



**Notice of the extraordinary meeting of the
Hearings Panel - Other**

Rōpū Rongonga – Aha atu anō

Date:	12 December 2019
Time:	8.45a.m.
Location:	Rūma Whakatū, Level 2B, Civic House 110 Trafalgar Street Nelson

Agenda

Rārangi take

Chair	Cr Brian McGurk
Members	Cr Judene Edgar Cr Tim Skinner

**Pat Dougherty
Chief Executive**

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.

Hearings Panel – Other

Functions:

- To conduct hearings and/or determine under delegated authority applications relating to the Dog Control Act 1996, all matters relating to Temporary Road Closures pursuant to Schedule 10 Clause 11(e) of the Local Government Act 1974, matters relating to naming features within the city, and any other matters required for determination by Council under legislation as determined by Council.

Membership:

- All elected members aside from the Mayor, in rotation. Each Hearings Panel-Other will be made up of three members.
- The Group Manager Environmental Management may appoint one or more Independent Commissioners to either assist the Hearings Panel - Other or to hear and determine any particular application, such as when Council or a Council-Controlled Organisation or Council-Controlled Trading Organisation is (or could be perceived to be) an interested party, other than applications made for temporary road closure under Schedule 10 Clause 11(e) of the Local Government Act 1974.

Powers to Decide:

- The power to appoint a panel to hear and determine with any other consent authority any application requiring a joint hearing
- The power to hear and recommend appropriate actions from hearings of designations and heritage orders
- The power to hear, consider and attempt to resolve contested road stopping procedures
- The power to consider and determine applications for temporary road closures made under Schedule 10 Clause 11(e) of the Local Government Act 1974
- The power to hear and determine all matters arising from the administration of the Building Act 1991, and the Building Act 2004
- The power to hear and determine objections to the classification of dogs, and all other procedural matters for which a right of objection and hearing is provided for under the Dog Control Act, 1996
- The power to name all features within the city requiring naming including roads, streets, service lanes, plazas, parking areas, parks, reserves, gardens and all public facilities or infrastructure, aside from those impacted by the Naming Rights and Sponsorship Policy for Community Services Facilities
- The power to provide advice to applicants on appropriate names for private roads, rights of way or other legal forms of private access to property
- The power to make changes to the schedules to the Parking and Vehicle Control Bylaw that do not require public consultation
- The power to hear submissions and recommendations on proposed changes to the schedules to the Parking and Vehicle Control Bylaw requiring public consultation
- The power to administer the administering body functions under section 48 of the Reserves Act 1977 on proposed rights of way and other easements on reserves vested in Council

Opening Prayer

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

5. Easements - Findlay Place Local Purpose Reserve (Road)

5 - 11

Document number R13699

Recommendation

That the Hearings Panel - Other

- 1. Receives the report Easements - Findlay Place Local Purpose Reserve (Road) (R13699) and its attachment (A2315077); and***
- 2. Amends decision HEA/2019/023 of the Hearings Panel Other meeting held on 3 December 2019 to read as follows:***
- 3. Grants ~~a~~—Right of Way, right to drain wastewater and right to drain water Easements over the Local Purpose Reserve (Road) (Lot 17 DP 486996) in favour of 51 Saxton Road (Lot 2 DP 366503) subject to public notice under section 119 (1)(b) of the Reserves Act 1977 with all costs being met by the applicant; and***

4. ***Notes that if any objections to the proposed easements are received, a further report will be brought to the Hearings Panel - Other to enable consideration and decision on those objections.***

Easements - Findlay Place Local Purpose Reserve (Road)

1. Purpose of Report

- 1.1 To amend the Resolution of the Hearing Panel – Other of 3 December 2019 regarding a right of way easement to Wholesale Landscapes Limited over Council Local Purpose Reserve (Road) to include easements to drain sewage and water, subject to public notice and Council consent.

2. Summary

- 2.1 The Report of 3 December 2019 focussed exclusively on the granting of a right of way easement. The need for rights to drain sewage and water were overlooked as they were not considered to materially alter or permanently damage the Reserve and did not require public notification.
- 2.2 As the resulting Easement Instrument would include all three easements they should be consulted on together.

3. Recommendation

That the Hearings Panel - Other

3. Receives the report Easements - Findlay Place Local Purpose Reserve (Road) (R13699) and its attachment (A2315077); and

4. Amends decision HEA/2019/023 of the Hearings Panel Other meeting held on 3 December 2019 to read as follows:

3. Grants ~~a~~—Right of Way, right to drain wastewater and right to drain water Easements over the Local Purpose Reserve (Road) (Lot 17 DP 486996) in favour of 51 Saxton Road (Lot 2 DP 366503) subject to public notice under section 119 (1)(b) of the Reserves Act 1977 with all costs being met by the applicant; and

Item 4: Easements - Findlay Place Local Purpose Reserve (Road)

- 4. *Notes that if any objections to the proposed easements are received, a further report will be brought to the Hearings Panel - Other to enable consideration and decision on those objections.***

4. Background

- 4.1 The Hearings Panel – Other considered Report R12532 on 3 December 2019 and resolved as follows (HEA/2019/023) –

That the Hearings Panel - Other

- 1. Receives the report Right of Way Easement - Findlay Place Local Purpose Reserve (Road) (R12532) and its attachment (A2300467 and A2288406); and*
- 2. Grants a Right of Way Easement over the Local Purpose Reserve (Road) (Lot 17 DP 486996) in favour of 51 Saxton Road (Lot 2 DP 366503) subject to public notice under section 119 (1)(b) of the Reserves Act 1977 with all costs being met by the applicant; and*
- 3. Notes that if any objections to the proposed easement are received, a further report will be brought to the Hearings Panel - Other to enable consideration and decision on those objections.*

- 4.2 That Report focussed on the works that would alter and damage the Reserve and require public notification under section 48 (3) of the Reserves Act 1977.

- 4.3 However Wholesale Landscapes Limited also require easements to drain sewage, and potentially drain water, over the Reserve. While this infrastructure would not materially alter or permanently damage the Reserve officers believe that, for transparency, the community should be aware of these proposed easements and asked for their views.

5. Discussion

- 5.1 The 'one way' traffic system Wholesale Landscapes Limited intend to create via the right of way easement may require an entrance control office. This is likely to be a portacom style building with a toilet and sink. The wastewater from this building will connect into the public wastewater system in Findlay Place (Attachment One.)

- 5.2 The wastewater pipe will be located under the right of way and will cross the Local Purpose Reserve. An easement is required to legalise the encroachment across the Reserve and to allow the owner of the pipe to access it for repairs or maintenance.

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- 5.3 There is an existing stormwater facility at the end of Findlay Place. As shown in the Attachment it appears to be partially in legal road and partially in the Local Purpose Reserve. The construction of the right of way may impact on this infrastructure requiring the installation of further stormwater controls in the Reserve. Again, an easement is required to legalise the encroachment across the Reserve and to allow the owner of the infrastructure to access it for repairs or maintenance.
- 5.4 In the case of reserves vested in Council as the administering body, the Reserves Act enables the Council to grant an easement for the purpose of - including "*the provision of water systems*" (section 48 (1) (e)). This approval is subject to the consent of the Minister of Conservation who has delegated the power to grant consent to Council.
- 5.5 Officers request that the Hearings Panel amend the 3 December 2019 Resolution to include all three easements – a right of way and rights to drain sewage and water.

6. Options

- 6.1 The Hearings Panel - Other has the options of approving or declining the easements. Approving the easements, subject to public notification, is the recommended option.

Option 1: Approve the ROW and drainage easements to Wholesale Landscapes Limited subject to public notification	
Advantages	<ul style="list-style-type: none">• Enables better traffic flow for the landowner• Reduced traffic congestion on Saxton Road thereby improving traffic safety• Allows the community to make their views known
Risks and Disadvantages	<ul style="list-style-type: none">• Possible objections from the community
Option 2: Decline the ROW and drainage easements to Wholesale Landscapes Limited	
Advantages	<ul style="list-style-type: none">• Officer time available for other matters
Risks and Disadvantages	<ul style="list-style-type: none">• Council seen as unsupportive• Ongoing traffic congestion on Saxton Road

7. Next Steps

- 7.1 Lodge a Public Notice in the Nelson Mail and on the Council website. Copies of the proposal will also be sent to business operators and landowners in Findlay Place. If objections are received officers will prepare a further Report to the Hearings Panel – Other, or, if no

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objections are received, seek the approval of Council acting under a delegation from the Minister of Conservation.

- 7.2 Subject to Council agreement, draft an Agreement to Grant Easements setting out the conditions Wholesale Landscapes Limited must meet regarding the easements.

Author: Peter Hunter, Team Leader Property

Attachments

Attachment 1: A2315077 - Findlay Place - potential easement diagram [↓](#)

Important considerations for decision making

1. Fit with Purpose of Local Government

The recommendation in this report is aligned with the purpose of Local Government in enabling “*democratic decision-making and action by, and on behalf of, communities*” as it enables the community the opportunity to consider and comment on the granting of a right of way and drainage easements over Council administrated Local Purpose Reserve. Granting the easements will allow the applicants to operate more efficiently and to reduce traffic congestion thereby improving traffic safety.

2. Consistency with Community Outcomes and Council Policy

Supports community outcomes –

- *Our infrastructure is efficient, cost effective and meets current and future needs*
- *Our communities are healthy, safe, inclusive and resilient*

3. Risk

This is a low risk decision as, if approved, the easements will be controlled by an appropriate legal instrument, physical construction of the works will be to the Nelson Tasman Land Development Manual standard and the community will have an opportunity to consider and provide feedback on the impacts on the Reserve itself.

4. Financial impact

The costs of securing the easements, and the physical works, will be met by Wholesale Landscapes Limited as the beneficiaries of the easements.

5. Degree of significance and level of engagement

This matter is of low significance because it does not impact the public or Council’s use of the reserve. However, consultation is required under section 48(2) of the Reserves Act because the right of way easement proposal means that the reserve will be materially altered or permanently damaged. The community will be given an opportunity to make their views known under section 119 of the Act.

6. Climate Impact

This decision will have no impact on the ability of the Council or District to proactively respond to the impacts of climate change now or in the future.

7. Inclusion of Māori in the decision making process

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

8. Delegations

The Hearings Panel – Other has the following delegations to consider this matter –

- *The power to administer the administering body functions under section 48 of the Reserves Act 1977 on proposed rights of way and other easements on reserves vested in Council*



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51 SAXTON ROAD WEST
PROPOSED ENTRANCE OFF FINDLAY PLACE

Prepared for: AZWOOD	Designed by: TL	Scale @ A3: 1:100
Comprised in: CT 271556	Drawn by: TL	Sheet Number: 1 OF 1
	Revision: B	Project Number: 35345
	Date: 18/09/19	