compliance was 98% overall. The target for both is

100%. (IANZ audit substantive compliance is between 95 and 100%).

## **5. Environmental Management Activity Update by Business Unit**

### **BUILDING**

#### **Achievements**

- 5.1 Clearing the IANZ audit General Non-Compliance's (GNC's) is on track and there are 4 part GNC's remaining to be cleared. Further evidence has been provided to IANZ who should reply shortly. The next IANZ audit is in June 2020.

#### **Trends**

- 5.2 Building consents and amendments being granted in this quarter were 285 compared to 288 in the same quarter last year. Code compliance certificates being granted in this quarter were 215 compared to 210 in the same quarter last year.
- 5.3 The total number of building inspections undertaken in this quarter were 1343 compared to 2137 in the same period last year.
- 5.4 Building Consent Trends. Graphs to show the Building consent trends are included in Attachment 1.

#### **Strategic Direction and Focus**

- 5.5 The focus will be on making improvements for the next IANZ audit in June 2020. Bringing timeframes in line with expected levels is a critical focus area. A review of the fees and charges is proposed with background work being undertaken. The building control end to end digital system is also being reviewed as AlphaOne is continuing to cause some issues.

#### **Risks and Challenges**

- 5.6 The biggest challenge will be to ensure the remaining IANZ GNC's are cleared.

### **CITY DEVELOPMENT**

#### **Achievements**

- 5.7 Council officers are working on drafting spatial plan options and consulting with interested parties for land on Akersten Street to bring to Council in February 2020.
- 5.8 The City Development Team, together with the Events, Communications and GIS Teams and Uniquely Nelson held the Four Lanes Festival in the

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City Centre on 31 August. This local and family focused event to mark the end of winter brought activation to the city centre. The focus on the laneways provided the community with a different way of viewing the spaces in the City, and meant the festival could be organised at short notice avoiding the need for road closures. The Four Lanes Festival is proposed to be an annual event.

- 5.9 A report to provide the results of public feedback and assist Council to deliberate on the Pedestrian Mall Declaration for Upper Trafalgar Street was taken to Council on 27 August. Officers from the City Development Team, Property Team, and Roading and Utilities Teams have been working with the business owners at Upper Trafalgar Street on a 'Light Touch' design to be implemented over summer. Upper Trafalgar Street became a Pedestrian Mall on 18 October.
- 5.10 A Public Life Survey was undertaken on Saturday 24<sup>th</sup> and Thursday 29<sup>th</sup> August in the city centre. The survey captured evidence based data that reflects the relationships between people and the city centre and will be undertaken again in summer, and repeated every 3 years to show change. During the two days of the survey 98,532 pedestrian movements were recorded. The Public Life Survey results will soon be available and will be shared via the Councillors Newsletter and then on the website.
- 5.11 The last four Special Housing Areas (Haven Road, 3A Hill Street, 3D Hill Street, Suffolk Road) were gazetted on 30<sup>th</sup> August. The Housing Accord and Special Housing Areas Act was in part repealed on 16 September marking the close off date for Council to receive applications for resource consent.
- 5.12 The City Centre Committee (Mayor Reese, Councillors Noonan and Lawrey) met on 2<sup>nd</sup> September and the city centre focus group met on 17<sup>th</sup> September. These meetings sought feedback ahead of the City Centre Programme Plan being reported to Council on 19<sup>th</sup> September for adoption.
- 5.13 On the 17<sup>th</sup> September the Team Leader City Development accompanied a group of Nelson developers to Auckland to see a range of different density housing developments and funding models. Officers are working with developers to explore how to bring appropriate new models to Nelson.
- 5.14 The City Development Team took three reports to Council on 19 September, the city centre programme plan which was adopted, the scoping of the Intensification Action plan which was approved, and the latest National Policy Statement Urban development Capacity Monitoring Report which was received. Over the last financial year there has been a 44% increase in the number of new residential titles issued (excludes retirement village developments).
- 5.15 A parking survey is being undertaken over the last half of October as an outcome of the parking workshops held earlier this year. The parking

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survey is a qualitative survey seeking information about the reasons why people choose to come to Nelson or Richmond, including questions in relation to whether parking affects that decision.

- 5.16 The City Development Team continue to engage with developers looking to develop sites in and around the city centre.
- 5.17 The City Development Team took over managing the Urban Design Panel and the Major Projects team (officers across Council who provide advice in a one stop shop approach for developers), in April 2019. Development proposals continue to be progressed through these advisory groups, albeit the pressure has slowed given the Housing Accord and Special Housing Areas Act (HASHAA) was repealed in part on 16 September.
- 5.18 Officers have continued working and meeting with Makeshift Spaces Incorporated, and note that the grant Council provided to fund Makeshift as a pilot has been used to get the pilot off the ground. The Group now needs to gain additional funding from other sources in order to keep up momentum.

**Strategic Direction and Focus**

- 5.19 One of the outcomes of the Future Development Strategy is the development of an Intensification Action Plan. This work will be undertaken in the 2019/20 year. It will include an assessment of levers for residential intensification.
- 5.20 With the City Centre Programme Plan adopted implementation is a key aspect of the work programme for the 2019/20 year. Business cases, the creation of a spatial plan and delivery plan are key focus areas.
- 5.21 Commissioning is underway for the permanent design for Upper Trafalgar Street from winter 2020.
- 5.22 The 2018 census base population projections have been delayed by Statistics NZ and as a result additional work is planned to understand the likely population and household growth over the term of the next Long Term Plan. It is proposed to work with Tasman District Council officers.

**Risks and Challenges**

- 5.23 Any change in priorities or additional work is likely to affect the delivery outcomes of the programmed work outlined above.
- 5.24 There are some risks that the team may not be able to deliver business cases in time to enable procurement of any significant city centre projects during the 2019/20 financial year, and that there will be a CAPEX underspend.
- 5.25 The virtual officer team to manage roll-out of the City Centre Programme Plan has not yet been fully established. This and governance oversight is required to achieve implementation of the Programme Plan.

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- 5.26 The team will be losing the current Senior City Development Planner in December 2019. Recruitment will be undertaken prior to this, however with such a specialty role/skill set it is uncertain whether an appropriate staff member will be on board so as to avoid a gap in resourcing.

## **CONSENTS AND COMPLIANCE**

### **Achievements**

- 5.27 Resource consent compliance with timeframes has improved from last quarter (89%) to averaging 97% for this quarter. The filling of vacancies and new staff becoming more efficient has contributed to this improvement.
- 5.28 The Navigation Safety Bylaw amendments were approved by Council on 19 September and the response from the boating community has largely been positive. Over 80 people have provided their boat registration details so far.
- 5.29 The harbourmasters have been involved in research, taking safety workshops, assisting with a beach clean-up of Haulashore Island, attending the regional council Special Interest Group meeting, Maritime NZ meetings, water sport club meetings, training with the Coastguard and being the support vessel for events.
- 5.30 Education in schools on being safe around dogs has been well received and there is continued strong demand for the presentations conducted by Vikki Pickering with Council support.

### **Trends**

- 5.31 Resource consent application numbers are on the rise leading up to Christmas.

### **Strategic Direction and Focus**

- 5.32 Captain David Duncan will be retiring from his role with Port Nelson and as Council Harbourmaster on 27 December. Council has been liaising with Port Nelson Ltd on the appointment of a new harbourmaster.

### **Risks and Challenges**

- 5.33 Increased information reporting requirements by Government and within the regional and unitary local government sector have highlighted difficulties with current data systems to capture and report on a range of regulatory activities. Audit NZ have also highlighted the level of evidence in performance measures needs improving for some activities. Staff will be reviewing how processes and systems can be adjusted to better capture this information.



## **PLANNING**

### **Achievements**

- 5.34 The focus has been on completing Elected Member Briefings on the Draft Nelson Plan and meeting with iwi to review the Iwi Working Group feedback. Officers are revising the Draft Plan based on the feedback and to achieve alignment with the National Planning Standards. Testing of the Draft Plan in Eplan format was also undertaken over this period.
- 5.35 An assessment was undertaken of the wide range of national policy changes relating to urban development, freshwater, and highly productive land when this was released in September. Officer submissions on these matters are included in a separate report on this agenda.
- 5.36 A review of the Nelson Plan work programme was also undertaken in September to consider improvements to project governance and planned engagement. The findings of this work are outlined below.
- 5.37 Plan Change 27, that updates the Nelson Resource Management Plan (NRMP) with the Nelson Tasman Land Development Manual (NTLDM), was publically notified. Officers responded to numerous queries and worked with submitters to address their concerns resulting in the withdrawal of all submissions. This matter is separately reported in the Committee agenda.

### **Nelson Plan Work Programme Review**

- 5.38 The Planning and Regulatory Committee resolved the following at the meeting on 28 May 2019:
- Approves amending the indicative timeline for the release of the Draft Nelson Plan to statutory and key stakeholders and iwi to August 2019 following further internal testing, legal review, and Working Group Planning and Regulatory Committee workshops, and Iwi Working Group review.*
- 5.39 Following legal advice and a project management review changes have been made to the Nelson Plan Timeline, the Engagement Strategy, and Project Governance as outlined below. These changes have been made as the revised approach:
- Allows the new Council to be briefed on the Draft Nelson Plan ahead of public engagement.
  - Allows the Plan to be updated with the National Planning Standards and the Intensification Action Plan.
  - Allows sufficient time to integrate changes from Council workshops and iwi feedback.

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- Engagement is timed for when stakeholders and the public are around rather than on summer vacation.
- A single engagement phase clarifies when stakeholders and the public will have the opportunity to provide feedback.

### **Nelson Plan Timeline**

- 5.40 The Nelson Plan timeline has been updated to reflect recommended changes to the engagement strategy :
- A change phase following Council workshops (August/September 2019).
  - Integration phase including Iwi Working Group feedback, Intensification Action Plan and National Planning Standards (October/November 2019)
  - Council briefing and approval (December 2019)
  - One phase stakeholder/community engagement (February-May 2020) rather than two.
- 5.41 A copy of the revised Nelson Plan timeline is in Attachment 3 (A2288730). A Council Briefing on the Nelson Plan is programmed for December 2019.

### **Engagement Strategy**

- 5.42 A two-step engagement approach was originally planned spanning the 2019/2020 and 2020/2021 financial years. This was on the basis that iwi, key stakeholder, and statutory stakeholder engagement would proceed ahead of wider community engagement.
- 5.43 This two-step engagement approach has been reviewed largely because legal advice has confirmed that it would be difficult to limit engagement to statutory stakeholders and key stakeholders ahead of the general public. A one-stage engagement process will allow communications to be better managed.

### **Project Governance**

- 5.44 A project management review highlighted a number of improvements that could be made to Nelson Plan Governance to improve the effectiveness and efficiency of the Nelson Plan project and recommended that:
- A Political Liaison Group (PLG) is established including the Chair and Deputy Chair of the Environment Committee, Chief Executive, Group Manager Environmental Management, Manager Environmental Planning, and the Nelson Plan Project Manager. The PLG will meet on a monthly basis to review project progress.
  - A Project Steering Group (PSG) is established including the Group Manager Environmental Management, Manager Environmental

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Planning, Group Manager Infrastructure, Group Manager Corporate Services, and the Group Manager Strategy and Communications. The PSG will meet fortnightly to review progress, resolve issues, identify and manage risks and engage with the wider organisation.

- A Technical Advisory Group (TAG) is established to enhance integration across Council work streams and would involve key officers from relevant teams.

### **Strategic Direction and Focus**

- 5.45 The focus for the remainder of 2019/2020 will be on making changes to the draft Nelson Plan and community engagement.
- 5.46 The Draft Nelson Plan still needs to be aligned with the Nelson Tasman Future Development Strategy and associated Intensification Action Plan along with anticipated Government policy change relating to freshwater, urban development, biodiversity, climate change, and air quality. This work is underway.
- 5.47 Additional coastal hazards technical work and engagement will be undertaken building on the community feedback provided to date.

### **Risks and Challenges**

- 5.48 Ongoing staff vacancies at the Principal Planner and Planning Adviser level and in the Communication team have been challenging given the volume of work involved in preparing for the engagement phase while updating the Draft Nelson Plan.

## **SCIENCE AND ENVIRONMENT**

### **Achievements**

#### *Biosecurity*

- 5.49 In June/July a large-scale eDNA (Environmental DNA) sampling campaign was conducted in 13 areas across Tasman Bay and Port Nelson to assess the presence and distribution of the Mediterranean fanworm, *Sabella spallanzanii*. Environmental DNA (eDNA) is DNA that accumulates in the environment as organisms interact with their surroundings.
- 5.50 In total, 250 plankton net tow samples were collected and analysed by Cawthron. No positive signals were detected. This is consistent with current diver surveys, which have not detected any established *Sabella* populations in the greater Tasman Bay area since 2018. As the survey sampled discrete areas over a relatively large area the presence of individual *Sabella* specimens within the study area cannot be completely excluded and annual surveillance efforts will be maintained.
- 5.51 Following popular workshops for boat owners in Nelson and Picton during May, the Top of the South Marine Biosecurity Partnership has produced

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anti-fouling guidelines about keeping hulls of recreational vessels clean. These have been distributed through the Council and Nelson Marina and will assist boat owners in cleaning vessels more effectively.

*Carbon Measurement and Reduction*

- 5.52 The greenhouse gas emission inventory of Council emissions for the baseline year 2017/18 was taken to Council in August, along with a preliminary carbon reduction plan. A final action plan including an emissions reduction target is now being developed.

*State of the Environment Monitoring*

- 5.53 Land and Water Aotearoa (LAWA) water quality data checks and analysis were successfully completed over a three-month period with the launch in September of the 2018 national water quality trends. The reporting of five-yearly water quality trends (sampled monthly) for Activity Management Plans and LAWA will be available in 2020.
- 5.54 Winter freshwater fish surveys confirmed Koaro spawning at new sites in the Brook and Poorman Valley Streams, and in tributaries of the Whangamoa and Maitai Rivers. Redfin, Upland, and Common Bully spawning has also been confirmed in the Maitai and Whangamoa Rivers and Saxton, Jenkins, Oldham and Hillwood Streams. A project is in progress with GIS and the Whakatu Nelson Plan teams to map fish spawning habitat across the region.
- 5.55 A collaborative estuarine monitoring programme was initiated with NMIT undergraduate students to assess benthic communities and sediment oxygenation layers in the Nelson Haven. The annual monitoring programme has been developed to complement the State of the Environment (SOE) monitoring undertaken every three years. SOE reporting across all estuaries is due in 2022 and 2027.
- 5.56 Marine sediment quality and benthic community trends in Port Nelson and the lower reaches of the Maitai River have been reviewed by Cawthron as part of the Port Nelson Long Term Monitoring Plan. The 10-year monitoring and reporting has provided useful insights into the contribution of contaminants to the Port from the Maitai-York catchments, and types of contaminants within the Port that can be targeted through stormwater management programmes.

*Water Quality*

- 5.57 The freshwater continuous water quality monitoring programme, including water temperature and dissolved oxygen, has been expanded to include turbidity and suspended sediment. A continuous turbidity sensor and sampler is being installed at Avon Terrace, with trials due in December 2019.
- 5.58 Maitai reservoir biomonitoring of dissolved oxygen, water temperature and plankton sampling was completed in collaboration with the

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Infrastructure team and Cawthron. Work is in progress to provide more 'real-time' monitoring data to assist in managing water quality in the reservoir.

- 5.59 Cawthron has completed trend analysis macroinvertebrate community index (MCI) data. This analysis describes shifts in communities over time and the likely water quality stressors that are causing declines in MCI. This analysis will be used to identify streams with declines, develop monitoring plans, and check trends reported on LAWA.

*Healthy Streams Programme*

- 5.60 A community workshop was held at the Maitai River on 20 July with an estimated attendance of 140 individuals.
- 5.61 A video of the Maire Stream Remediation project has been completed and is available on Council's YouTube channel. Water quality sampling has also been undertaken with the community group.
- 5.62 A rain tank has been installed at Corder Park to harvest rainwater from the roof of the kindergarten. This will be used to water the adjacent community orchard, as well as providing an opportunity to educate the wider public about the process and benefits of capturing rainwater and conserving reticulated supply.
- 5.63 The first stages of a new wetland have been undertaken on Council grazing land in Hira. A restoration plan is being developed, and an initial planting was undertaken with the support of Hira School. This will be a longer term restoration project between Healthy Streams and the local community.
- 5.64 A number of initiatives are underway in relation to forestry in the region, driven by outcomes of reducing sediment. A "virtual forestry team" has now been established within Council to discuss and align work between teams and to identify needs for further support or investigation.
- 5.65 A second forestry group focused on the Maitai catchment and involving two forestry companies, iwi landowners, Cawthron, Friends of the Maitai, and Council representatives has met twice this quarter to discuss a range of issues including erosion mitigations and biodiversity outcomes in forestry blocks. This forum has proved a successful initiative in opening communication and developing a greater understanding of the perspectives of participants.

*Nelson Nature*

- 5.66 Nelson Nature's native plant giveaways at the Nelson Market were successful in raising awareness of Nelson wildlife, with a 50% increase in participation of Nelson residents in the Great Kererū Count. As well as increasing habitat for native wildlife, the data from the count helps to build up a picture of how native birds are responding to predator control and habitat restoration in the Nelson Halo and beyond.

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*Environmental Education*

- 5.67 The EnviroSchools Facilitator for Primary and Secondary schools ended their contract early at the end of Term 3. A procurement process is underway to select a new contractor.
- 5.68 Several staff attended the Cawthron SciTech Expo to judge students' work. Council awarded two prizes, jointly with Tasman District Council, for Youth Leadership in projects demonstrating sustainability and community. These were for an experiment looking at how fast types of vegetation burn in response to the Pigeon Valley fires (primary) and a technology project attempting to convert food waste into a biogas product (secondary).

*Air Quality*

- 5.69 There were no exceedances of the National Environmental Standards for Air Quality (NESAQ) in this quarter. Monitoring commenced in 2001, and 2019 was the first year since then where no winter exceedances occurred across all airsheds.
- 5.70 Winter smoke patrols ran from mid-May to end of August. This was nearly a month longer than previous years. There were 68 excessively smoky chimneys found with occupants receiving a follow-up visit focused on how to burn "smoke free".

*Waste Minimisation*

- 5.71 Levels of service for waste minimisation are being reported through the Infrastructure quarterly report.

**Strategic Direction and Focus**

*Sustainable Land Management*

- 5.72 The Sustainable Land Management Programme is supported in part by the Ministry for Primary Industries' Hill Country Erosion Fund (\$1.2 million over four years). From this fund, 50,000 trees have been purchased for next season's planting, a portion of which will be used on highly erodible land within the Council estate.
- 5.73 An external evaluation report on the 2018-2019 Sustainable Land Management Programme has been received which has identified the success of the programme in building community connectedness in the rural community, and developing a greater understanding of land management issues by owners of small land blocks. The report also identified a need to engage specifically with larger land owners.
- 5.74 This need is being addressed through a partnership between Council and the NZ Landcare Trust. A Sustainable Land Manager position is being recruited to work with both small and larger rural landowners to deliver the Hill Country Erosion Project, and to support landowners to implement

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the Government's Essential Freshwater Package. This position has been made possible through the MPI funding.

**Risks and Challenges**

- 5.75 Proposed new and updated national environmental policy, such as the National Policy Statement for Freshwater Management and the National Environmental Standard for Air Quality, are likely to result in increased environmental monitoring requirements which may require additional resourcing.

**6. Legal Proceedings Update**

- 6.1 Prosecutions are occurring for a dog on dog attack incident and for an owner failing to ensure their dog is muzzled in public.
- 6.2 Environment Court mediation reconvened in August for remediation following a slip caused by unauthorised earthworks in Farleigh Street. No agreement was reached. Geotechnical representatives for each neighbouring property and the Council were directed to caucus by the Court. The caucusing occurred on 23 October and agreement between the experts on a course of action was reached.
- 6.3 Marine and Coastal Area Applications – the Court has now issued its minutes following the second round of case management conferences held in June this year. The overall summary is that these applications are not progressing quickly.
- 6.4 There are currently two legal claims with the Building Team, these are being managed by Council's appointed legal counsel.
- 6.5 The Building Team have been advised of a potential future claim for a residential property which will be monitored over the next quarter.
- 6.6 Carter Holt Harvey: Council has been made aware of a possible future claim, in the event a second class action is lodged for residential properties with the shadow clad product. As a result the Building Team are currently working on a strategy to prepare for this with the Legal Services Team.
- 6.7 The Determination in relation to a property owner's challenge over his neighbour's garden works is still being considered by the Ministry of Business Innovation and Employment (MBIE).

**7. Other Notable Achievements, Issues or Matters of Interest**

**Workshop update**

- 7.1 A total of 13 Elected Member briefings were held on the Draft Nelson Plan over May to August 2019 covering 30 topics. A high level summary



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of these briefings was provided as part of the Quarterly Reports to the 28 May and 22 August 2019 Planning and Regulatory Committees.

- 7.2 A further briefing which included the Iwi Working Group was held on 26 August 2019 relating to the iwi provisions of the Draft Nelson Plan. Discussion included the need to clarify the definition of Māori land and treaty settlement land, the management of sites of significance and recognition of cultural values including customary access and the triggers to involve iwi in the resource consent/development process.

**Author:** Clare Barton, Group Manager Environmental Management

**Attachments**

Attachment 1: A2281289 Building and Consents and Compliance statistics [↓](#)

Attachment 2: A2044411 Q1 Environmental Management performance measures [↓](#)

Attachment 3: A2288730 Nelson Plan Indicative Timeline October 2019 [↓](#)

<b>Important considerations for decision making</b>	
<b>1. Fit with Purpose of Local Government</b>	Section 10 of LGA 2002 requires local government to promote the social, economic, environmental and cultural well-being of communities in the present and for the future. This quarterly report identifies the performance levels of regulatory and non-regulatory functions that seek to provide for healthy and safe communities and natural environments.
<b>2. Consistency with Community Outcomes and Council Policy</b>	<p>The Council's Long Term Plan includes performance measures for various activities and this report enables the Council to monitor progress towards achieving these measures.</p> <p>The Environmental Management work programme addresses a number of community outcomes by protecting our environment and our heritage, sustainably managing our urban and rural environments, co-ordinating our growth and infrastructure planning, keeping our community safe through statutory compliance and making people aware of hazard risk, engaging with iwi and our community and establishing key partnerships, and taking a business friendly approach while promoting environmental management best practice.</p>
<b>3. Risk</b>	<p>Staff vacancies have the potential to impact on work programmes and statutory timeframes. Recruitment for these roles is continuing.</p> <p>The establishment of a Governance Liaison Group and proposal to undertake a combined engagement step for the Nelson Plan seeks to minimise risk by maximising opportunities for input into the Draft Plan and alignment with national direction ahead of public notification.</p>
<b>4. Financial impact</b>	No additional resources have been requested.
<b>5. Degree of significance and level of engagement</b>	This matter is of low significance.
<b>6. Climate impact</b>	Information gained through the provision of regulatory and non-regulatory services will assist Council to take appropriate action or advocate for others to take action to address the impacts of climate change.
<b>7. Inclusion of Māori in the decision making process</b>	No consultation with Māori has been undertaken regarding this report.
<b>8. Delegations</b>	The Environment Committee has the following delegation:

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*Areas of Responsibility:*

- *Building control matters*
- *Environmental regulatory matters*
- *Environmental science matters*
- *Environmental programmes*
- *The Nelson Plan*

*Delegations:*

*The committee has all of the responsibilities, powers, functions and duties of Council in relation to governance matters within its areas of responsibility, except where they have been retained by Council, or have been referred to other committees, subcommittees or subordinate decision-making bodies.*

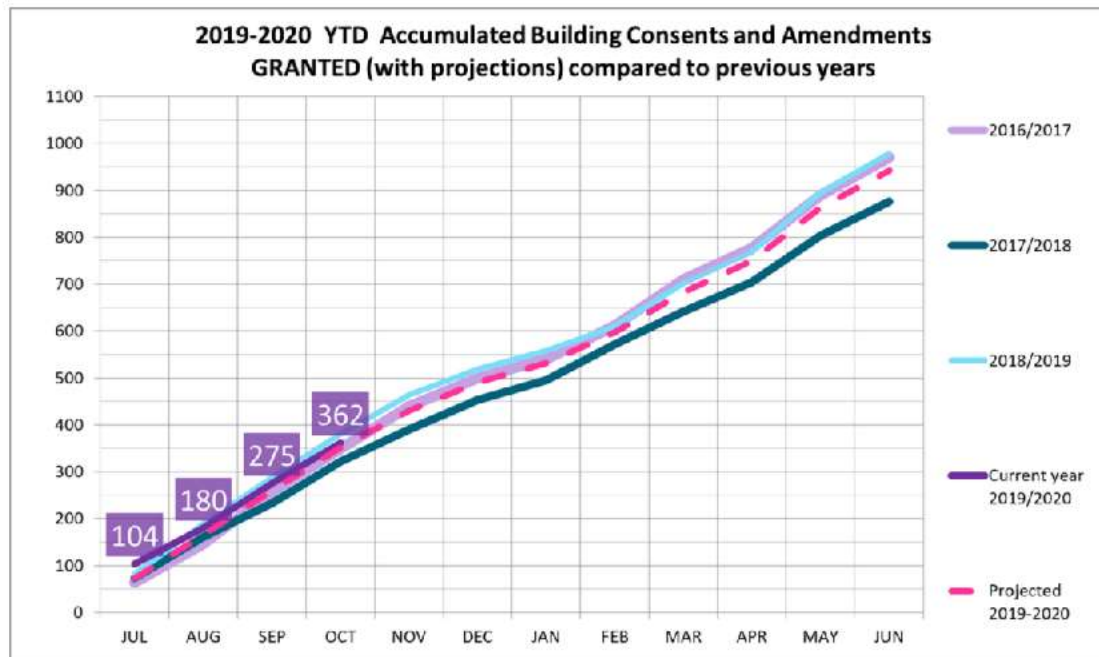
**Attachment 1**

**Building Unit Statistics 1 July – 30 September 2019**

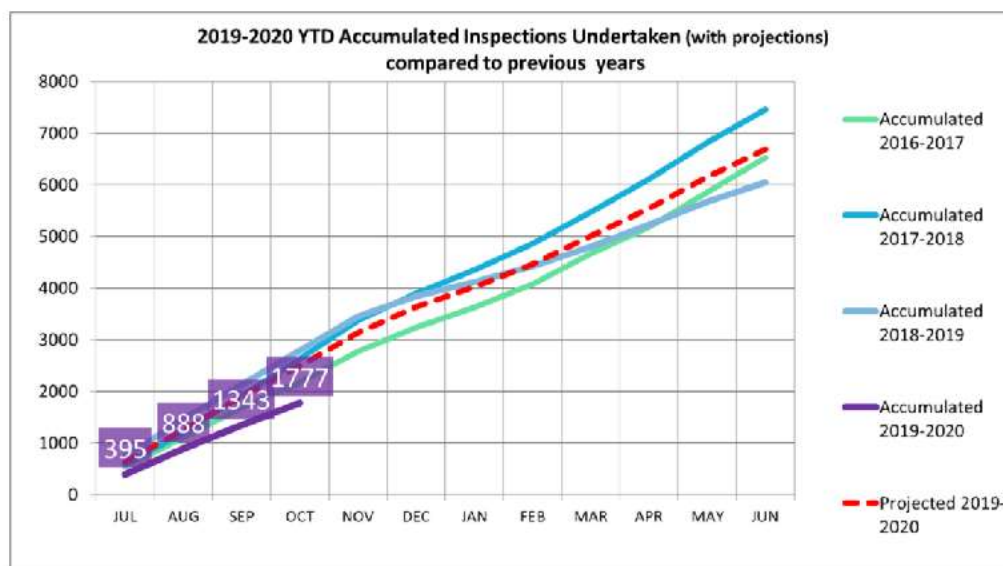
**1. Quarter 1 summary for the building consent authority activity.**

The First quarter of this year has seen the number of building consent (and amendments) granted trending in line with 2018/19 figures.

We reached a total of **275** consents **granted** for the first quarter, which is tracking similar to the same period last year.

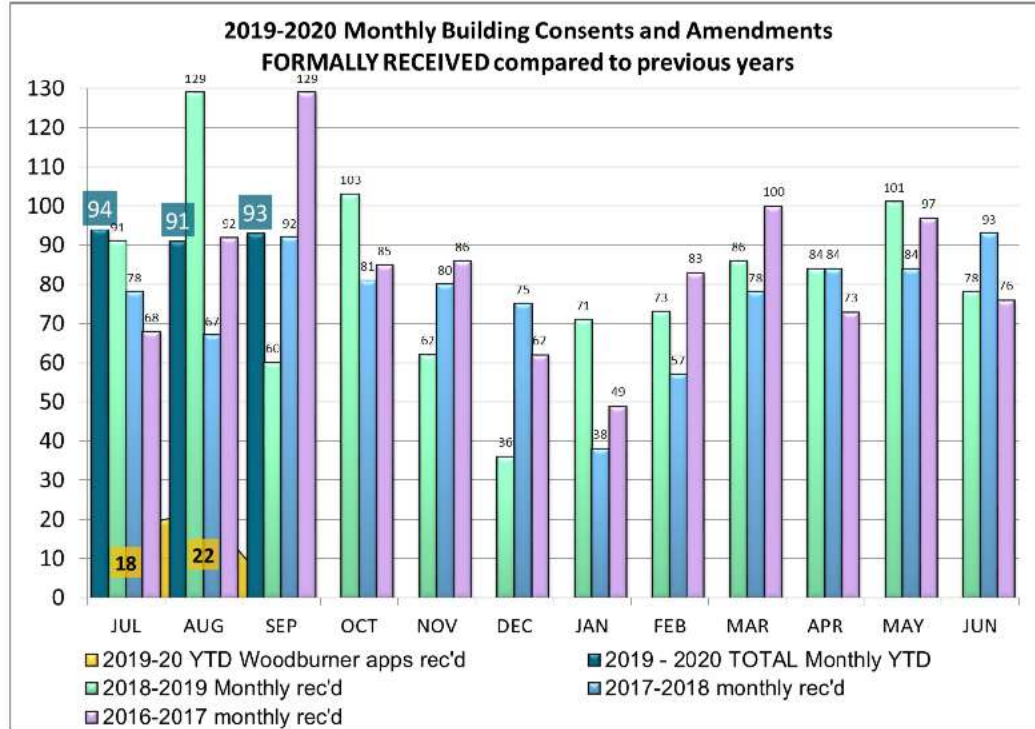


The number of building inspections undertaken in this quarter are similar to the inspections undertaken in Q4 of 2018/19

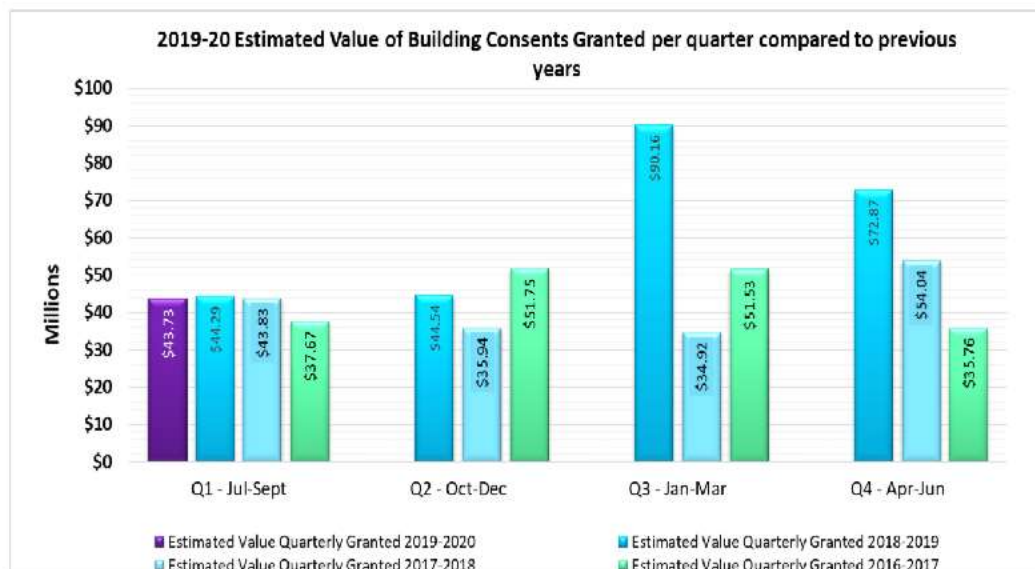


## 2. Building Consent Applications Received Q1

In total there were **278** building consent and amendment applications formally **received** in the final quarter of this financial year, we received 280 in Q1 last financial year.

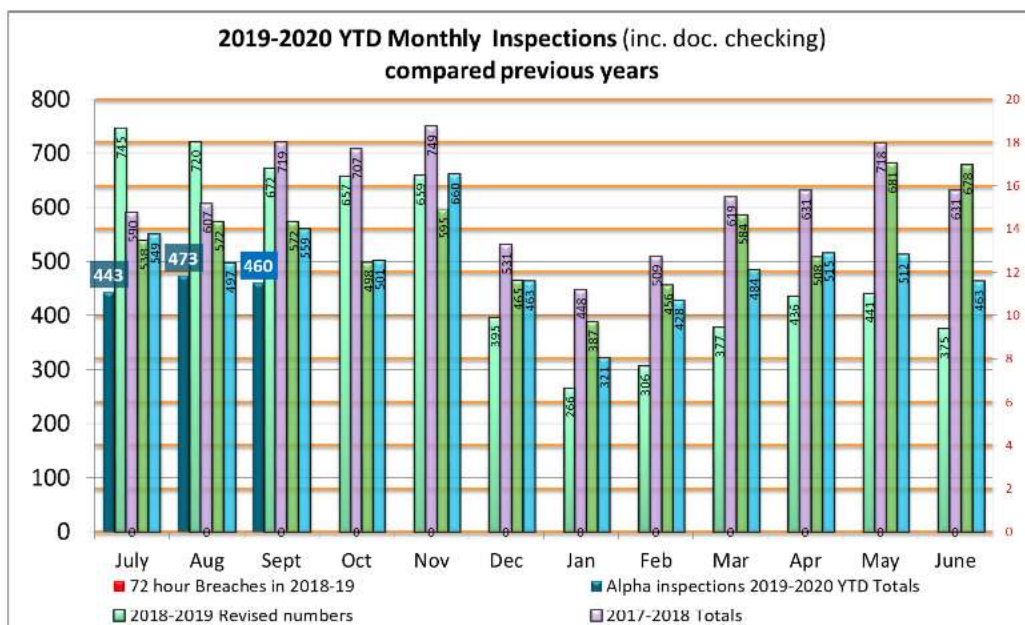


The total estimated value of consents received this Quarter 1 was \$43,730,000 which in the same period last year at \$44,290,000.



### 3. Building Inspections

The total number of Building Inspections undertaken in Q1 were **1'376** in the same quarter the previous year there were **2'137**, some of this decrease is in the way document check is recorded in Alpha compared to GoGet via Magic reporting.

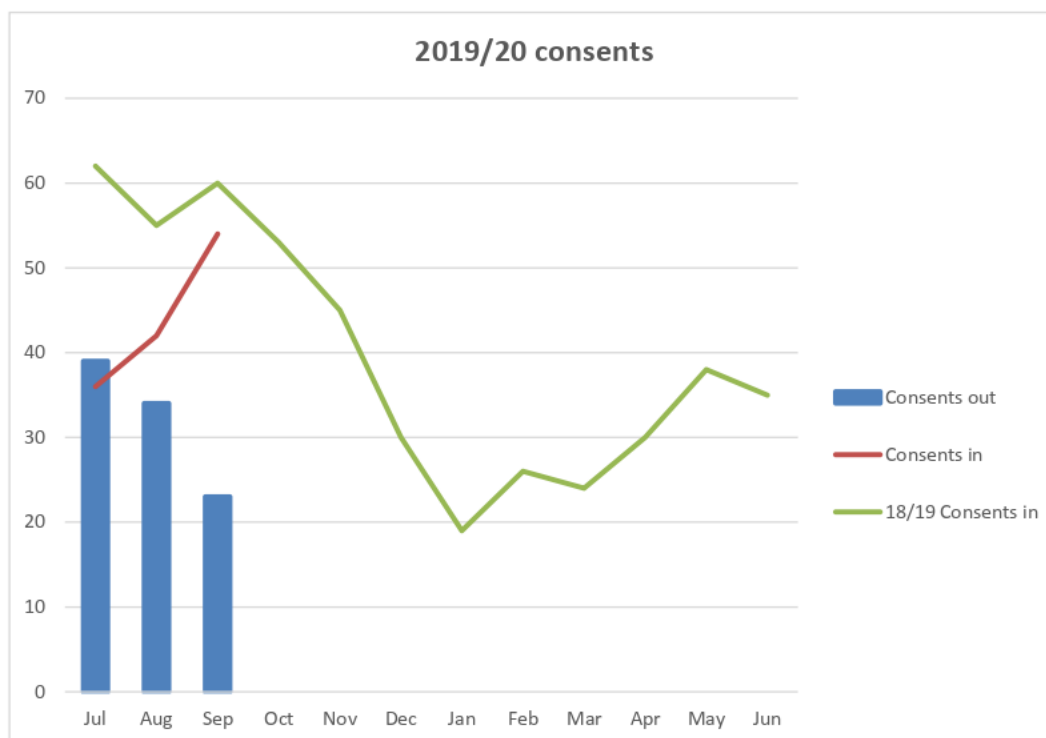


## Consents and Compliance Statistics 1 July – 30 September 2019

### 1. Resource Consent Processing Times

Month	NON NOTIFIED				NOTIFIED AND LIMITED NOTIFIED		
	% on time	Average process days	Median process days	Consent numbers	% on time	Average process days	Consent numbers
July	95	21	21	38	100	72	1
August	100	16	17	25	100	87	9
September	96	20	15	23			
<b>Average from 1 July 2019</b>	<b>97</b>	<b>19</b>	<b>18</b>	<b>29</b>	<b>100</b>	<b>80</b>	<b>3</b>
<b>Total from 1 July 2019</b>				<b>86</b>			<b>10</b>
2018/19 average	83	22	19	29	100	383	0.33
2018/19 totals				344			4

## 2. Resource Consent numbers



## 3. Parking Performance

Activity	July	August	September
<b>Enforcement</b>			
Safety	153	41	90
Licence labels /WOF	340	300	201
Licence labels/WOF (Warnings)	313	213	78
Meters/Time restrictions	905	435	477
<b>Total Infringement notices issued</b>	<b>1711</b>	<b>1023</b>	<b>846</b>
<b>Service Requests</b>			
Abandoned Vehicles	45	48	41
Requests for Enforcement	75	60	50
Information /advice	22	13	17
<b>Total service requests</b>	<b>142</b>	<b>121</b>	<b>108</b>
<b>Courts</b>			
Notices lodged for collection of fine	217	224	298
<b>Explanations Received</b>	<b>140</b>	<b>118</b>	<b>77</b>
Explanations declined	18	17	11
Explanations accepted	133	101	66

#### 4. Environmental Health and Dog Control Activities

Activity	Responses			Total 2019/20	Total 2018/19
	July	August	September		
Dog Control	149	149	140	<b>438</b>	1913
Resource consent monitoring	296	208	232	<b>736</b>	1562
Noise nuisance	74	76	87	<b>237</b>	1214
Bylaw / Building / Planning	37	58	54	<b>149</b>	562
Alcohol applications	45	41	45	<b>131</b>	497
Alcohol Inspections	2	2	2	<b>6</b>	138
Pollution	2	18	19	<b>64</b>	289
Stock	11	8	6	<b>25</b>	114

#### 5. Freedom Camping Enforcement

Activity	2019/20 year to date	2018/19
Service Requests	11	173
Numbers of Patrols	0	221
Vehicles Checks	11	8078
Infringements Issued	0	193
Education/Warnings Issued	2	851

#### 6. Summary of Legal Proceedings

Party	Legislation	Matter & date of initial action	Status
Smith v Young and NCC	Resource Management Act 1991, section 120	Appeal against consent variation decision and enforcement order application to remediate slip 7 September 2018	Both matters mediated on 1 February 2019 but report from expert caucusing not submitted to the Court, a reconvened mediation occurred on 20 August but the Youngs did not have a geotech expert so no agreement reached. The Court has directed experts to caucus on 23 October.
D Newlands	Dog Control Act 1996, section 57	Prosecution after dog attacked and killed another dog. Also breach of menacing classification by not having a muzzle on her dog.	At first appearance owner plead not guilty. A procedural hearing occurred on 15 May with the decision to dismiss the appeal. The judge alone trial scheduled on 10 October has been



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Party	Legislation	Matter & date of initial action	Status
		January 2019	adjourned until Feb or March 2020.
E Houghton	Dog Control Act 1996, section 57	Prosecution after dog attacked and killed sheep. April 2019	In a separate incident, the dog bit a passing runner and after that the owner voluntarily had the dog euthanized. An apology and reparation were provided in July, Council withdrew charges.
J LeFranz	Dog Control Act 1996, section 57	Prosecution as dog was walked without the required muzzle	First call occurred on 10 July where no plea was entered. Adjourned until 7 August and then delayed until 30 October as the party's lawyer hadn't read the file.

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Quarterly reporting 2019-20

			Targets	2019/20 Results	
Activity	What Council will provide	Performance measures	Year 2 (2019/20)	Quarter 1 2019/20 comment	Quarter 1 2019/20 result
Environment	Clean air	Compliance with national Air Quality Standards – number of breaches in each airshed	No more than 3 breaches in winter 2019	No exceedances recorded this quarter.	On track
Environment			No more than 1 breach in winter 2019	No exceedances recorded this quarter.	On track
Environment			No breaches	No exceedances recorded this quarter.	On track
Environment			No breaches	No exceedances recorded this quarter.	On track
Environment	Natural water ways complying with National Policy Statement Freshwater requirements	% of pristine water bodies maintained at current state (2017 baseline) as a minimum	100%	Monthly State of the Environment water quality monitoring completed this quarter.	On track
Environment	Safe recreational bathing sites, marine and freshwater	% key bathing sites monitored and public advised if water quality standards breached	100%	The recreational bathing programme runs from Dec-Mar, therefore no measurement is available for quarter one.	Not measured yet
Environment	Resource consent processes that comply with statutory timeframes	% non-notified processed within 20 working days	100%	97% of non-notified consents were processed within 20 working days.	Not on track
Environment		% fast track consents within 10 working days	100%		On track
Environment	Building unit compliance	% building consents (BC) and code compliance certificates (CCC) issued within 20 working days	100%	As at end Sept 2019, 91% of BC's were issued within 20 working days, and 99% of CCC's were issued within 20 working days. This result has been affected by the longer time to process in the new Alpha One system, under-resourcing in processing staff numbers, and NCAS competency levels to allocate to.	Not on track
Environment	Dog and animal control	% of all complaints responded to within one day	90% of complaints responded to within one day	As described in the 2018/19 Annual Report, Council's reporting systems are not currently at a level that enables results for these performance measures to be 100% verified. A review of how this information can be provided to substantiate performance in future years is being undertaken.	Not measured yet
Environment	Food safety and public health	% premises receiving inspection as per statutory requirements	100% of premises are inspected according to legislative requirements on frequency		Not measured yet
Environment	Alcohol licensing	% of licensed premises receiving two inspections per year	100% of premises inspected two times per year		Not measured yet
Environment	Pollution response	% responses to emergencies within 30 minutes and all other incidents within one day	100% of emergencies responded to within 30 minutes and all other incidents within one day		Not measured yet

## Nelson Plan Timeline to notification + Coastal hazards

