



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

Rōpū Rongonga – Aha atu anō

Date:	Wednesday, 19 February 2020
Time:	9.00a.m.
Location:	Council Chamber, Level 2B, Civic House 110 Trafalgar Street Nelson

Agenda

Rārangi take

Chair	Cr Tim Skinner
Members	Cr Yvonne Bowater Cr Rachel Sanson

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

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. Confirmation of Minutes**

There are no minutes to be confirmed

6. Street Naming Application - Montebello Village 7 - 12

Document number R13770

Recommendation

That the Hearings Panel - Other

1. Receives the report Street Naming Application - Montebello Village (R13770) and its attachment (A2331367); and

2. Approves the names of "Old Farm Road" and "Hill Tops Way" for the roads as shown on Attachment 1 of report R13770 (A2331367).

7. Application for naming of a private right of way - Stag Ridge subdivision 13 - 17

Document number R13778

Recommendation

That the Hearings Panel - Other

- 1. Receives the report Application for naming of a private right of way - Stag Ridge subdivision (R13778) and its attachment (A2336359); and***
- 2. Accepts the name of "Mansfield Way" for the right of way identified as ROW C on Attachment 1 of report R13778 (A2336359).***

8. Te Manu Reserve - stormwater easement

18 - 26

Document number R12563

Recommendation

That the Hearings Panel - Other

- 1. Receives the report Te Manu Reserve - stormwater easement (R12563) and its attachments (A2337197 and A2335791); and***
- 2. Resolves to publicly notify the proposal to grant a stormwater easement over Te Manu Reserve (Lot 1 DP 4341) in favour of Nelson City Council under section 48 (1) and in accordance with the requirements of sections 119 and 120 of the Reserves Act 1977; and***
- 3. Notes that officers will report back on the public notification process to enable the Hearings Panel - Other to make a decision on the proposed easement, subject to final consent of the Council (as the Minister of Conservation's delegate).***

9. Temporary Road Closure - Summer Challenge

27 - 32

Document number R13720

Recommendation

That the Hearings Panel - Other

- 1. Receives the report Temporary Road Closure - Summer Challenge (R13720) and its attachments (A2307342); and***

2. ***Approves the temporary road closure for the Summer Challenge on 31st March 2020.***

10. Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules **33 - 71**

Document number R10345

Recommendation

That the Hearings Panel - Other

1. ***Receives the report Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules (R10345) and its attachments (A2330168 and A2338700); and***
2. ***Approves amendments detailed in the report R10158 to the following Schedules of the Bylaw, Parking and Vehicle Control (2011), No 207 (A2338700):***
 - ***Schedule 4***
 - ***Schedule 5***
 - ***Schedule 7***
 - ***Schedule 8***
 - ***Schedule 9***
 - ***Schedule 13***
 - ***Schedule 14***
3. ***Declines the application for the Valerie Place no stopping detailed in 4.14 in the report R10158; and***
4. ***Defers any decision on the Harper Street Resident Only Parking application for reasons detailed in 4.10 in the report R10158***

11. Objection to Classification of dog as menacing. Marek Holoubek. Dog Loui. **72 - 104**

Document number R11509

Note: Mr Holoubek is travelling from Christchurch to attend the Hearings Panel meeting and will be present at 10.00am.

Recommendation

That the Hearings Panel - Other

- 1. Receives the report Objection to Classification of dog as menacing. Marek Holoubek. Dog Loui. (R11509) and its attachments (A2271572, A2275167, A2134555, A2275364, A2282550, A2282555); and***
- 2. Dismisses the objection of Marek Holoubek; and***
- 3. Upholds the classification of the dog Loui as menacing.***

Street Naming Application - Montebello Village

1. Purpose of Report

To approve or decline an application for the names of "Old Farm Road" and "Hill Tops Way" for the roads shown as Roads E and F on the attached scheme plan (Attachment 1).

2. Recommendation

That the Hearings Panel - Other

- 1. Receives the report Street Naming Application - Montebello Village (R13770) and its attachment (A2331367); and***
- 2. Approves the names of "Old Farm Road" and "Hill Tops Way" for the roads as shown on Attachment 1 of report R13770 (A2331367).***

3. Background

- 3.1 The applicant, Stoke Valley Holdings, has requested the names of "Old Farm Road" and "Hill Tops Way" for the roads shown as Roads E and F on the attached Scheme Plan (Attachment 1).
- 3.2 The background to the name selection is as follows:
 - 3.2.1 Old Farm Road: This name has been suggested as Road E leads from Montebello Avenue into farm land that historically encompassed the Ngawhatu Hospital and which is now known as "The Old Farm" to those who are familiar with this area.
 - 3.2.2 Hill Tops Way: This name has been suggested as it reflects the beautiful views afforded from the ridge that this road follows of the nearby hill tops in all directions.
- 3.3 The Council has the authority to name roads, pursuant to Section 319(j) of the Local Government Act 1974.
- 3.4 Road Naming Guidelines.

Item 6: Street Naming Application - Montebello Village

Each proposed road name is assessed according to the criteria in the Road Naming Guidelines, as follows:

- 3.4.1 The name should not be the same as or similar to any other street in the Nelson and Tasman Regions.
- 3.4.2 Where appropriate, due regard should be given to historical associations within the City.
- 3.4.3 Where possible, the name should be consistent with other names in the area, or consistent with a theme in the area/subdivision.
- 3.4.4 The name should not be likely to give offence.
- 3.4.5 The name should not be commercially based.
- 3.4.6 The length of the name should be appropriate to the length of the street (i.e. short names for short streets - for mapping purposes).
- 3.4.7 The name should not be likely to cause semantic difficulties, i.e. spelling, pronunciation, or general understanding.
- 3.4.8 As a general rule, the proposed name should not be that of a living person, except in exceptional circumstances.

4. Evaluation

- 4.1 There are no similar road names in the Nelson City Council or Tasman District Council areas that are likely to cause confusion with these names.
- 4.2 The proposed names do not conflict with any other criteria of the Road Naming Guidelines.

5. Alternative names

- 5.1 The applicant has provided two alternative names for Road E being Hill Farm Road or High Farm Road.
- 5.2 The alternative names for Road F are Hill Tops Road and West Ridge Road.

6. Options

- 6.1 The Hearings Panel has three options:
 - 6.1.1 To approve the names of "Old Farm Road" and "Hill Tops Way";
or
 - 6.1.2 To approve alternative names from the options provided; or

Item 6: Street Naming Application - Montebello Village

- 6.1.3 To decline the proposed names and to ask the applicant to submit alternative names.
- 6.2 Council officers recommend approving the names of “Old Farm Road” and “Hill Tops Way”.

Author: Mandy Bishop, Manager Consents and Compliance

Attachments

Attachment 1: A2331367 Scheme plan for Roads E and F [↓](#)

Important considerations for decision making
1. Fit with Purpose of Local Government The Council has the authority to name roads, pursuant to s 319(j) of the Local Government Act 1974.
2. Consistency with Community Outcomes and Council Policy The decision in this report supports the community outcome that our Council provides leadership and fosters partnerships, a regional perspective and community engagement.
3. Risk This is a low risk decision as checks have been carried out to ensure that the proposed road names will not cause confusion to the public or to emergency services, if there are existing similar names. The name will not cause offence.
4. Financial impact No additional resources are required.
5. Degree of significance and level of engagement This matter is of low significance because there is no impact on any private person. No consultation is required.
6. Climate Impact Not applicable for the naming of roads in an existing subdivision
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 has the following delegations to consider Areas of responsibility: <ul style="list-style-type: none"><i>Matters relating to naming features within the city</i> Powers to decide: <ul style="list-style-type: none"><i>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</i>

Item 6: Street Naming Application - Montebello Village

facilities or infrastructure, aside from those impacted by the Naming Rights and Sponsorship Policy for Community Services Facilities (5.19.3)



Application for naming of a private right of way - Stag Ridge subdivision

1. Purpose of Report

- 1.1 To accept or decline to accept an application for the naming of a private right of way joining Sunningdale Drive shown as ROW C on the attached plan (Attachment 1).

2. Recommendation

That the Hearings Panel - Other

- 1. Receives the report Application for naming of a private right of way - Stag Ridge subdivision (R13778) and its attachment (A2336359); and***
- 2. Accepts the name of "Mansfield Way" for the right of way identified as ROW C on Attachment 1 of report R13778 (A2336359).***

3. Background

- 3.1 The name "Mansfield Way" was in memory of the developer's relative who passed away last year. The name is also consistent with the existing surrounding street names that are of English origin and reflect the exotic English trees that have been established in the area in the 1950s. The surrounding names include Sunningdale Drive, Bridgewater Lane, Woodford Lane and Greenfield Lane.

4. Discussion

- 4.1 The Council has no authority to name private roads or ways, other than to accept a name for inclusion in Council records.

Compliance with Council road naming guidelines

- 4.2 In considering an application for the naming of a private right of way, the Council should consider the following relevant road naming guidelines:

Item 7: Application for naming of a private right of way - Stag Ridge subdivision

4.2.1 Whether the name is similar in sound or spelling to any road name in the Nelson City Council and Tasman District Council areas; and

4.2.2 Whether the name is likely to cause any offence.

Evaluation of the proposed name

4.3 There is a Masefield Street in the “poets’ corner” area of Stoke. Mansfield does not sound similar to Masefield and is considered sufficiently different in spelling when Masefield Street and Mansfield Way are compared.

4.4 The applicant has also suggested naming the right of way as “Ken Mansfield Way” which would reduce any potential confusion with Masefield Street. General practice however is to have shorter names for shorter streets or right of ways.

4.5 The name is not likely to cause any offence.

5. Options

5.1 The preferred option is to accept the name “Mansfield Way”. The alternative options are for Council to accept the name “Ken Mansfield Way” or to decline to accept these names and ask the applicant to submit an alternative name.

Author: Mandy Bishop, Manager Consents and Compliance

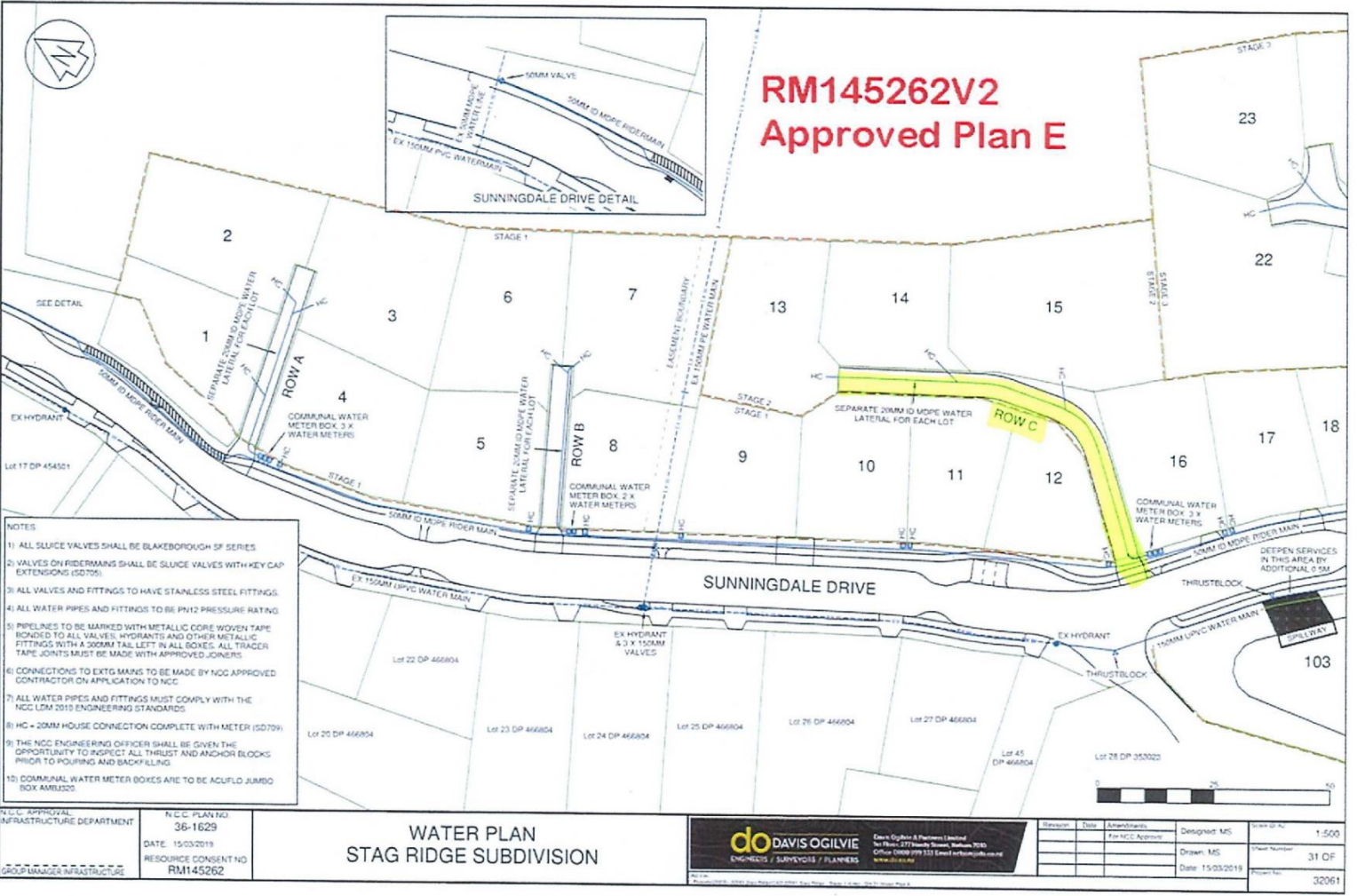
Attachments

Attachment 1: A2336359 Right of Way C scheme plan [↓](#)

Important considerations for decision making
1. Fit with Purpose of Local Government The Council has the authority to name roads, pursuant to s 319(j) of the Local Government Act 1974. The Council does not have the authority to name private rights of way, but may accept and record the name in Council systems and records.
2. Consistency with Community Outcomes and Council Policy The decision in this report supports the community outcome that our Council provides leadership and fosters partnerships, a regional perspective and community engagement.
3. Risk This is a low risk decision as checks have been carried out to ensure that the proposed name will not cause confusion to the public or to emergency services, if there are existing similar names. The name will not cause offence.
4. Financial impact No additional resources are required.
5. Degree of significance and level of engagement This matter is of low significance because there is no impact on any private person (no building on these lots has commenced). No consultation is required.
6. Climate Impact Not applicable for the naming of a private right of way in an existing subdivision.
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 has the following delegations to consider <i>Areas of Responsibility:</i> <ul style="list-style-type: none">• <i>Matters relating to naming features within the city (5.19.1)</i> <i>Powers to Decide:</i>

Item 7: Application for naming of a private right of way - Stag Ridge subdivision

- *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 (5.19.3)*



RM145265V1 &
RM145262V2

Notice of Decisions

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REPORT R12563

Te Manu Reserve - stormwater easement

1. Purpose of Report

- 1.1 To approve public notification of the proposal to grant an easement in gross to Nelson City Council over Te Manu Reserve for stormwater control.

2. Summary

- 2.1 Officers consider that it is necessary to increase the level of stormwater control in Te Manu Reserve in order to protect the reserve and improve flood protection for nearby residential properties on Emano Street.
- 2.2 Council requires an easement over Te Manu Reserve in order to carry out the works.
- 2.3 The Council, as administering body of the reserve, may grant an easement under section 48(1) of the Reserves Act 1977 (RA) for specified purposes, including drainage of any other land not forming part of the reserve, subject to assessment of whether public notification is required and subject to the final consent of the Minister of Conservation.
- 2.4 The Hearings Panel – Other has been delegated the administering body powers. The Minister’s power to grant final consent has been delegated to Council.

3. Recommendation

That the Hearings Panel - Other

- 1. Receives the report Te Manu Reserve - stormwater easement (R12563) and its attachments (A2337197 and A2335791); and***
- 2. Resolves to publicly notify the proposal to grant a stormwater easement over Te Manu Reserve (Lot 1 DP 4341) in favour of Nelson City Council under section 48 (1) and in accordance with the requirements of***

sections 119 and 120 of the Reserves Act 1977; and

3. Notes that officers will report back on the public notification process to enable the Hearings Panel - Other to make a decision on the proposed easement, subject to final consent of the Council (as the Minister of Conservation's delegate)..

4. Background

- 4.1 The subject land was first set aside under the Land Act 1948 and at the same time vested in the Council as reserve under the Reserves and Domains Act 1953 for recreation purposes.
- 4.2 The Certificate of Title for the land (1993) states "*NELSON CITY COUNCIL in trust as a reserve for recreational purposes*". The land is therefore a reserve administered under section 16(6) of the Reserves Act 1977 (RA), as if it were classified as recreation reserve.
- 4.3 Council adopted the name Te Manu Reserve in 2018. The name acknowledges Wi Katene Te Puoho, the Māori chief of Wakapuaka that Emano St was incorrectly named after. Te Manu was the chief of Wakapuaka, and the son of Te Puoho ki Te Rangi, the Ngāti Tama ariki (paramount chief) and warrior.
- 4.4 Te Manu Reserve has been subject to slips in the past as stormwater from Matipo Terrace was not piped or controlled and was simply discharged onto the slopes of the Reserve. An open polyethylene channel approximately 20 metres long was installed from Matipo Terrace into the Reserve sometime in the early 2000s. This existing channel can be seen in Attachment One.
- 4.5 During heavy rainfall in 2014 stormwater discharge from the open channel caused a slip to occur on the Reserve leading to a large quantity of vegetation being carried down to Emano Street. (Attachment One.)
- 4.6 Council proposes to construct a rock lined channel to direct stormwater runoff from Matipo Crescent through the Reserve to Emano Street
- 4.7 A walking track linking Matipo Crescent to Emano Street will also be constructed as part of the project. The design and exact location of this track have not yet been finalised.

5. Discussion

- 5.1 Nelson City Council is currently planning to increase the level of stormwater control in Te Manu Reserve in order to protect the Reserve and improve flood protection for nearby residential properties on Emano Street. See Attachment Two for a diagram of the intended works.

Item 8: Te Manu Reserve - stormwater easement

- 5.2 The works in Te Manu Reserve will involve:
- 5.2.1 Improvements to the current corrugated polyethylene (PE) flume channel;
 - 5.2.2 The construction of a new rock lined stormwater channel from the end of the PE flume channel to the bottom of Te Manu Reserve;
 - 5.2.3 Development of a wetland adjacent to Emano Street;
 - 5.2.4 Connection via a pipe under Emano Street to Toi Toi Stream.
- 5.3 The planned works will control and direct stormwater thereby reducing the risk of slips in the Reserve and the flooding of downhill properties. It is hoped that the wetland area will provide a habitat for Banded Kokopu and the connection to Toi Toi Stream will include a fish ladder. Piping the stormwater under the road will also make the road safer to use during heavy rain events.
- 5.4 The project is currently in the detailed design phase with tenders expected to be released in May 2020 with construction underway by August 2020.
- 5.5 Granting the easement for these works in Te Manu Reserve is best practice for the Council because:
- 5.5.1 It formalises the terms of the easement granted to satisfy what rights are being provided and over what area of the reserve land.
 - 5.5.2 If the stormwater infrastructure needed maintenance and that part of the reserve is temporarily inaccessible to the public, the Council has the legal documentation to permit this.
 - 5.5.3 The registration of the easement on the title provides public notice of the existence of the easement rights and infrastructure if, for instance, another party requested an easement over the reserve or the reserve was ever to be sold or the use of the reserve changed.
- 5.6 The Council, as the administering body of the reserve, may grant an easement under section 48(1) of the RA for specified purposes, including "*providing or facilitating... the supply of water to or the drainage of any other land not forming part of the reserve...*".
- 5.7 Before granting any easement, the administering body must give public notice in accordance with the requirements of sections 119 and 120 of the RA, unless it determines that:
- 5.7.1 The reserve is not likely to be materially altered or permanently damaged; **and**

5.7.2 The rights of the public in respect of the reserve are not likely to be permanently affected.

5.8 The administering body's power to grant the easement is also subject to the final consent of the Minister of Conservation. The Hearings Panel – Other has been delegated the powers of Council as the administering body. The Minister's power to grant final consent has been delegated to the Council (and cannot be sub-delegated).

5.9 The Hearings Panel – Other is therefore required to decide whether or not to give public notice of the proposed easement, applying the tests set out in paragraph 5.7 above. If it decides to give public notice, the requirements of sections 119 and 120 of the RA must be followed, including giving full consideration to every objection or submission that is received before deciding to proceed with the proposal.

5.10 Officers consider that this proposal will materially alter the reserve as the storm water channel is not a natural feature and will need to be constructed on the reserve.

5.11 As the public have full rights of access over the entire reserve a right-of-way easement for the walking track is not required.

6. Options

6.1 The Hearings Panel - Other has the options of approving or declining the proposal to publicly notify the intention to grant the easement. Approving the proposal is the recommended option.

Option 1: Approve public notification of the proposal to grant the stormwater easement	
Advantages	<ul style="list-style-type: none">• Allows the community to make their views known• Improves stormwater drainage from Matipo Terrace• Reduced risk of slips within the Reserve• Reduced risk of flooding of Emano Street properties
Risks and Disadvantages	<ul style="list-style-type: none">• Possible objections from the community
Option 2: Decline public notification of the proposal to grant the stormwater easement	
Advantages	<ul style="list-style-type: none">• Officer time available for other matters• CAPEX savings

Item 8: Te Manu Reserve - stormwater easement

Risks and Disadvantages	<ul style="list-style-type: none">• Continued risk of further slips in the Reserve• Continued risk of flooding of Emano Street properties
Option 3: Approve the proposed stormwater easement without public notification (subject to final consent of the Council as the Minister of Conservation's delegate)	
Advantages	<ul style="list-style-type: none">• Improves stormwater drainage from Matipo Terrace• Reduced risk of slips within the Reserve• Reduced risk of flooding of Emano Street properties
Risks and Disadvantages	<ul style="list-style-type: none">• Community views unknown• Risk of challenge on process• Negative view of Council

7. Conclusion

- 7.1 Approving an easement in gross across Te Manu Reserve will allow Council to upgrade stormwater controls and reduce the risk of flooding. Officers consider that granting the easement will materially alter the reserve and that public notification of the easement is required. This is a matter that the Hearings Panel – Other can make a decision on.

8. Next Steps

- 8.1 Distribute the Public Notice in Our Nelson and lodge it on the Council website. Copies of the proposal will also be sent to surrounding owners and occupiers and officers will meet with the community. If objections or submissions are received officers will prepare a further Report to the Hearings Panel – Other detailing the objections and submissions for the Panel to consider. If there are no objections or submissions the further report will seek a decision to grant the easement subject to the approval of Council acting under a delegation from the Minister of Conservation.

Author: Peter Hunter, Team Leader Property

Attachments

Attachment 1: A2337197 - Te Manu Reserve images [↓](#)

Attachment 2: A2335791 - Te Manu Reserve - Stormwater Upgrade Plan [↓](#)

Important considerations for decision making
<p>1. Fit with Purpose of Local Government</p> <p>The recommendation in this report is aligned with the purpose of Local Government in enabling “<i>democratic decision-making and action by, and on behalf of, communities</i>” as it allows the community to have a say in the use of Te Manu Reserve.</p>
<p>2. Consistency with Community Outcomes and Council Policy</p> <p>Supports community outcomes –</p> <ul style="list-style-type: none"> • <i>Our infrastructure is efficient, cost effective and meets current and future needs</i> • <i>Our communities are healthy, safe, inclusive and resilient</i>
<p>3. Risk</p> <p>The granting of an easement will ensure that Council can access the stormwater infrastructure in the future for repairs and maintenance and temporarily restrict the public’s access to that area of the reserve.</p>
<p>4. Financial impact</p> <p>The costs of advertising, surveying and registering the easement will be funded from the project budget.</p>
<p>5. Degree of significance and level of engagement</p> <p>This matter is of medium significance, based on previous feedback regarding the importance of the Reserve to the local community. Officers consider that public notification is required under section 48 (2) of the Reserves Act 1977 and the community will be given the opportunity to make their views known under the Act’s section 119 public notification process.</p>
<p>6. Climate Impact</p> <p>Improving stormwater controls in Te Manu Reserve will increase the capability to cope with additional or extreme rainfall events.</p>
<p>7. Inclusion of Māori in the decision making process</p> <p>No engagement with Māori has been undertaken in preparing this report.</p>

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*

Te Manu Reserve images

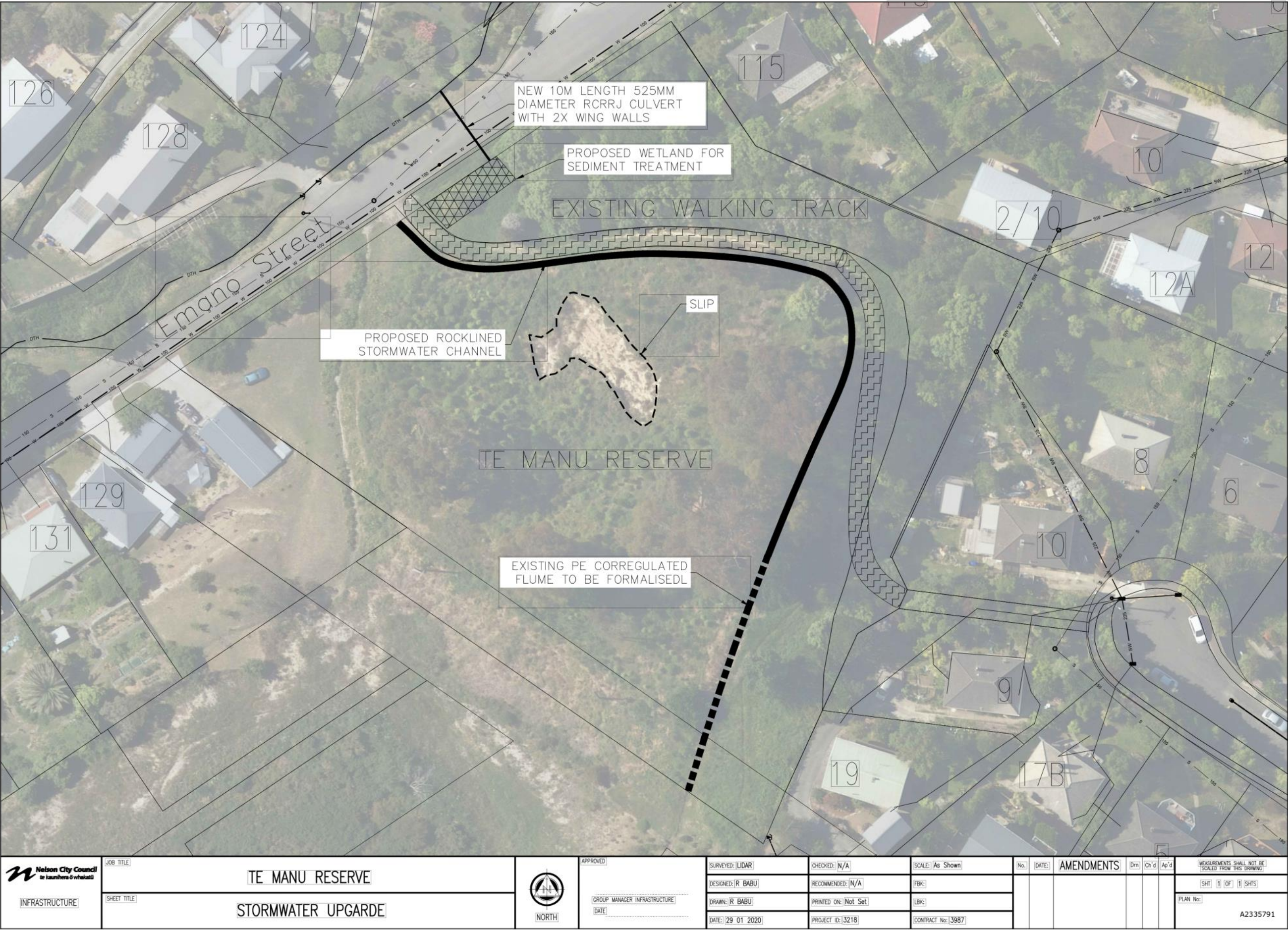


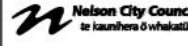

View of slip from down slope



Existing flume channel

A2337197



 Nelson City Council te kaitiaki o whakaiti	JOB TITLE	TE MANU RESERVE	 NORTH	APPROVED	SURVEYED: LIDAR	CHECKED: N/A	SCALE: As Shown	No.	DATE:	AMENDMENTS	Drn	Ch'd	Ap'd	MEASUREMENTS SHALL NOT BE SCALED FROM THIS DRAWING
	SHEET TITLE	STORMWATER UPGARDE		GROUP MANAGER INFRASTRUCTURE	DESIGNED: R BABU	RECOMMENDED: N/A	FBK:							SHT 1 OF 1 SHTS
				DATE	DRAWN: R BABU	PRINTED ONE: Not Set	LBK:							PLAN No:
					DATE: 29 01 2020	PROJECT ID: 3218	CONTRACT No: 3987							A2335791

Temporary Road Closure - Summer Challenge

1. Purpose of Report

- 1.1 To approve/decline the temporary road closure application for the Summer Challenge on 31st March 2020.

2. Recommendation

That the Hearings Panel - Other

- 1. Receives the report Temporary Road Closure - Summer Challenge (R13720) and its attachments (A2307342); and***
- 2. Approves the temporary road closure for the Summer Challenge on 31st March 2020.***

3. Background

- 3.1 It is a requirement that temporary road closures made under Schedule 10 Clause 11(e) of the Local Government Act 1974 come to the Hearings Panel - Other for approval.
- 3.2 It is a requirement that consultation with the New Zealand Transport Agency (NZTA) is undertaken to temporarily close any road under Schedule 10 Clause 11 of the Local Government Act 1974. Nelson City Council (NCC) and NZTA have an agreement whereby specific consultation is only required if the closure affects state highway or their assigned detour routes.

Summer Challenge

- 3.3 Council officers received an application on 26 November 2019 from Ten Events Ltd to close Trafalgar Square – between Church Street and Trafalgar Square East on 21 March 2020 from 11am until 6pm as per Attachment 2. The Summer Challenge event is a Women's only adventure race combining kayaking, mountain biking and hiking and the closure is to facilitate a race hub and finish point.

Item 9: Temporary Road Closure - Summer Challenge

- 3.4 As per clause 11(e) of schedule 10 of the Local Government Act 1974, this proposed road closure will not exceed the aggregate of 31 days for any year.
- 3.5 Consultation with NZTA has not been undertaken due to this event not having any impact on the State Highway or its detour routes.
- 3.6 Consultation with Police has been undertaken and they have given their approval for this event.
- 3.7 As per clause 11A of schedule 10 of the Local Government Act 1974, Council placed a notification in Our Nelson on 11 December 2019 to notify of the applicant's intention to close these roads and inviting feedback by 25 December 2019. The advertisement was also placed on the Council website and a letter drop was undertaken to directly affected businesses/residents. No feedback from the public was received.
- 3.8 No noise consent is required for this event and evidence of public liability insurance has been provided.
- 3.9 Council officers are satisfied that the road closure will not unreasonably impede traffic because alternative routes are available and the extent and duration is limited. Council officers recommend that this application be approved.

4. Options

- 4.1 The Hearings Panel - Other has two options, either to approve or decline the temporary road closure applications. Officers recommend approving the temporary road closure for the Summer Challenge.

Author: Gillian Dancey, Contracts Supervisor - Roading

Attachments

Attachment 1: A2307342 - 2020 Summer Challenge [↓](#)

Important considerations for decision making
1. Fit with Purpose of Local Government The following are applicable: <ul style="list-style-type: none">• The Local Government Act 1974, Schedule 10, Temporary Prohibition of Traffic;• The Local Government Act 2002, Clause 78, Community Views in Relation to Decisions. <p>The temporary road closures fit with the purpose of local government.</p>
2. Consistency with Community Outcomes and Council Policy <p>These events contribute to our community outcomes by assisting our community to celebrate their identity and community.</p>
3. Risk <p>If the temporary road closures are not approved, these community events are at risk of not going ahead.</p>
4. Financial impact <p>There is no financial impact to Council for these road closures.</p>
5. Degree of significance and level of engagement <p>This matter is of medium significance because of the number of people affected and the short duration of the events. A request for feedback was advertised in Our Nelson and on the Council's website.</p>
6. Climate Impact <p>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.</p>
7. Inclusion of Māori in the decision making process <p>No engagement with Māori has been undertaken in preparing this report.</p>
8. Delegations <p>The Hearings Panel - Other has the following delegations to consider temporary road closures:</p> <p>Functions:</p> <ul style="list-style-type: none">• <i>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</i>

Item 9: Temporary Road Closure - Summer Challenge

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.

Item 9: Temporary Road Closure - Summer Challenge



Civic House, 110 Trafalgar Street
PO Box 645, Nelson 7040, New Zealand

P 03 546 0200

E gillian.dancey@ncc.govt.nz

nelson.govt.nz

3 December 2019

TEMPORARY ROAD CLOSURE PROPOSAL – SELWYN PLACE & CHURCH STEPS

Nelson City Council has received a proposal from Ten Events Ltd to temporarily close the following road to ordinary traffic for the Summer Challenge adventure race:

Selwyn Place (between Church Street and Trafalgar Square) and the Church Steps

Date and time: Saturday 21st March 2020, 11.00am to 6.00pm

Anyone who wants to give feedback about this proposal can do so in writing by Wednesday 25th December 2019, attention Gillian Dancey, Nelson City Council, PO Box 645, Nelson, or email enquiries@ncc.govt.nz.

The decision on whether the road will be closed will be advertised on Council's website, www.nelson.govt.nz.

Nelson City Council thanks the public for its patience and understanding.

This proposal is made in accordance with the Local Government Act 1974. Unauthorised use of vehicles on the road during the closure period is not permitted and may constitute an offence.

Internal Document ID: A2307342

Nelson The Smart Little City
He tāone tōrire a Whakatū

 Nelson City Council
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Item 9: Temporary Road Closure - Summer Challenge



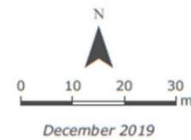
Proposed Road Closures

Summer Challenge 2020



Legend

Saturday 21st March 2020
11am to 6pm



December 2019

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

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File Ref: A2309556
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Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

1. Purpose of Report

- 1.1 To approve proposed alterations to Schedules of the Parking and Vehicle Control Bylaw (2011), No 207, to give effect to minor safety and parking improvements, roading improvements carried out as part of the capital works programme and changes from new subdivisions.

2. Recommendation

That the Hearings Panel - Other

- 1. Receives the report Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules (R10345) and its attachments (A2330168 and A2338700); and***
- 2. Approves amendments detailed in the report R10158 to the following Schedules of the Bylaw, Parking and Vehicle Control (2011), No 207 (A2338700):***
 - Schedule 4***
 - Schedule 5***
 - Schedule 7***
 - Schedule 8***
 - Schedule 9***
 - Schedule 13***
 - Schedule 14***
- 3. Declines the application for the Valerie Place no stopping detailed in 4.14 in the report R10158; and***
- 4. Defers any decision on the Harper Street Resident Only Parking application for***

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

reasons detailed in 4.10 in the report R10158

3. Background

- 3.1 The Parking and Vehicle Control Bylaw 2011 allows for the Council by resolution, to add, amend or delete specifications contained within the Schedules. The Council has delegated this power to the Hearings Panel - Other. To ensure that the Bylaw is enforceable it is important to ensure that the Schedules are updated on a regular basis. The Bylaw Schedules were last updated in December 2019.
- 3.2 Minor alterations and additions are proposed to Schedules 4, 5, 7, 8, 9, 13 and 14 of the Bylaw as detailed in section 4.
- 3.3 The proposed alterations and additions are shown for indicative purposes only by plans attached to this report. The purpose of these plans is to assist the panel to easily and quickly understand the nature of the changes proposed. These plans will not form part of the final bylaw. The actual changes as they will be incorporated into the final Bylaw, and with the level of detail required for enforcement purposes, are set out in the schedule of changes appended as Attachment 2.

4. Discussion

Schedule 4 – Special Parking Areas

- 4.1 Bicycle Park – Buxton Carpark
- 4.1.1 Following a request from eateries and businesses in Buxton Square, Council has installed a bicycle stand along the southern boundary of Buxton Carpark to cater for bicycle parking demand of both nearby businesses and eateries. In order to prevent cars parking across this bike stand, a formalised bicycle parking area in the form of a yellow box is required. This bicycle stand has become a popular location for office workers to park bicycles during the day, and was supported by the adjacent property owners. The bicycle stand location is shown in Attachment 1, titled 4.1. There was no loss of car parking as a result of this installation.
- 4.2 Bicycle Park – Hardy Street
- 4.2.1 As a result of the development of Kismet Cocktail & Whisky Bar on Hardy Street, and subsequent removal of the bicycle stand to accommodate this development, Council has received a request that the bicycle stand be reinstated in the area. Demand for bicycle parking occurs in this area on weekends, particularly during Saturday Markets and CBD events. Officers have investigated suitable options and discussed the proposed installation with the adjacent retailer who is supportive of this

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

installation. The proposed bicycle stand location is shown in Attachment 1, titled 4.2.

4.3 Bicycle Park – Church Street

4.3.1 Following a request for additional bicycle parking near the Nelson English Centre, officers have been in discussion with retailers on the corner of Church Street and Selwyn Place, and have identified a suitable location for additional bicycle stands. The proposed bicycle stand location is shown in Attachment 1, titled 4.3. This location was supported by the nearby businesses and does not result in the loss of any on-street car parking. Although close to the second bicycle park on Hardy Street referred to in 4.2, both bicycle parks are required due to user preference and the occasional overflow demand that occurs during peak times.

4.4 Mobility Parks (Upper Trafalgar Street)

4.4.1 Following the pedestrianisation of upper Trafalgar Street, four mobility parks have been provided, two at each end of Upper Trafalgar Street to replace those lost as a result of the closure, and to provide additional mobility parks for those less able to access the pedestrian area. The locations of the installed mobility parks are the same as used during the previous trials and are shown in Attachment 1, titled 4.4.

4.5 St Vincent Street Bus Stop

4.5.1 Recent changes to the way Nelson Christian Academy delivers its bus service has meant that larger buses are now frequently using the St Vincent Street bus stop opposite The Warehouse. This bus stop was recently formulated to accommodate route 5 buses which are medium size buses. The new school buses are now full size 13m buses, thus requiring a larger bus stop as well as longer entry and exit tapers. Officers support this change as per the SBL recommendation to accommodate school buses. The proposed alteration is shown in Attachment 1, titled 4.5. No feedback was sought regarding this alteration due to Council owning the adjacent land. Refer also to 4.25 for associated no stopping.

4.6 Halifax Street Bus Stop (Millers Acre)

4.6.1 At peak summer times there is a need to accommodate both the beach summer bus and cruise liner buses near Millers Acre. The need for two bus stops arise at peak times when more than one bus needs to access the area. The second bus stop is referred to within 4.7 below. To accommodate this bus stop currently, applicants have had to submit and setup a Traffic Management Plan (TMP) which is costly and time consuming and results in cones and signs within the CBD which look both unappealing and temporary. To reduce the need for this, officers recommend making the area shown in Attachment 1, titled 4.6 a dual

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

purpose car park and bus stop. The current car parking will be switched to a bus stop when needed by unfolding a customised sign. No feedback other than from SBL was sought due to Council owning the adjacent land. SBL supports this recommendation.

4.7 Trafalgar Street Bus Stop (Millers Acre)

4.7.1 As referred to in 4.6 above, there is a need for two bus stops near Millers Acre to cater for the current demand. Officers recommend making the area shown in Attachment 1, titled 4.7 a dual purpose car park and bus stop. The current car parking will be switched to a bus stop when needed by unfolding a customised onsite sign. No feedback other than SBL was sought due to Council owning the adjacent land. SBL support this recommendation.

4.8 Authorised Parking Area – Trafalgar Street

4.8.1 As a result of safety concerns regarding parking behind Civic House, officers have been asked to accommodate an Authorised Vehicles Only parking space near Civic House for the Mayor. Three parking spaces currently exist behind Civic House, and concern has been raised about the safety of reversing vehicles around pedestrians and cyclists. To resolve this issue, these carparks will be removed. Of the three carparks, both the Chief Executive and Deputy Mayor will forgo their current carparks, and park where they can in and around the CBD. To accommodate the Mayors carpark, Officers are proposing that one 'Pay and Display P60' carpark be removed and replaced by one Authorised Vehicle Only carpark. No feedback was requested due to Council being the adjacent land owner. The proposed parking alteration is shown in Attachment 1, titled 4.8.

Schedule 5 – Metered Parking including pay and display

4.9 Upper Trafalgar Street

4.9.1 As a result of the pedestrianisation of upper Trafalgar Street, there is no need for on-street car parking in that area. All 'pay and display' parking previously included within the Parking and Vehicle Control Bylaw on Trafalgar Street, between Hardy Street and Trafalgar Square can now be removed from the bylaw. The extent of parking to be removed from the bylaw is shown in Attachment 1, titled 4.9.

Schedule 7 – Resident Parking Spaces

4.10 Harper Street Resident Only Park

4.10.1 Council has received an application for a Resident Only Park at 17 Harper Street. Officers have confirmed that this application meets

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

the requirements of the resident parking policy. The proposed Resident Only Carpark is shown in Attachment 1, titled 4.10.

- 4.10.2 Whilst neighbouring properties were consulted and no substantive feedback was received, the Group Manager Infrastructure (in light of a report coming to the 20 February Infrastructure Committee on the issue of Resident Only Parking) has recommended this application come to the Hearings Panel – Other for a decision.
- 4.10.3 That report to the Infrastructure Committee will deal with proposed increases in fees for Resident Only Parks, but also recommends a moratorium on issuing any new Resident Only parks until such time as a Parking Strategy is developed in 2020/21.
- 4.10.4 Consequently officers recommend that this application be put on hold pending consideration as part of that report to the Infrastructure Committee.

Schedule 8 – Time Limited Parking Areas

4.11 Port Nelson Layout Changes

- 4.11.1 Following the road layout changes on Rogers Street aimed to alleviate truck stacking on Vickerman Street, time limited parking was installed as shown in Attachment 1, titled 4.11. P30 parking was installed to ensure turnover for the nearby businesses as a result of the significant loss of parking on the southern side of Rogers Street. This installation was supported by the nearby businesses and will remain in place until Port Nelson Ltd (PNL) complete its log sorting and container terminal improvements. The removal of parking by means of no stopping mentioned above is referred to within 4.15.

Schedule 9 – No Stopping and No Parking Areas

4.12 30 Arapiki Road No Stopping

- 4.12.1 Following feedback from road users, it's been suggested that the current no stopping near the crest of Arapiki Road be connected, to improve visibility for oncoming vehicles and prevent vehicles needing to cross the centreline to navigate parked vehicles. This installation is supported by officers on safety grounds. Feedback from 30 Arapiki Road outlined that retaining on-street parking was preferable, however the resident felt the request was understandable. The area of proposed no stopping is shown in Attachment 1, titled 4.12.

4.13 Cambria Street / Tasman Street Intersection No Stopping

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

4.13.1 Following feedback from a concerned motorist, officers have reviewed the need for no stopping at the Tasman Street/Cambria Street intersection. Due to high parking demand, vehicles are frequently parking closer than 6m to the intersection. Although NZ driving rules currently prohibit this behaviour, officers recommend installing no stopping as shown in Attachment 1, titled 4.13, thus to clearly define the 6m rule and to match that of the surrounding corners of the intersection. No feedback was sought due to this restriction already being imposed by NZ driving rules.

4.14 Valerie Place No Stopping

4.14.1 Officers were contacted by a concerned Valerie Place resident in regard to the perceived access issues along Valerie Place. Concerns arise when vehicles elect to park on both sides of Valerie Place.

4.14.2 Much of Nelsons hillside developments result in a compromise between lot sizes and the available roading corridor width. As a result, many hillside developments result in narrower streets and a balance between access and parking. Valerie Place was constructed in accordance with the Land Development Manual (LDM) of the time, adopted by Council.

4.14.3 Valerie Place has 18 properties and is considered a local road in Councils road hierarchy. The installation of No stopping would result in the approximate loss of 12 carparks.

4.14.4 The installation of no stopping is likely to have the undesired effect of increasing speed, as one lane will become unobstructed. No stopping Valerie Place also goes against the design standard set by Council, and would set precedent for similar developments across Nelson. Officers do not support the installation of no stopping in this location, and seek a decision whether to approve or decline this installation, and thus give officers direction for future situations that are deemed similar, that are also compliant with the LDM adopted by Council. The extent of no stopping requested is shown in Attachment 1, titled 4.14. Officers recommend that this application be declined.

4.15 Port Nelson Layout Changes

4.15.1 Following a significant amount of feedback regarding trucks parking on Vickerman Street waiting to get into Port Nelson Ltd (PNL), Council officers implemented rapid changes to both Carkeek Street and Rogers Street to accommodate additional truck stacking. Officers felt that the behaviour that had begun to occur was impacting the safety of road users, and that there was a moderate/high chance of an accident occurring. The road layout changes made were implemented in April 2019 to improve the safety for road users of Vickerman Street, and alleviate parking

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

issues for the nearby businesses. As result of the changes, a significant amount of no stopping was required to prevent parking along the newly designated 'trucking lane'. Officers seek to retrospectively add these parking restrictions to the bylaw. The extent of no stopping is shown in Attachment 1, titled 4.11.

4.16 101 Princes Drive No Stopping

4.16.1 Following feedback from the resident of 101 Princes Drive, officers have reviewed the need for no stopping within the white edge line taper of Princes Drive, outside 101 Princes Drive. Due to the taper of the white edge line, parking in this location would result in vehicles parking over the white line, and thus into the live traffic lane. To prevent this, officers recommend the installation of no stopping, similar to that on the opposite side of Princes Drive to prevent this parking behaviour. The extent of proposed no stopping is shown in Attachment 1, titled 4.16.

4.17 Forests Road Corner – No Stopping

4.17.1 Following feedback from a nearby trucking company, it is proposed that no stopping be installed around the bend at 22 Forests Road to improve both visibility and access for larger vehicles. Officers can confirm that vehicles parking around this corner impact the turning movement of large B-train trucks, thus requiring them to cross the centreline with limited visibility. Feedback was received from 22 Forests Road who objected to having the no stopping installed due to the loss of parking. Officers feel that the current driving behaviour and pedestrian access are impacted by this parking, and therefore recommend proceeding with this installation based on health and safety grounds. The extent of proposed no stopping is shown in Attachment 1, titled 4.17.

4.18 Putaitai Library Entrance No Stopping

4.18.1 Following the resealing of Putaitai Street, it has been observed that members of the public regularly park over the entrance to the Stoke Library. It's understood that the inconspicuous nature of the vehicle entrance results in members of the public parking across the driveway inadvertently. To prevent this parking behaviour in future, officers took the opportunity whilst on-site to install no stopping, and now seek for this to be added to the bylaw. No consultation was undertaken as it is already deemed a traffic offence to park in this location. The extent of no stopping is shown in Attachment 1, titled 4.18.

4.19 Songer Street (Greenmeadows Centre Carpark)

4.19.1 Following the opening of the new Greenmeadows Centre, concern has been raised about the visibility for vehicles exiting on to Songer Street. Given the nature of the venue and the

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

demographic of its users, it is proposed that no stopping be installed west of the current driveway to improve visibility of vehicles travelling east from Main Road Stoke. The extent of proposed no stopping is shown in Attachment 1, titled 4.19. No feedback was sought due to Council owning the adjacent land and building.

4.20 Main Road Stoke Bus Stop opposite Saxton Lodge

4.20.1 Following feedback from SBL, it's been noted that vehicles parking directly adjacent to the Main Road Stoke bus stop opposite Saxton Lodge are impeding the safe and efficient access to the bus stop. It is proposed that 15m of no stopping be installed north and south of the current bus stop to improve access. The proposed installation of no stopping is shown in Attachment 1, titled 4.20. Due to the amount of parking on Main Road Stoke, and ability for the adjacent properties to park off-street, no feedback was sought for this change.

4.21 Main Road Stoke Bus Stops – at Ernest Rutherford

4.21.1 Following feedback from SBL, it's been noted that vehicles parking directly adjacent to the Main Road Stoke bus stops at Ernest Rutherford are impeding the safe and efficient access to the bus stops. It is proposed that no stopping be installed north and south of the current bus stops to improve access. The proposed installation of no stopping is shown in Attachment 1, titled 4.21. Due to the amount of parking on Main Road Stoke, and the ability for the adjacent properties to park off-street, no feedback was sought for this change. This no stopping also has the added benefit of ensuring adequate visibility for pedestrians crossing Main Road Stoke at the nearby pedestrian refuge.

4.22 Milton Street / Weka Street Intersection No Stopping

4.22.1 Visibility concerns at the Milton Street/Weka Street intersection have been raised by a nearby resident. Officers have reviewed the intersection layout, including the visibility for vehicles turning out of Weka Street east. Due to the lack of visibility and road layout, officers recommend installing no stopping on Milton Street, directly south of Weka Street to improve visibility to the south. The extent of no stopping proposed is shown in Attachment 1, titled 4.22. The applicant for this no stopping lives at 101 Milton Street and is therefore supportive of this change.

4.23 Nile Street Bus Stop at NMIT

4.23.1 SBL has suggested a change to the Nile Street bus stop outside NMIT. SBL drivers are finding it difficult to access the bus stop with larger and more frequent buses. Nearby angled parks limit the bus driver's ability to access the bus stop, and prevent them from parking adjacent to the kerb. The result is that buses park

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

out into the road way, often reducing visibility of the nearby pedestrian crossing and officers support the request to have two angled carparks removed to allow the safe and efficient access to this bus stop. The proposed no stopping is shown in Attachment 1, titled 4.23. Officers have discussed the proposal with NMIT, and have gained their support for the proposal on the grounds of access and safety for children.

4.24 2 Tasman Street No Stopping

4.24.1 Concern has been raised by the owners of 2 Tasman Street with regard to vehicles repeatedly parking over their driveway blocking their access. Tasman Street near Weka Street has a high parking demand due to the nearby backpackers. The design and layout of the historic houses make the entrance to 2 Tasman Street inconspicuous, thus leading to vehicles repeatedly extending across the northern half of the driveway. Officers have altered the white parking lines in an attempt to resolve the issue, however vehicles are still parking in this location causing issues for the owners of 2 Tasman Street. To resolve this issue, and make it legally enforceable, officers propose installing no stopping as shown in Attachment 1, titled 4.24. No feedback was sought from surrounding neighbours as access takes priority over on-street parking.

4.25 St Vincent Street Bus Stop No Stopping

4.25.1 To facilitate the extension of the bus stop on St Vincent Street near The Warehouse, the installation of no stopping is required prior to the bus stop to enable larger buses to safely and efficiently enter the bus stop. Refer 4.5 for further details of the bus stop extension. The extent of no stopping proposed is shown in Attachment 1, titled 4.5.

Schedule 13 – Stop Signs

4.26 Toi Toi Street/Montreal Road Stop Sign

4.26.1 Feedback regarding the safety of the Montreal Road/Toi Toi Street intersection has been received. Officers have reviewed the intersection sight lines (from Montreal Road South), and note that visibility along Toi Toi Street is restricted for vehicles exiting from Montreal Road South. For this reason, officers support and recommend changing the current Give Way, to a Stop sign. This recommendation has been supported by Police. The location of the proposed Stop Sign is shown in Attachment 1, titled 4.26. No consultation was undertaken as this is deemed a matter of public safety.

Schedule 14 – Give Way Signs

4.27 Elderberry Lane Give Way

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4.27.1 Concern has been raised regarding the roading layout at the intersection of Sanctuary Drive and Elderberry Lane. To better define the priorities of the intersection and make the roading layout more self-explaining, it is proposed that Elderberry Lane be controlled by a Give Way. No consultation was undertaken as this change is considered a matter of public safety. The location of the proposed Give Way is shown in Attachment 1, titled 4.27.

5. Options

5.1 There are limited options for the items presented in this report as the majority in schedules 4, 5, 7, 8, 9, 13 and 14 are proposed changes to improve safe and efficient traffic movement. Option 1 is the preferred option.

Option 1: Adopt changes as attached for Schedules 4, 5, 7, 8, 9, 13 and 14 without changes	
Advantages	<ul style="list-style-type: none">• Changes to Schedules are designed to improve safety and efficiency
Risks and Disadvantages	<ul style="list-style-type: none">• Minor loss of parking in some places
Option 2: Do not adopt changes as attached for Schedules 4, 5, 7, 8, 9, 13 and 14.	
Advantages	<ul style="list-style-type: none">• There are no identified advantages
Risks and Disadvantages	<ul style="list-style-type: none">• Failure to approve changes could result in unsafe and inefficient use of the roading network.• Failure to update Schedules will open enforcement to challenge.• Failure to approve changes will delay or prevent development under the Resource Management Act (RMA).

Author: Matt Bruce, Team Leader Transport and Solid Waste

Attachments

Attachment 1: A2330168 - Proposed changes shown indicatively on aerials [↓](#)

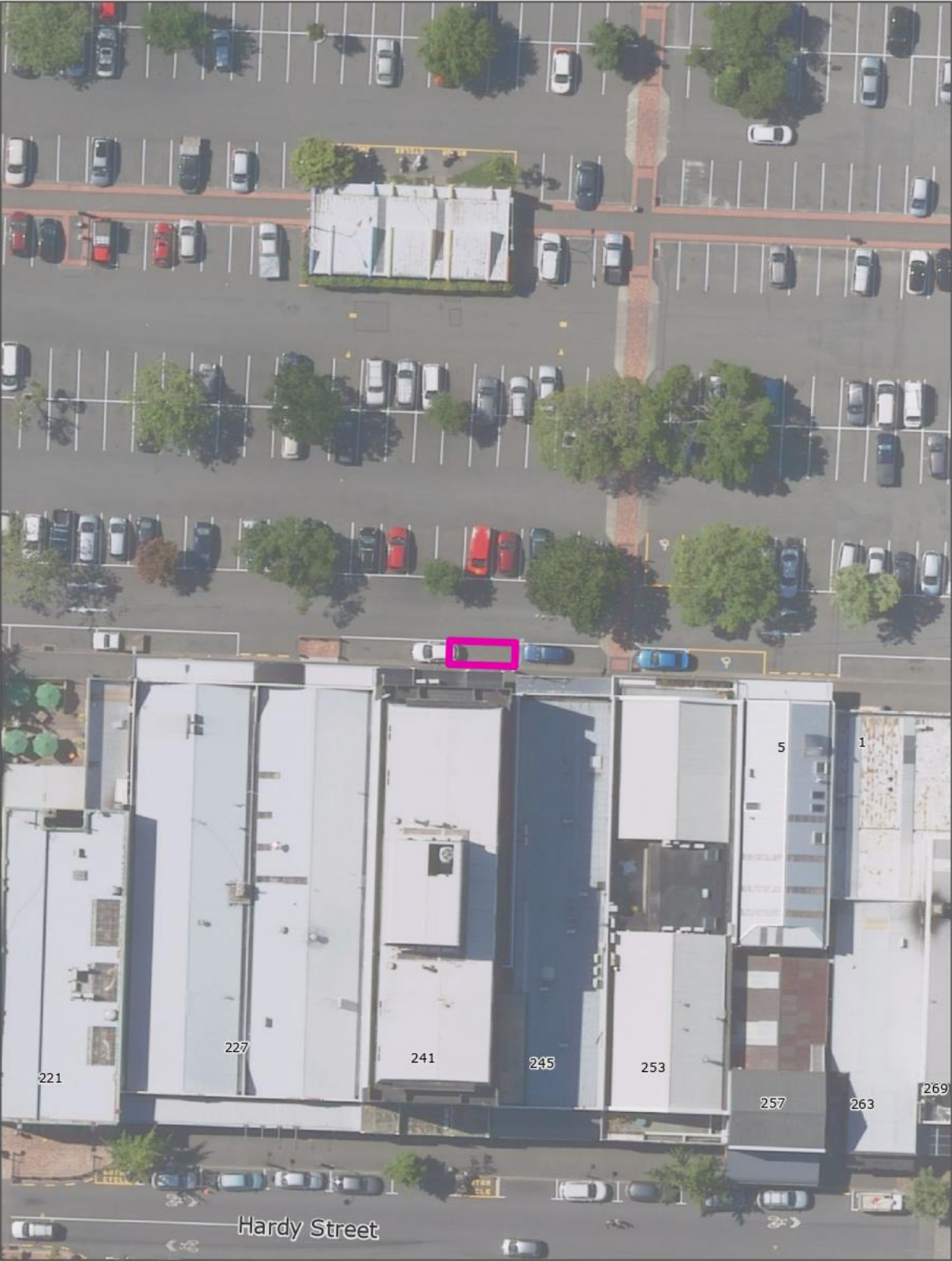
Attachment 2: A2338700 - Schedule of proposed changes to the Parking and Vehicle Control Bylaw [↓](#)

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to
Schedules

<p>Important considerations for decision making</p>
<p>1. Fit with Purpose of Local Government</p> <p>The report recommendation meets current and future needs of communities in contributing to the safe use of the roading and parking network in the City</p>
<p>2. Consistency with Community Outcomes and Council Policy</p> <p>The content and recommendations of this report are consistent with Council's Community Outcomes – "Our Infrastructure is efficient, cost effective and meets current and future needs". In particular that we have good quality, affordable and effective infrastructure and transport networks. This report is directly aligned to the requirements of the Parking Policy, the Parking and Vehicle Control Bylaw and with Council's strategic direction through the Regional Land Transport Strategy.</p>
<p>3. Risk</p> <p>To ensure that the Bylaw is enforceable, it is important to ensure that the Schedules are updated on a regular basis. Failure to update Schedules will open enforcement up to challenge.</p>
<p>4. Financial impact</p> <p>Costs are within allocated annual budgets for road maintenance or capital projects.</p>
<p>5. Degree of significance and level of engagement</p> <p>This matter is of low significance. Nearby businesses and residents that could be affected, have been consulted.</p>
<p>6. Climate Impact</p> <p>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.</p>
<p>7. Inclusion of Māori in the decision making process</p> <p>No engagement with Māori has been undertaken in preparing this report.</p>
<p>8. Delegations</p> <p>The Hearings Panel - Other has the following delegations to consider changes to the Parking and vehicle Control Bylaw.</p> <p><i>Powers to Decide:</i></p> <ul style="list-style-type: none"> • <i>The power to make changes to the schedules to the Parking and Vehicle Control Bylaw that do not require public consultation</i>

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to
Schedules

- *The power to hear submissions and recommendations on proposed changes to the schedules to the Parking and Vehicle Control Bylaw requiring public consultation*



4.1 - Buxton Square

Proposed Bicycle Park



te kaunihera o whakatū

Legend

Proposed Bicycle Park

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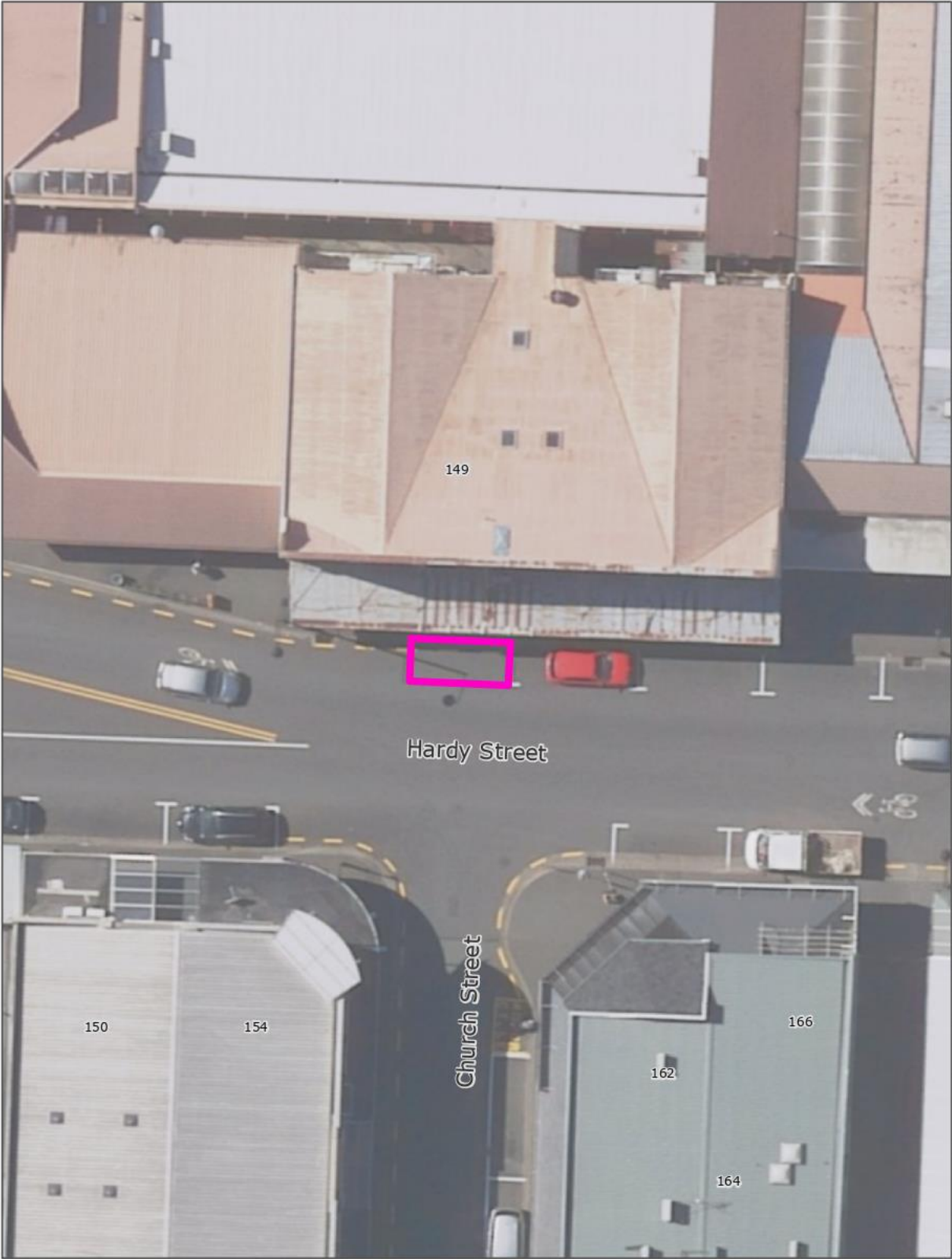
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February 2020

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4.2 - Hardy Street Proposed Bicycle Park



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Proposed Bicycle Park

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February 2020

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4.3 - Church Street Proposed Bicycle Park



te kaunihera o whakatū

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Proposed Bicycle Park

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February 2020

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4.4 - Trafalgar Square & Hardy Street Proposed Mobility Parking



Nelson City Council
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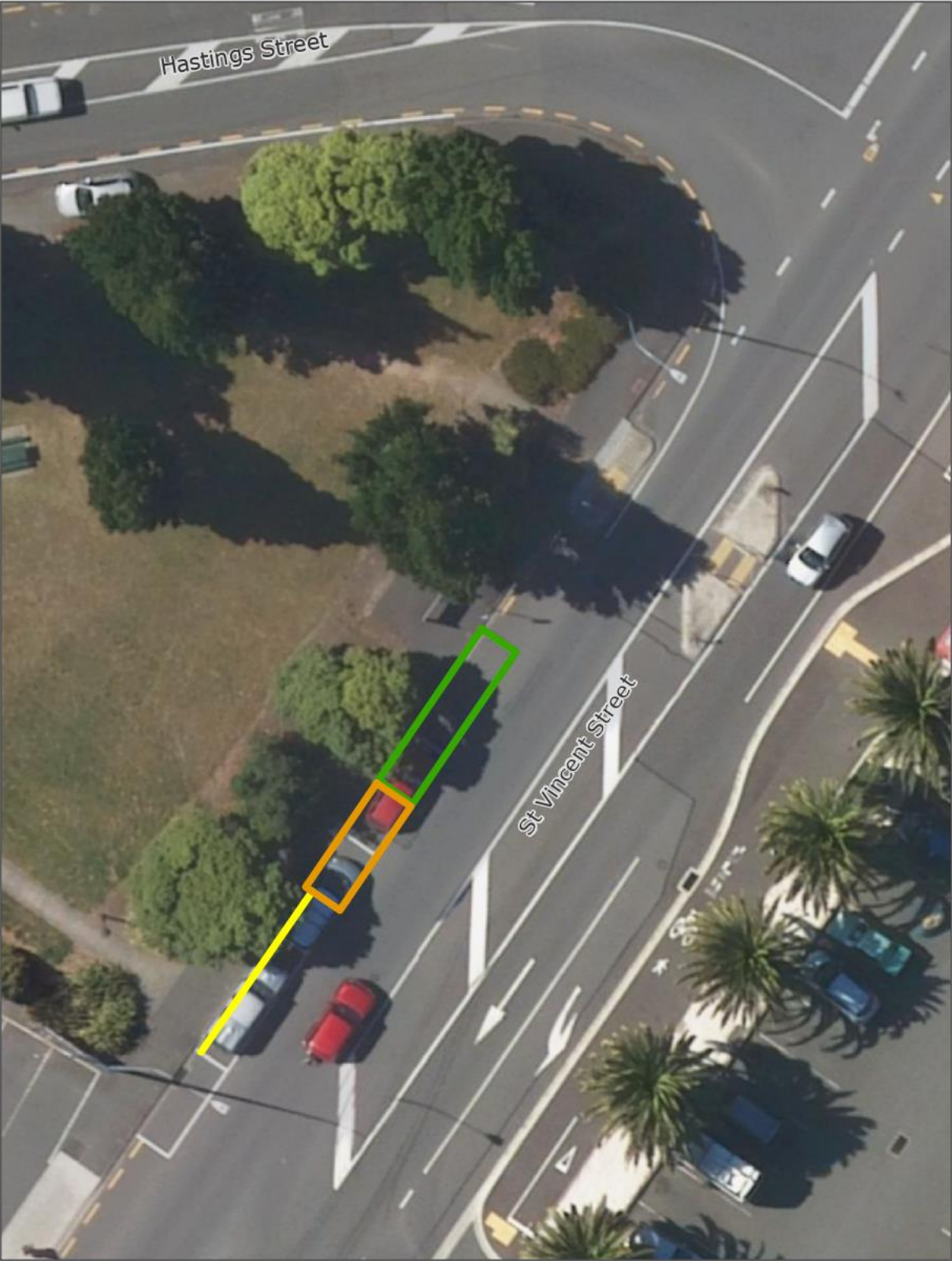
 Proposed Mobility Parking

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February 2020

File Ref: A2330168
MO. Original map size A4.



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4.5 - St Vincent Street
Proposed Bus Stop Extension
& Proposed No Stopping

 **Nelson City Council**
te kaunihera o whakatū

Legend

-  Existing Bus Stop
-  Proposed Bus Stop Extension
-  Proposed No Stopping

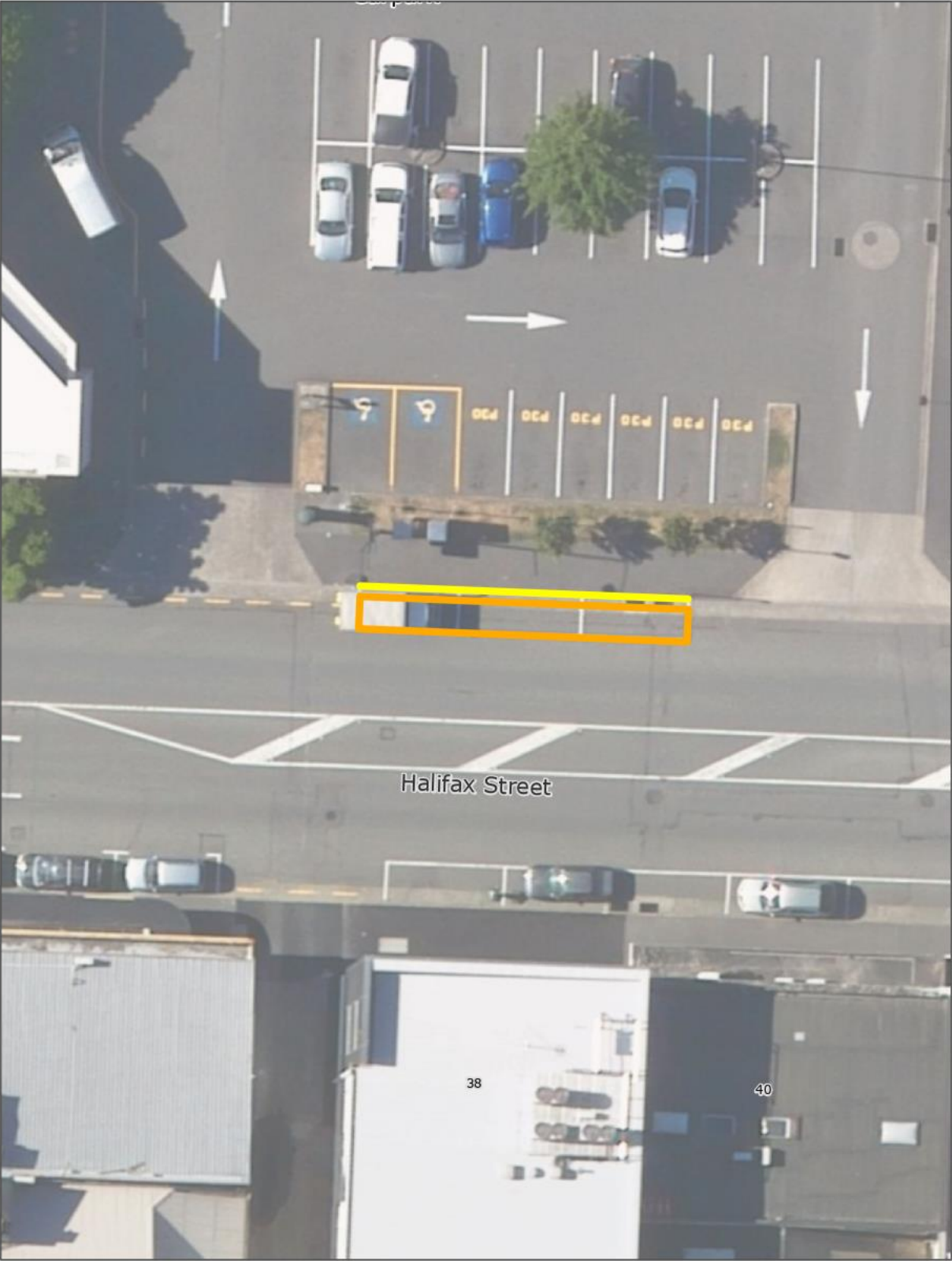
0 2.5 5 7.5
m

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File Ref: A2330168
MO. Original map size A4.



4.6 - Halifax Street Proposed Bus Stop & Time Limited Parking



te kaunihera o whakatū

Legend

-  Proposed Bus Stop
-  Existing Time Limited Parking



0 5 10 m

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4.7 - Trafalgar Street Proposed Bus Stop & Time Limited Parking



te kaunihera o whakatū

Legend

- Existing Bus Stop
- Time Limited Parking



0 5 10 m

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4.8 - Trafalgar Street

Authorised Parking ONLY



te kaunihera o whakatū

Legend

Authorised Parking ONLY

0510


m

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4.9 - Trafalgar Street Removal of Pay and Display

 Nelson City Council
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Legend

 Removal of Pay and Display
Time Limited Carparking

0 10 20 m

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4.10 - 17 Harper Street
Proposed Resident Only
Parking

 **Nelson City Council**
te kaunihera o whakatū

Legend

 Proposed Resident ONLY Park

0 2.5 5 m

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4.11 - Rogers Street & Carkeek Street

Proposed No Stopping & Time Limited Parking (P30)



te kaunihera o whakatū

Legend

- Proposed No Stopping
- Proposed P30 Parking

0 25 50 75 m

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4.12 - 30 Arapiki Road

Proposed No Stopping



Nelson City Council
te kaunihera o whakatū

Legend

 Proposed No Stopping

0510

m

N

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4.13 - Tasman Street at Cambria Street

Proposed No Stopping




Nelson City Council
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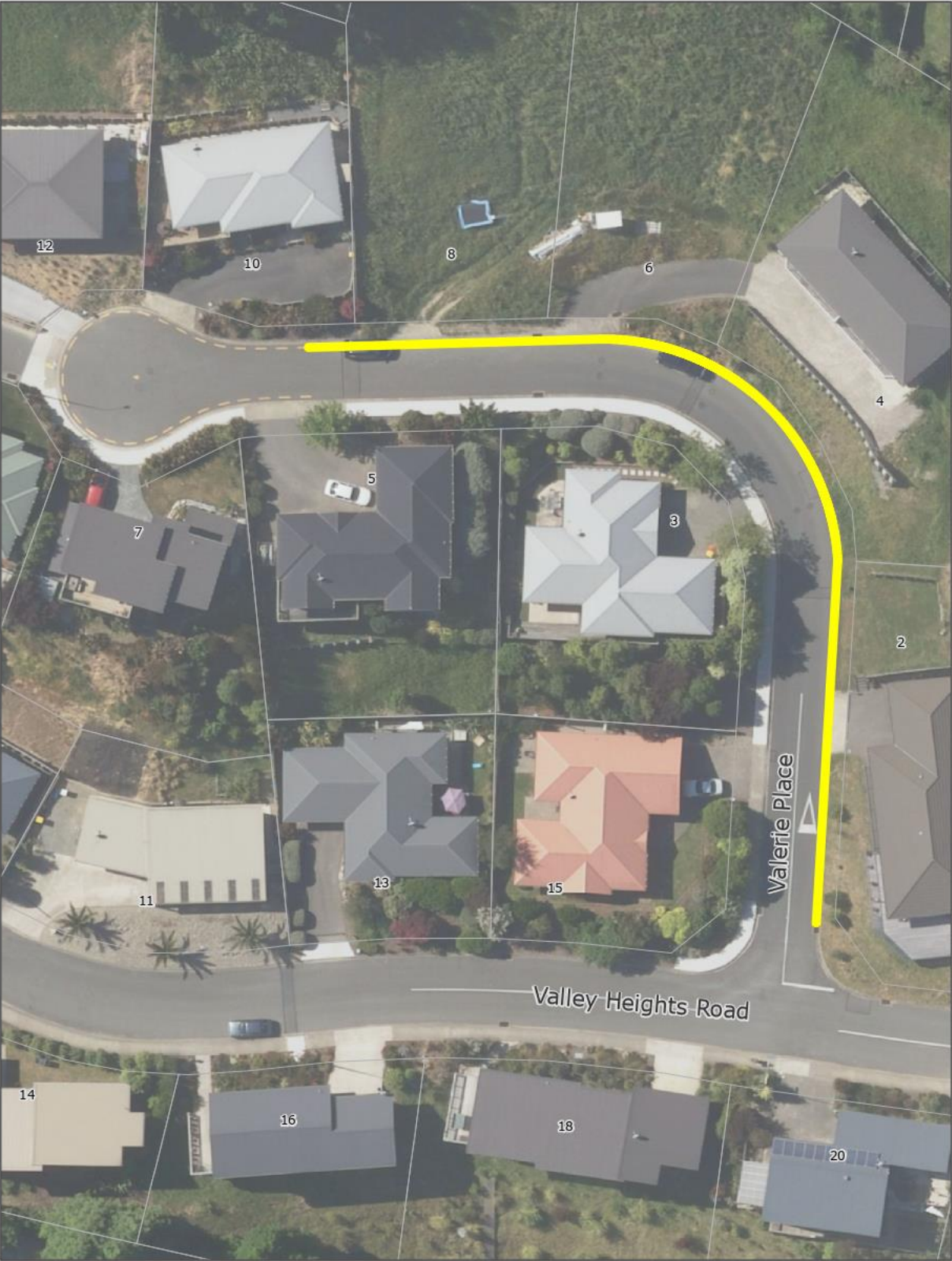
Legend

 Proposed No Stopping

0 5 10 m

 N


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4.14 - Valerie Place

Request for No Stopping



te kaunihera o whakatū

Legend

Request for No Stopping

0

5

10

m

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Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules





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4.16 - 101 Princes Drive
Proposed No Stopping

Legend
 Proposed No Stopping


Nelson City Council
te kaunihera o whakatū

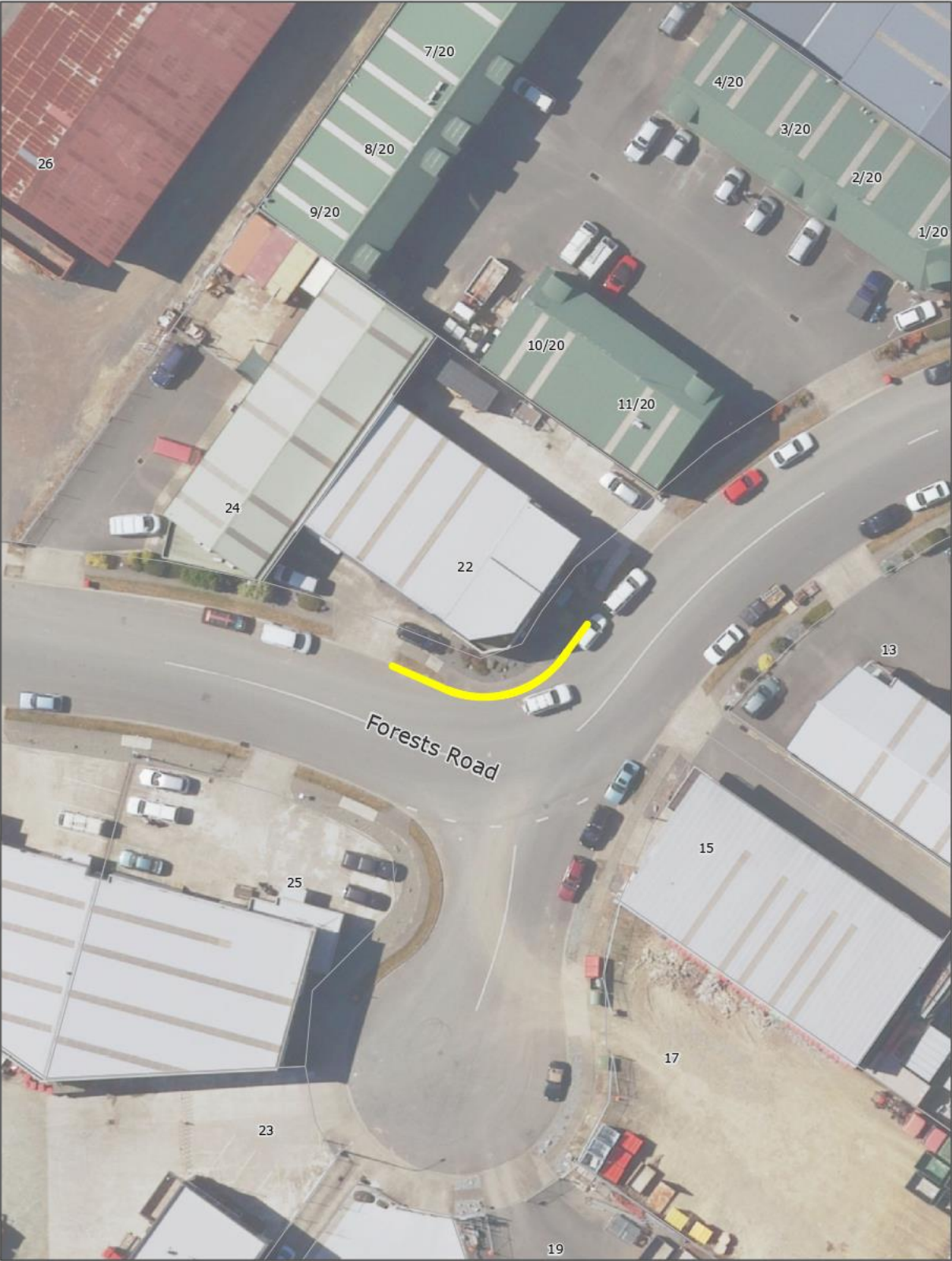

0 5 10 15 m


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MO. Original map size A4.

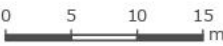



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4.17 - Forests Road Corner
Proposed No Stopping

Legend
 Proposed No Stopping


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0 5 10 15 m


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4.18 - Stoke Library Entrance
Putaitai Street
Proposed No Stopping

 **Nelson City Council**
te kaunihera o whakatū

Legend

 Proposed No Stopping

0 5 10 15 m

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4.19 - Songer Street
Greenmeadows Centre
Proposed No Stopping



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Legend

 Proposed No Stopping

0 5 10
m

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4.20 - Main Road Stoke at Saxton Lodge

Proposed No Stopping



Nelson City Council
te kaunihera o whakatū

Legend

 Proposed No Stopping

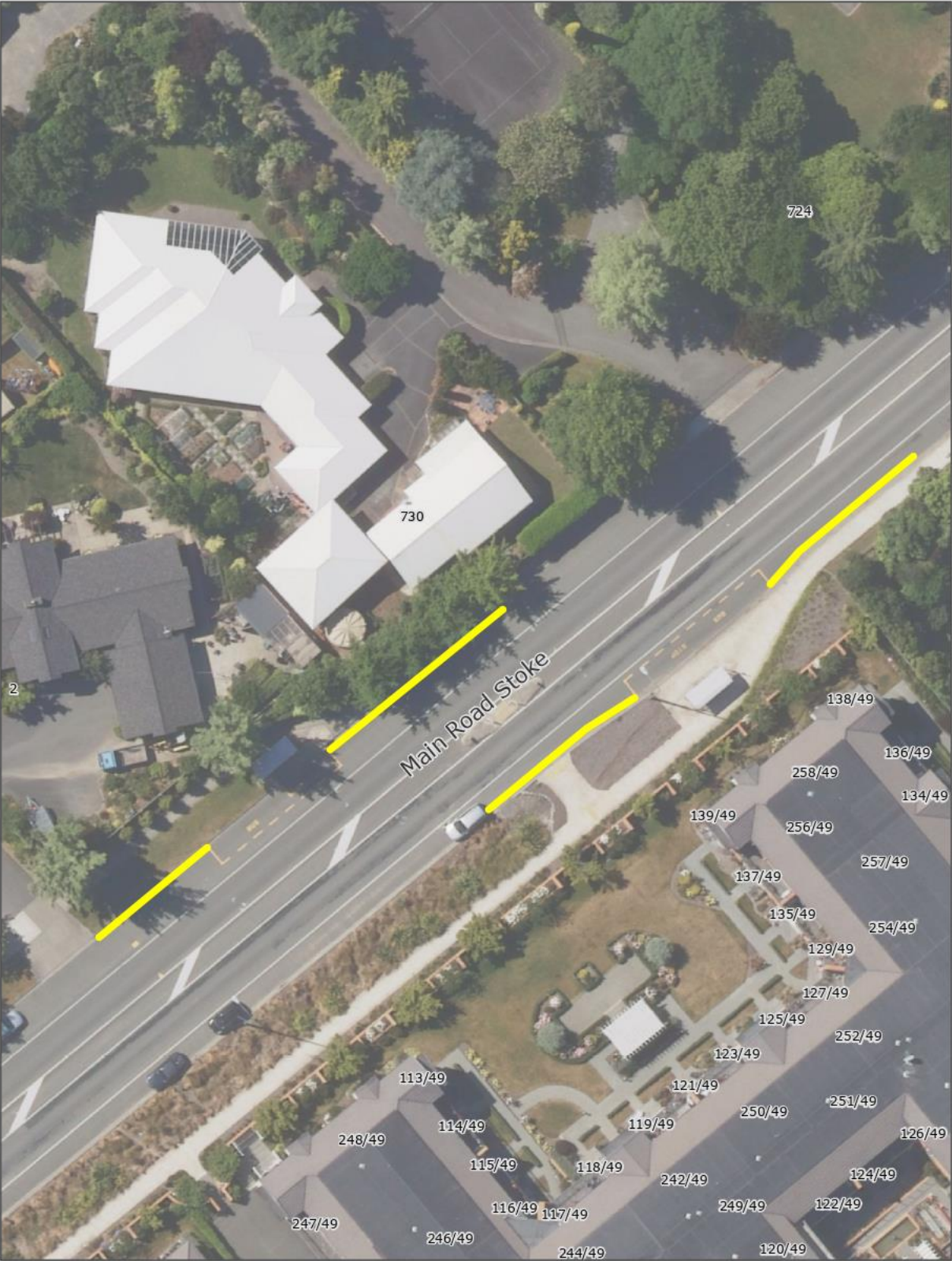


0 5 10 m



N

February 2020



4.21 - Main Road Stoke at Ernest Rutherford
Proposed No Stopping

Legend
Proposed No Stopping

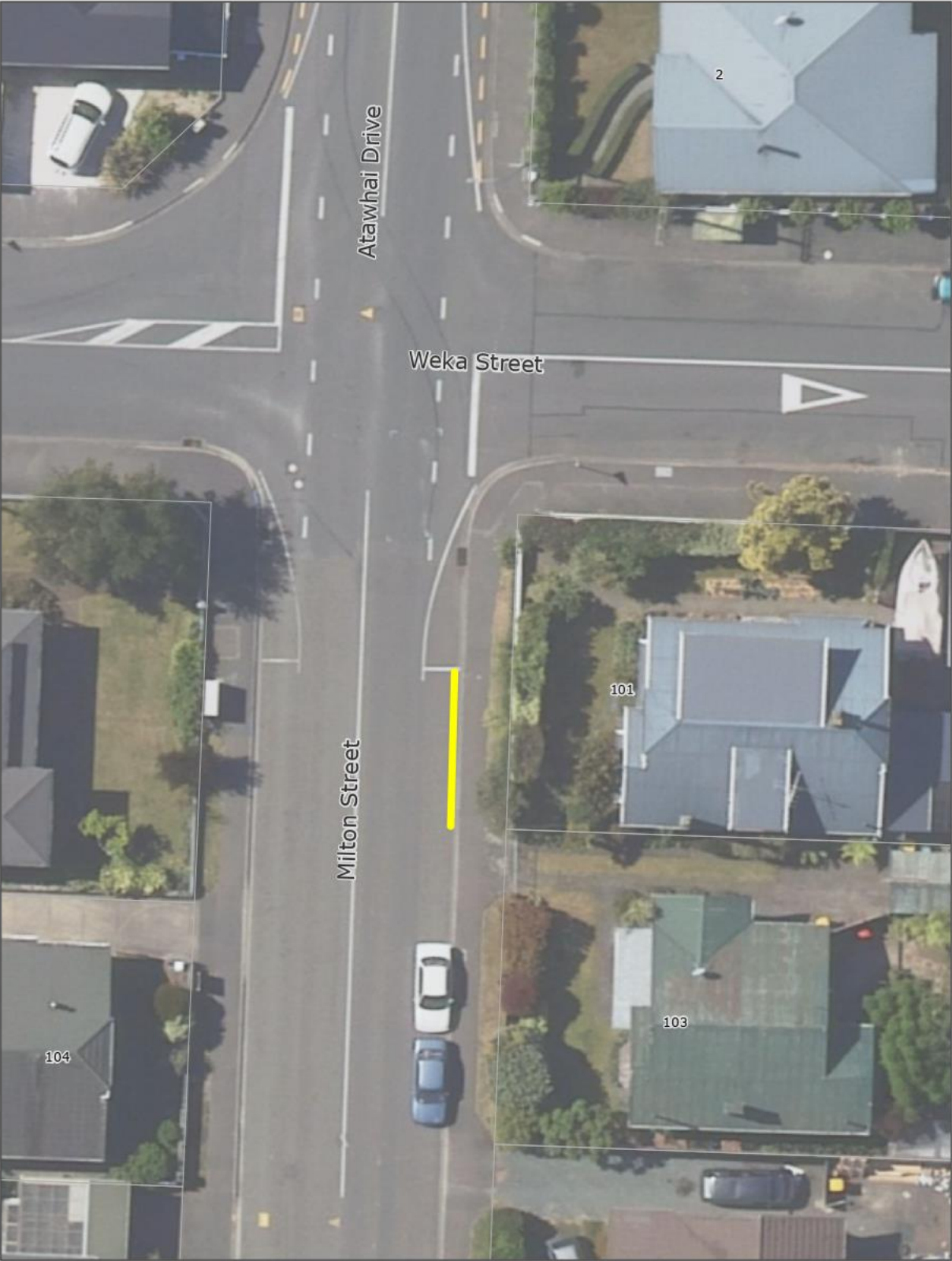
Nelson City Council
te kaunihera o whakatū

0 5 10 m

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4.22 - Milton Street Proposed No Stopping

Legend

Proposed No Stopping

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0 5 10 m

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4.23 - Nile Street

Proposed No Stopping



te kaunihera o whakatū

Legend

Proposed No Stopping

0

5

10

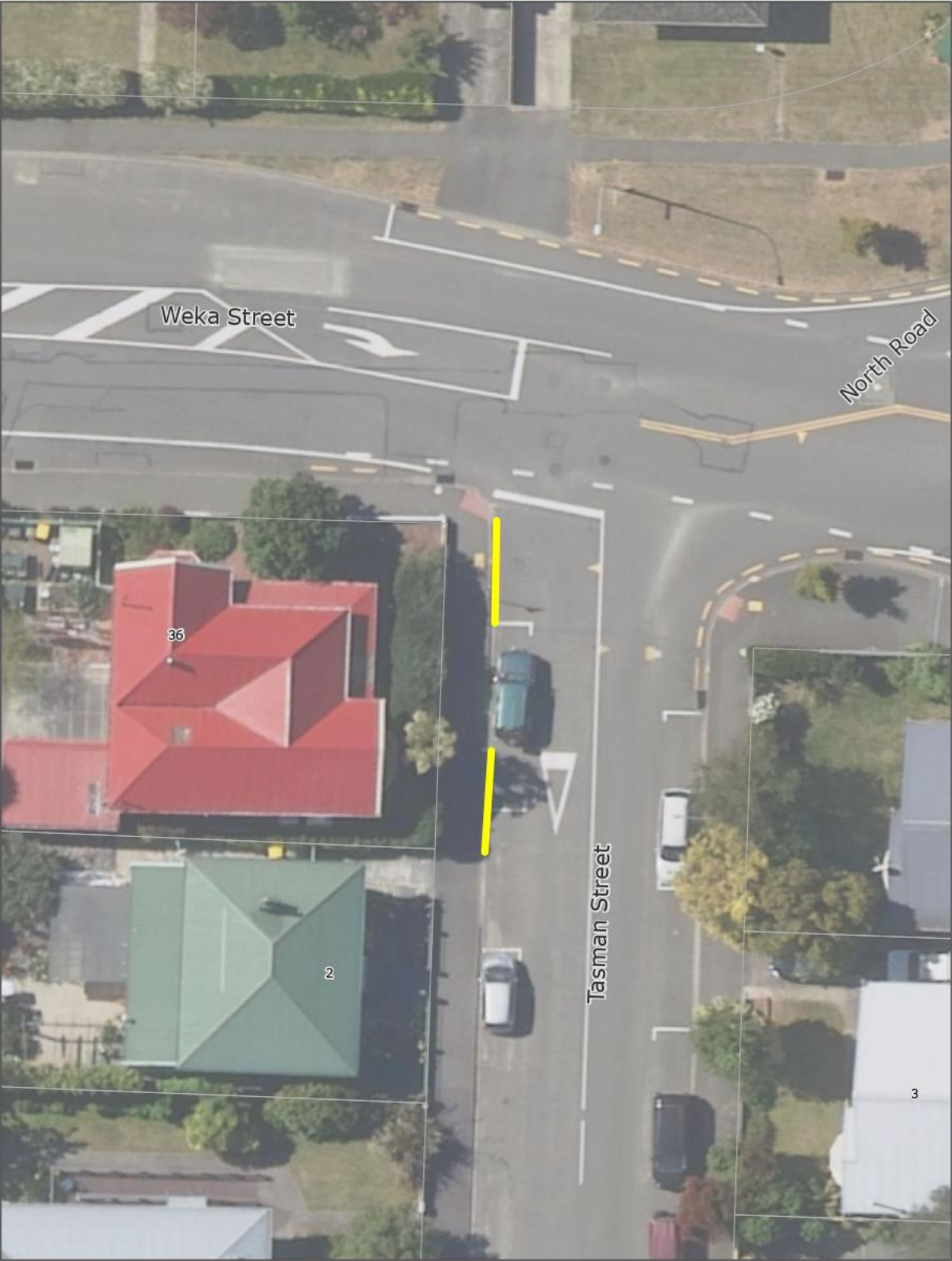
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**4.24 - Tasman Street
at Weka Street
Proposed No Stopping**

 **Nelson City Council**
te kaunihera o whakatū

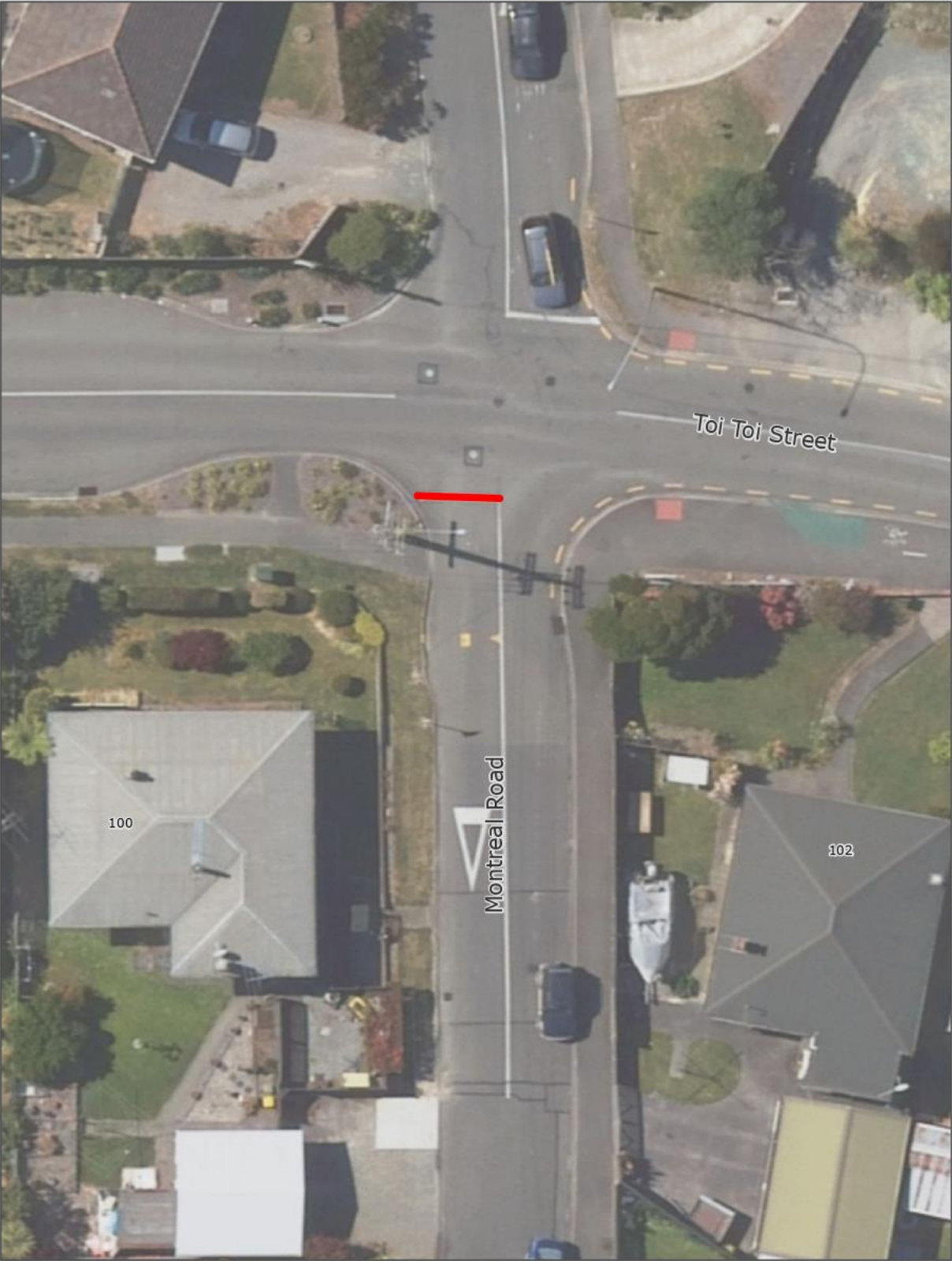
Legend

 Proposed No Stopping

0 5 10 15 m


 N

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**4.26 - Montreal Road
at Toi Toi Street
Proposed Stop & Sign**



te kaunihera o whakatū

Legend

 Proposed Stop & Sign

0 5 10 m

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4.27 - Elderberry Lane Proposed Give Way



te kaunihera o whakatū

Legend

 Proposed Give Way

0


5

10

15

m

N



February 2020

File Ref: A2330168
MO. Original map size A4.

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules:
Attachment 2

Attachment 2 – Schedule of Changes to the Parking and Vehicle Control Bylaw

ID	Street	Start Location	Side	Direction	Start Point	Distance	Type	Status
5471	Elderberry Lane	Sanctuary Drive intersection.	Right	West	0.1	0.1	Give Way Sign	Approved
5470	Montreal Road	Toi Toi Street intersection.	Right	North	0.1	0.1	Stop sign	Approved
5468	Tasman Street	Weka Street intersection.	Right	South	14	9	No stopping	Approved
5467	Tasman Street	Weka Street intersection.	Right	South	0.1	7	No stopping	Approved
5466	Nile Street	King Street intersection.	Left	East	56	5	No stopping	Approved
5465	Milton Street	Weka Street intersection.	Left	South	10	7	No stopping	Approved
5464	Main Road Stoke	Sterling Way intersection.	Right	North	72	13	No stopping	Approved
5463	Main Road Stoke	Sterling Way intersection.	Right	North	36	19	No stopping	Approved
5462	Main Road Stoke	Sterling Way intersection.	Left	North	29	25	No stopping	Approved
5461	Main Road Stoke	Sterling Way intersection.	Left	North	0.1	14	No stopping	Approved
5460	Main Road Stoke	Saxton Road intersection.	Left	North	51	15	No stopping	Approved
5459	Main Road Stoke	Saxton Road intersection.	Left	North	32	19	No stopping	Approved
5457	Songer Street	Main Road Stoke intersection.	Left	East	58	10	No stopping	Approved
5456	Putaitai Street	Neale Avenue intersection.	Right	East	26	9	No stopping	Approved
5455	Forests Road	Venice Place intersection.	Left	East	67	22	No stopping	Approved
5454	Princes Drive	Washington Road intersection.	Left	South	166	27	No stopping	Approved
5451	Valerie Place	Valley Heights intersection.	Right	North	7	98	No stopping	Approved
5450	Tasman Street	Cambria Street intersection.	Right	North	4	2	No stopping	Approved
5449	Tasman Street	Cambria Street intersection.	Left	North	2	5	No stopping	Approved
5447	Arapiki Road	Main Road Stoke intersection.	Right	East	300	12	No stopping	Approved
5446	Rogers Street	Vickerman Street intersection.	Right	West	8	25	P30	Approved
5445	Rogers Street	Vickerman Street intersection.	Left	West	0.1	177	No stopping	Approved
5444	Carkeek Street	Vickerman Street intersection.	Left	West	167	101	No stopping	Approved
5443	Carkeek Street	Vickerman Street intersection.	Left	West	8	132	No stopping	Approved
5442	Harper Street	Manuka Street intersection.	Right	North	24	6	Resident Only Park	Approved
5441	Trafalgar Street	Halifax Street intersection.	Left	South	32	3.5	Authorised Vehicles only	Approved
5440	Trafalgar Street	Halifax Street intersection.	Right	North	32	17	Bus Stop	Approved
5439	Halifax Street	Trafalgar Street intersection.	Left	East	51	16	Bus Stop	Approved
5436	St Vincent Street	Hastings Street intersection.	Right	South	38	10	No stopping	Approved
5435	St Vincent Street	Hastings Street intersection.	Right	South	22	16	Bus Stop	Approved
5434	Hardy Street	Trafalgar Street intersection.	Left	West	22	6	Mobility Park P120 Pay & display	Approved
5433	Hardy Street	Trafalgar Street intersection.	Right	East	20	5	Mobility Park P120 Pay & display	Approved
5432	Selwyn Place	Park Street intersection.	Left	West	5.5	5	Mobility Park P120 Pay & display	Approved
5431	Selwyn Place	Park Street intersection.	Left	East	3.5	6	Mobility Park P120 Pay & display	Approved
5429	Church Street	Selwyn Place intersection.	Right	North	18	4	Bicycle Park	Approved
5428	Hardy Street	Church Street intersection.	Left	East	0.1	5	Bicycle Park	Approved
5427	Buxton Square	Collingwood Street intersection.	Left	West	110	6	Bicycle Park	Approved

REPORT R11509

**Objection to Classification of dog as menacing.
Marek Holoubek. Dog Loui.**

1. Purpose of Report

- 1.1 To decide on an objection to the classification of a dog named Loui as menacing pursuant to Section 33A of the Dog Control Act 1996.

2. Summary

- 2.1 On Wednesday 7 August 2019, at about 10.15am Marek Holoubek took his male black Retriever Labrador dog Loui for a walk on the Grampians track at the top of Collingwood Street, Nelson.
- 2.2 Mr Holoubek let Loui off his leash and about 200 metres up the track Loui saw a sheep and chased it down the hill, off the track.
- 2.3 Mr Holoubek lost sight of both his dog and the sheep and when he found them some time later the sheep was caught in the boundary fence.
- 2.4 Loui was next to the sheep which showed signs of injury.
- 2.5 Mr Holoubek called Loui away, reattached his leash and called the police who contacted the SPCA who in turn advised Nelson City Council Animal Control to attend.
- 2.6 The owner of the sheep, Andrew Newton who leases the Grampians Reserve area and runs stock there attended and found his sheep had serious dog bite injuries to its rear left leg and rump.
- 2.7 The injuries sustained by the sheep were so serious it had to be euthanised.
- 2.8 As a result of the attack, Nelson City Council Officers classified Loui as menacing pursuant to Section 33A of the Dog Control Act 1996. (Attachment 1)
- 2.9 Marek Holoubek has objected to the classification. (Attachment 2)

3. Recommendation

That the Hearings Panel - Other

- 1. Receives the report Objection to Classification of dog as menacing. Marek Holoubek. Dog Loui. (R11509) and its attachments (A2271572, A2275167, A2134555, A2275364, A2282550, A2282555); and***
- 2. Dismisses the objection of Marek Holoubek; and***
- 3. Upholds the classification of the dog Loui as menacing.***

4. Background

- 4.1 Nelson City Council is not aware of any previous dog control history involving aggression or attacks by the dog Loui.

5. Discussion

Circumstances of the Attack:

- 5.1 On Wednesday 7 August 2019, at about 10.15am, Marek Holoubek took his unleashed dog Loui for a walk on the Nelson City Council public reserve known as The Grampians.
- 5.2 Loui chased and attacked a sheep which was so severely injured it had to be euthanised.

Legislation around classification of a dog as menacing

- 5.3 Section 33A of the Dog Control Act 1996 provides for a dog to be classified as menacing if the territorial authority considers that the dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of observed or reported behaviour of the dog. (Attachment 3)
- 5.4 Section 33B of the Dog Control Act 1996 provides a right to the owner of a dog classified as menacing to object to the classification and be heard in support of the objection.
- 5.5 Section 33B(2) outlines that the territorial authority considering an objection may uphold or rescind the classification, and in making its determination must have regard to:
- (a) The evidence which formed the basis for the classification; and

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules: Attachment 2

- (b) Any steps taken by the owner to prevent any threat to the safety of persons or animals; and
 - (c) The matters relied on in support of the objection; and
 - (d) Any other relevant matters.
- 5.6 Section 33B(3) outlines that the territorial authority must, as soon as practicable, give written notice to the owner of-
 - (a) Its determination of the objection; and
 - (b) The reasons for its determination.
- 5.7 Section 33E of the Dog Control Act requires that if a dog is classified as menacing, the following must be complied with:
 - (a) The owner must not allow the dog to be at large or in any public place or private way, without being confined completely within a vehicle or cage, or without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction.
 - (b) If required by the territorial authority the dog must be neutered.

Note: Nelson City Council Dog Control Policy requires that all dogs classified as menacing are neutered.

The Evidence which formed the basis for the Classification

- 5.8 In his statement, Marek Holoubek admits he took his dog Loui for a walk on the Grampians track and that Loui was not on a leash. He admits Loui saw and chased a sheep. He lost sight of both Loui and the sheep. After searching for a time and being directed by another person in the area, he found Loui with the sheep which was "caught in the fence". (Attachment 4)
- 5.9 The attack was not seen by anyone but Loui was beside the severely injured sheep when his owner Mr Holoubek found him.
- 5.10 In his statement, the owner of the sheep, farmer Andrew Newton said on his arrival he "tested" Loui's reaction to the sheep by having him released from his leash and observing the dog's behaviour. He reported the dog immediately ran towards the sheep and tried to attack it. A tree branch was used to discourage Loui. (Attachment 5)
- 5.11 Very experienced in dog behaviour, Mr Newton in his statement describes Loui as being "a full on stock worrier with a very high level of malicious intent."
- 5.12 Mr Newton examined the injuries to his sheep and reported the injuries could not have been caused by the sheep simply getting caught in the fence. The injury sustained was caused by a dog with a powerful bite.

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules: Attachment 2

The injury was not just a bite, there was meat chewed off the rump of the back left leg and the leg bone was broken. Mr Newton said this could only have been caused by a dog with a strong bite.

- 5.13 Dog Control Officer William (Bill) Gaze, with 14 years experience, investigated the attack and reported the injuries he observed on the sheep were consistent with it having been attacked by a dog. He said the wound was a bite and tear wound and the injuries were not survivable, and would not have been caused by the sheep simply being caught in a fence. (Attachment 6)
- 5.14 Photographs taken by Bill Gaze show the injuries sustained by the sheep were of a serious nature. (Attachment 6 - graphic)

Steps taken by dog owner to prevent any threat to the safety of persons or animals

- 5.15 Marek Holoubek initially took responsibility for the attack. He did the correct thing at the time by contacting the SPCA and spoke willingly to the investigating Dog Control Officer, Bill Gaze.
- 5.16 Mr Holoubek has recompensed the owner of the sheep for its value of \$400.

Matters relied on in support of the objection

- 5.17 Marek Holoubek has submitted a written objection to the classification of his dog Loui as menacing. (Attachment 2)
- 5.18 In his submission Mr Holoubek states, "On August 7, while exercising Loui in Grampians Reserve there was a situation with a sheep being caught in a fence and not sure how to help the sheep, called the police."
- 5.19 He further submits that, "as a result of (his) limited English and inability to describe the circumstances leading up to the sheep becoming caught in the fence he has implicated himself and Loui in an offence."
- 5.20 Mr Holoubek claims he did not lose control of Loui and Loui returned directly to him when called.
- 5.21 Mr Holoubek further submits Loui did not cause the injury to the sheep – it broke its leg when caught in the fence.
- 5.22 Loui is described as an extraordinarily good natured dog whose character does not fit the classification.
- 5.23 Material supplied in support of the objection includes an assessment of Loui by a Dog Behaviourist from a company called "Sit-Happens" and 4 testimonies from friends, neighbours and family members plus 3 photos of Loui and his Christchurch City Council dog registration form.

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules: Attachment 2

Any other relevant matters

- 5.24 The dog in question is Loui and is owned by Brendon Morris and his partner Alice Blackburn of 529 Hereford Street, Linwood, Christchurch.
- 5.25 On 7 August 2019, at the time of the incident Brendon and Alice were away visiting family in Denmark for an extended period of time. While they were away, Marek Holoubek took “ownership” of Loui.
- 5.26 The Dog Control Act 1996 defines that **owner**, in relation to any dog, means every person who—
- (a) owns the dog; or
 - (b) has the dog in his or her possession, whether the dog is at large or in confinement, otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, damage, or distress, or for the sole purpose of restoring a lost dog to its owner.
- 5.27 Therefore, by definition, at the time of the attack, Marek Holoubek was the owner of Loui as he had been in his possession for a period of longer than 72 hours.

6. Options

Option 1: The Objection be Dismissed (Recommended Option)	
Advantages	This will result in Loui being legally required to wear a muzzle whenever out in public. He will also be required to be neutered. This will reduce the risk of people, other dogs and animals being attacked and injured should another aggression incident occur.
Risks and Disadvantages	This may have a negative impact on life activities the dog Loui and his owner enjoys.
Option 2: The Objection be Upheld	
Advantages	Loui will not legally be required to wear a muzzle in public or be neutered.
Risks and Disadvantages	This will increase the risk of other animals being attacked and injured if Loui were to again become aggressive.

7. Conclusion

- 7.1 It has been submitted that Loui is a lovely, calm, friendly good natured dog with no issues of aggression towards people, other dogs and even cats. He is well behaved and responds to commands. This description of

Item 10: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules: Attachment 2

Loui, when he is around people, other dogs and even cats is not disputed – however – the evidence is that Loui is a sheep worrier.

- 7.2 None of the people who supplied testimonies have witnessed how Loui reacts with sheep. The Dog Behaviourist, Lisa Sturm states in her report that she “cannot comment on Loui’s behaviour around sheep.”
- 7.3 The evidence is clear from the farmer, Andrew Newton who tested Loui’s reaction to the sheep, that Loui reacts in an aggressive manner towards sheep and will attack them.
- 7.4 The most lovely, calm, playful family dog is very capable of becoming a sheep worrier when around sheep. Loui is considered to be one such dog.
- 7.5 It is considered that in order to reduce the risk of an attack on other animals, stock or a member of the public that Loui should be muzzled whenever in a public place. A menacing classification is the lowest level of classification and requires the use of a muzzle when in public. A muzzle would not be required when Loui is on private land.
- 7.6 It is recommended that the objection be dismissed and the classification of Loui as a menacing dog be upheld.

Author: Brian Wood, Team Leader Regulatory (Environmental Inspections)

Attachments

- Attachment 1: A2271572 Menacing Classification Papers - Dog Loui [↓](#)
- Attachment 2: A2275167 Marek Holoubek Objection to Menacing Classification - Dog Loui [↓](#)
- Attachment 3: A2134555 Dog Control Act 1996 Section 33A & 33B [↓](#)
- Attachment 4: A2275364 Marek Holoubek Statement re Dog Attack [↓](#)
- Attachment 5: A2282550 Andrew Newton Sheep owner Statement [↓](#)
- Attachment 6: A2282555 Bill Gaze Dog Control Officer Statement and photos [↓](#)**Please note contains graphic photos**

Important considerations for decision making	
1. Fit with Purpose of Local Government	The regulatory functions are to be performed in a manner that is most cost effective for households and businesses. The Dog Control Act 1996 provisions are being applied appropriately to minimise the public risk.
2. Consistency with Community Outcomes and Council Policy	The recommendation aligns with the Council's Dog Control Policy by having regard to the need to minimise the danger, distress and nuisance to the community caused by dogs and/or by non-compliant owners.
3. Risk	<p>Council has obligations under the Dog Control Act 1996 to follow the correct legal process.</p> <p>There is a risk to the community from future incidents if the recommendation is not supported.</p>
4. Financial impact	There is no Financial Impact for Council.
5. Degree of significance and level of engagement	The recommendations outlined in this report are not considered significant in terms of Council's Significance and Engagement Policy.
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: <i>to hear and determine objections to the classifications of dogs and all other procedural matters for which a right of objection and hearing is provided for under the Dog Control Act 1996.</i>

Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 1

Owner #: 21181

Notice of classification of dog as menacing dog
Section 33A, Dog Control Act 1996

Milek Holoubek
529 Hereford Street
Linwood
Christchurch 8011

Dog: [description] Retriever, Labrador

This is to notify you *that this dog has been classified as a menacing dog under section 33A(2) of the Dog Control Act 1996.

This is because [under section 33A(1)(b)]

Loui did attack a sheep injuring it to such an extent that it had to be euthanised

A summary of the effect of the classification and your right to object is provided below.

Signature of officer for Nelson City Council



Date

20/08/2019.

*For the purposes of the Dog Control Act 1996, you are the owner of a dog if –

- you own the dog; or
- you have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or
- you are the parent or guardian of a person under 16 who is the owner of the dog and who is a member of your household living with and dependent on you.

Effect of classification as menacing dog
Sections 33E, 33F, and 36A, Dog Control Act 1996

You –

- (a) must not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
- (b) must, if required by the Nelson City Council, produce to the Nelson City Council, within 1 month after receipt of this notice, a certificate issued by a registered veterinary surgeon certifying –
 - (i) that the dog is or has been neutered; or
 - (ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and

Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 1

Owner #: 21181

- (c) where a certificate under paragraph (b)(ii) is produced to the Nelson City Council, produce to the Nelson City Council within 1 month after the date specified in that certificate, a further certificate under paragraph (b)(i).

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with all of the matters in paragraphs (a) to (c) above.

A dog control officer or dog ranger may seize and remove the dog from you if you fail to comply with all of the matters in paragraphs (a) to (c) above. The officer or ranger may keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (c) above.

As from 1 July 2006, **you are also required**, for the purpose of providing permanent identification of the dog, **to arrange for the dog to be implanted with a functioning microchip** transponder. This must be confirmed by making the dog available to the Nelson City Council in accordance with the reasonable instructions of the Nelson City Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with this requirement –

- within 2 months from 1 July 2006 if your dog is classified as menacing on or after 1 December 2003 but before 1 July 2006; or
- within 2 months after the dog is classified as menacing if your dog is classified as menacing after 1 July 2006.

If the dog is in the possession of another person for a period not exceeding 72 hours, you must advise that person of the requirement to not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction. You will commit an offence and be liable on conviction to a fine not exceeding \$500 if you fail to comply with this requirement.

Full details of the effect of the classification of a dog as menacing are provided in the Dog Control Act 1996.

Right of objection to classification under section 33C

Section 33D, Dog Control act 1996

You may object to the classification of your dog as menacing by lodging with the Nelson City Council a written objection within 14 days of receipt of this notice setting out the grounds on which you object.

You have the right to be heard in support of your objection and will be notified of the time and place at which your objection will be heard.

You must provide evidence to the Nelson City Council that the dog is not of a breed or type listed in Schedule 4 of the Dog Control Act 1996.

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Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 2

Brian Wood

From: Marek Holoubek <hmarekus@seznam.cz>
Sent: Monday, 2 September 2019 8:30 p.m.
To: Council Enquiries (Enquiry)
Subject: Appeal classification of dog as menacing - infringement nr. 13466
Attachments: 2_Loui - Assessment.pdf; 3_Testimony - Jenny Schoepe and Justinus Knecht.pdf; 4_Testimony - William Riches.pdf; 5_Testimony - Fiona Blackburn.pdf; 6_Testimony - Sheryl Morris.pdf; 7_Photo 1 of Loui.png; 8_Photo 2 of Loui and Roxy (cat).png; 9_Photo 3 of Loui and Bonny (dog in testimony 4).png; 10_Dog Registration[3139].PNG; 1_Loui - Appeal.pdf

Infringement: 13466

Dear Nelson City Council,

This is regarding my dog Loui who has been classified as menacing under section 33a(2), dog control act 1996.

Please find enclosed the appeal (1) and supporting documents (2-10):

1. 1_Loui – Appeal
2. 2_Loui – Assessment
3. 3_Testimony - Jenny Schoepe and Justinus Knecht
4. 4_Testimony - William Riches
5. 5_Testimony - Fiona Blackburn
6. 6_Testimony - Sheryl Morris
7. 7_Photo 1 of Loui
8. 8_Photo 2 of Loui and Roxy (cat)
9. 9_Photo 3 of Loui and Bonny (dog in testimony 4)
10. 10_Dog Registration [3139]

Kind regards

Marek Holoubek

02041786818

Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 2

①

1/09/2019

Notification of Appeal

Infringement: 13466

Dear Nelson City Council,

In this letter we (Marek Holoubek as current owner of Louis; Brendon Morris and Alice Blackburn on behalf of Marek and as previous owners of Loui) respectfully object to the charge against Marek Holoubek for the offence "failure to keep dog under control" and to the classification of Loui as "menacing".

Our friend Marek has been looking after our dog Loui while we are visiting family in Denmark.

On August 7 Marek was exercising Loui in Grampians Reserve. There was a situation with a sheep being caught in a fence and Marek, not sure how to help the sheep, called the police. As a result Marek was connected to Nelson City Council and Animal Management were sent to assist.

We believe as a result of Marek's limited English and inability to describe the circumstances leading up to the sheep becoming caught in the fence Marek has implicated himself and Loui in an offence.

The facts:

Marek is being charged with failure to keep dog under control (dog control act 53(1) subsequently Loui is being classified as a menacing dog (section 33a(2), dog control act 1996) citing section 33a(1)(b) stating that "Loui did attack a sheep injuring it to such an extent that it had to be euthanised".

We would like to appeal the charge and the subsequent classification.

Marek didn't lose control of Loui to the contrary Loui returned directly to Marek when called. Loui didn't cause the injury to the sheep that required the sheep to be euthanised, it was its broken leg which was caused by the sheep being caught in the fence.

We have requested evidence in relation to the charge and classification be provided to us but none has been provided.

Summary:

The evidence will demonstrate that the charge against Marek and Loui are inappropriate.

In our appeal we will provide testimonies from friends and assessments from expert dog

①

trainers.

It is of strong belief that this case should be reconsidered and the charges against Loui and Marek be dropped.

Marek is a responsible man who despite his limited English is very competent and responsible.

Loui is an extraordinarily good natured dog whose character does not fit this charge or the classification.

Yours sincerely

Marek Holoubek,



Brendon Morris



Alice Blackburn





DOG CHARACTER ASSESSMENT – LABRADOR RETRIEVER LOUI

31st August 2019

Dear Alice and Brendon,

Thank you for engaging me to perform a character assessment of your dog Loui.

I met Loui yesterday (30th August 2019) and can confirm that Loui was extremely calm and friendly with me.

We also encountered another dog and their owner during our assessment and Loui did not show any interest in running up to them. When they came up, Loui sniffed the other dog shortly, ignored the owner and moved on. This is great social behaviour.

I cannot comment on Loui's behaviour around sheep, but can say that he did not show any interest in the birds that were flying around him.

As I understand the sheep in the incident you described to me got a fright of Loui and got caught in the fence because of this. I am sorry to hear the sheep had to be euthanised, but as far as I understand, Loui did not attack the sheep.

It sounds like your friend who was Loui's guardian on the day of the incident reacted well by attaching Loui with a lead to a tree and getting help for the sheep.

I am sorry to hear that Loui is currently registered as menacing and wish you good luck with your appeal.

Thanks,

A handwritten signature in black ink, appearing to read 'LS', followed by a long horizontal flourish.

Lisa Sturm
Director & Trainer

www.sithappens.co.nz

③

27/08/2019

Loui

We moved to Alice and Brendon in the middle of January and lived with them and Loui for about 2 Months in Christchurch. Justinus Knecht, have been bitten by a dog when he was about 10 Years old- straight in his face, the wound needed to be stitched multiple times. Since then he is afraid of big dogs- Till this year January, when he met Loui. Because of this special Character, Justinus found his confidence to interact with dogs again. Because of Louis extraordinary Empathy he seemed to feel the fear of Justinus and waited till Justinus was going to interact with him (Throwing a ball or a stick). After the first weeks, Justinus was even happy to see Loui, he came in the morning, got a pet and left him alone again.

Myself, Jenny, I grew up with dogs, we always had one in our Family and I would say I am really experienced.

I started teaching Loui new stuff and I was very impressed how quickly he learned.

After a week I took him for a walk, I was a bit concerned if he would stay with me. First I took him on a leash, after half an Hour I wanted to throw sticks and even without a Leash he new straight away with who he needs to walk and that he needs to listen to me when I call him. There was never a Problem Loui came to me when I called him- I was impressed about his adaptability and intelligence. Its unusual for a dog being unleashed and listens to someone on the first walk and knows the human for a week.

Later Justinus came with me on walks, played with Loui on the beach and Justinus was even confident enough to play with Loui on a stick (Justinus holds the stick and Loui is holding on onto the other side) which is highly unusual for someone with a traumatic experience like Justinus had. After fabulous 2 Months it was time to leave Christchurch and Travel the South Island. We looking forward to meet Alice, Brendon and Loui again and enjoy more walks with big sticks. Loui was like a Therapy to Justinus and we are thankful for that!

Kind regards

Jenny Schoepe and Justinus Knecht

02041790733

Jenny.Schoepe@web.de

Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 2

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29/08/2019

To the Nelson Council,

I am writing in regard to Loui Morris.

I have known Loui since he was a 1-year old puppy which is 2 years and 7 months now, he lives two doors down from my house with Brendon Morris. He has stayed at my house under my care numerous times in the past with no issues.

I have never had an issue with him being aggressive towards anyone in my household or my guests. I've taken Loui to Sumner beach and different rivers around Canterbury and not had any problems or issues at all. He listens to commands from myself and my partner and is very well disciplined. Loui is great with my dog Bonny, he has never hurt her or tried to chase either of my two cats. I have never witnessed an aggressive trait in Loui, he is genuinely a happy and playful dog. I have walked Loui hundreds of times without a lead around the streets of my area here in Linwood, Christchurch and maintained full control over him. I have never once seen his father, Brendon, lose control of Loui either.

I believe the accident with the sheep on the 7th of August only occurred out of curiosity and play, not an attack. Therefore, I do not believe it is necessary for Loui to be classed as a dangerous dog.

Yours sincerely,

William Ronald Riches

0277409497

Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 2

30.08.2019

5

To the Nelson Council

I am writing to you in regard of Loui.

My name is Fiona and I am Alice' sister. I met Loui for the first time about 3 years ago, when Alice and Brendon came and picked me up from the airport, with Loui in the car. My first impression of Loui was that he was a happy and VERY friendly dog. He greeted me with excitement, a wagging tale and lots of kisses.

This view of Loui did not change when I got to know him better. During my stays with Alice and Brendon I have taken Loui for walks both with them and by myself, and have only experienced Loui as a friendly, playful and happy dog. I have never seen Loui out of control at any time, and I have never seen him aggressive toward people or other animals. I do not believe that Loui intended to hurt the sheep at any time, but rather intended to play with it, due to his playfulness and curiosity.

Therefore in my opinion Loui is decently not a dangerous dog, and I do not believe that it is necessary to classify him as such, as I do not believe that an accident like the 7. Of August will happen again.

Best regards

Fiona Blackburn

+4541608812

Fiona-ab@hotmail.com

Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 2

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28/08/2019

To whom it may concern,

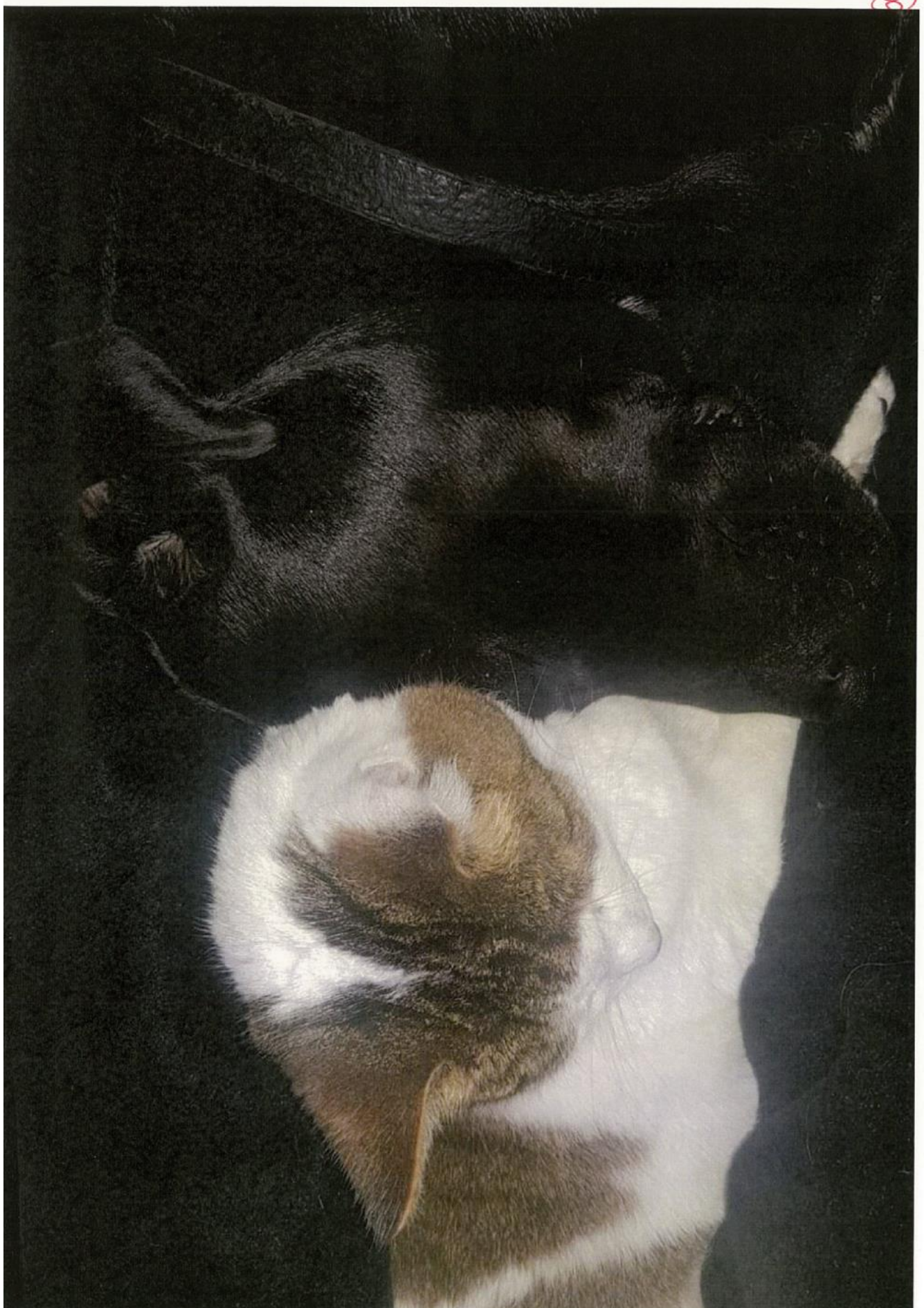
I was shocked to hear of the incident implicating Loui in the harm of a sheep. I am neither a dog expert nor a lover of dogs but every now and again have met an exceptional one and Louis is one such dog. I have witnessed his behaviour around cats, kittens, other dogs and even llamas and found him to be the most gentle, sweet natured, well mannered and obedient dog I have ever encountered. He is friendly and affectionate towards all people and when around children he is shy, reticent and reserved. I implore whoever is in charge of the judgement of this matter will take at least five minutes in Louis company before deciding the fate of this beloved member of the family.

Kind Regards
Sheryl Morris
sheryl.morris@icloud.com



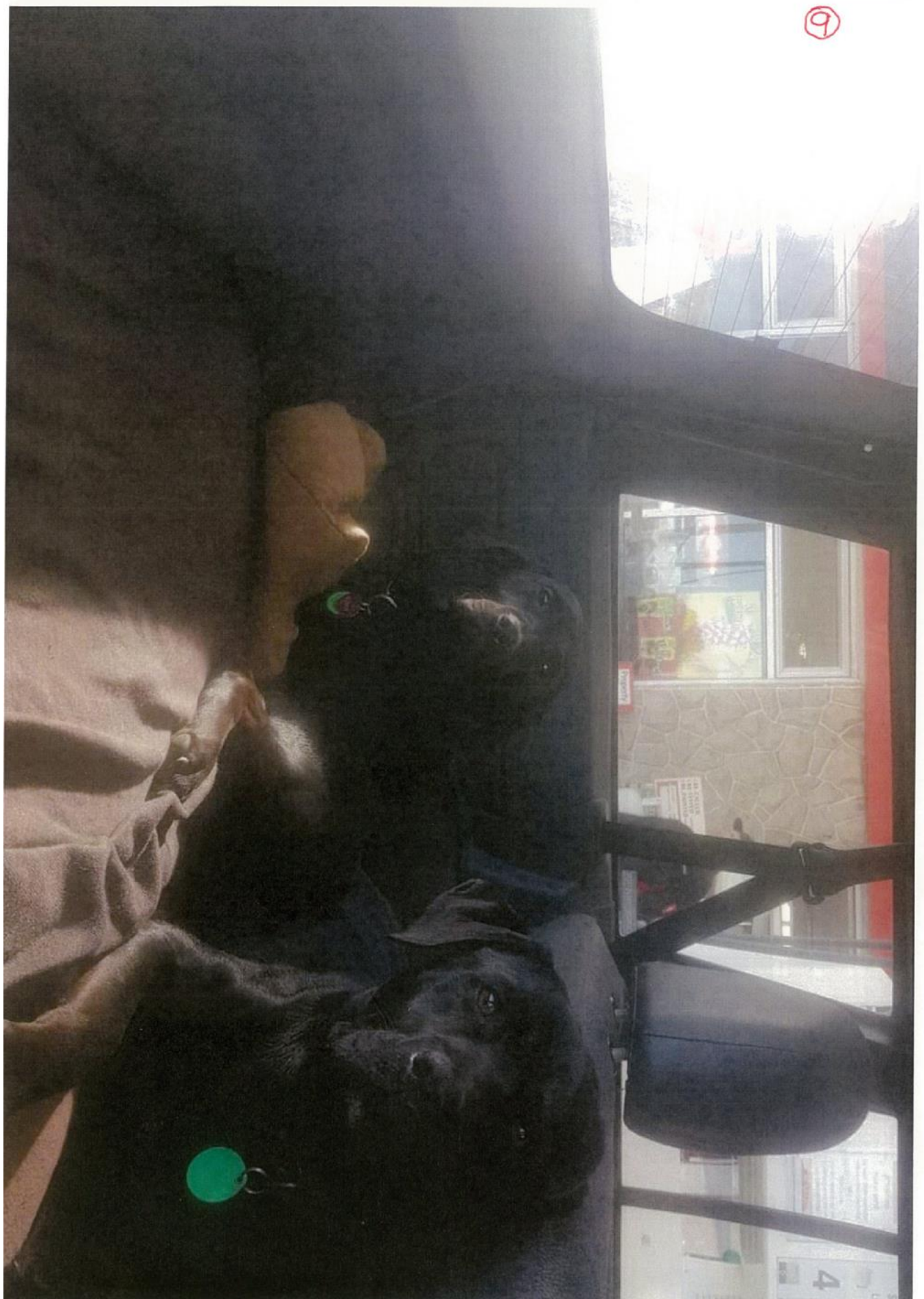
Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 2



Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 2



10




Application for Dog Registration

Dog owner's full name
BRENDON CAMPBELL MORRIS

Postal address
529 HEREFORD STREET
LINWOOD
CHRISTCHURCH 8011

Address dog kept at (if different from above)
529 HEREFORD ST LINWOOD

Period From 1 July 2019 **to** 30 June 2020

CCC OWNER ID 3353803

Home Phone (021) 944 704

Work Phone

Mobile Phone

Email

Owner's date of birth 12 Jan 1974

If any details have changed, please make amendments to this form.

									Office use only	
CCC Dog ID	Name	Primary Breed	Secondary Breed (optional)	Colour(s)	Dog DOB MM/YY	Sex F/M	Neut Y/N	Dog Class D/M/W	Tag No.	Fee
218970	LOUI	Retriever, Labrador		BLACK	09/15	M	N			0.00

A penalty fee applies to registrations after 31 July 2019 of dogs that should have been registered by that date.

Total to pay

\$0.00

I confirm the information relating to the dog(s) in my care is correct and I am aware of my responsibilities as a dog owner.

Signature

Date 28 Aug 2019

Receipt number



New Zealand Legislation Dog Control Act 1996

Menacing dogs

Heading: inserted, on 1 December 2003, by section 21 of the Dog Control Amendment Act 2003 (2003 No 119).

33A Territorial authority may classify dog as menacing

- (1) This section applies to a dog that—
- (a) has not been classified as a dangerous dog under section 31; but
 - (b) a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of—
 - (i) any observed or reported behaviour of the dog; or
 - (ii) any characteristics typically associated with the dog's breed or type.
- (2) A territorial authority may, for the purposes of section 33E(1)(a), classify a dog to which this section applies as a menacing dog.
- (3) If a dog is classified as a menacing dog under subsection (2), the territorial authority must immediately give written notice in the prescribed form to the owner of—
- (a) the classification; and
 - (b) the provisions of section 33E (which relates to the effect of classification as a menacing dog); and
 - (c) the right to object to the classification under section 33B; and
 - (d) if the territorial authority's policy is not to require the neutering of menacing dogs (or would not require the neutering of the dog concerned), the effect of sections 33EA and 33EB if the owner does not object to the classification and the dog is moved to the district of another territorial authority.

Section 33A: inserted, on 1 December 2003, by section 21 of the Dog Control Amendment Act 2003 (2003 No 119).

Section 33A(3): amended, on 1 November 2004, by section 10 of the Dog Control Amendment Act 2004 (2004 No 61).

Section 33A(3)(c): amended, on 28 June 2006, by section 13 of the Dog Control Amendment Act 2006 (2006 No 23).

Section 33A(3)(d): added, on 28 June 2006, by section 13 of the Dog Control Amendment Act 2006 (2006 No 23).



New Zealand Legislation

Dog Control Act 1996

33B Objection to classification of dog under section 33A

- (1) If a dog is classified under section 33A as a menacing dog, the owner—
- (a) may, within 14 days of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and
 - (b) has the right to be heard in support of the objection.
- (2) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—
- (a) the evidence which formed the basis for the classification; and
 - (b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and
 - (c) the matters relied on in support of the objection; and
 - (d) any other relevant matters.
- (3) The territorial authority must, as soon as practicable, give written notice to the owner of—
- (a) its determination of the objection; and
 - (b) the reasons for its determination.

Section 33B: inserted, on 1 December 2003, by section 21 of the Dog Control Amendment Act 2003 (2003 No 119).

Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 4

2/8/19 1147 14180 chck 27/1/1994 MAREK HOLOUBEK
PP 4325 0204 1786818
12731'
chck. Rebuilt
308 Taboras Pm. Cedar Grove Area.
Formerly located with sea to Enderby Pt 2006.
Just after 10am I went to the
Gropions track with Loui, I unleashed him
he walked beside me. about 200m up the
back. He saw a sheep, he then chased it

The sheep went down the hill
Loui followed. I lost sight of
him & the sheep. A passer by
indicated where they had gone
when I caught up with them. The
sheep was caught in the fence.
I got down off the sheep & placed
a leash on him. I then rang the
police. The police put me through
to SICA who called the council.
The owner of the sheep arrived about
15 mins before I did.
He removed the sheep from the fence.
He then euthanised the sheep.
There was some talk that seized under
Set 57 & held under Set 71.

527/529 Hereford Street - 7 mths to

Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 4

Statement of Marek Holoubek – Typed from hand written statement and notes taken by Dog Control Officer William (Bill) Gaze on 7th August 2019 at 1.08pm at Nelson City Council, Customer Service area:

Formally cautioned under Section 30, Evidence Act 2006.

"Just after 10am I went to the Grampians Track with Loui. I unleashed him, he walked beside me. About 200m up the track he saw a sheep, he then chased it.

The sheep went down the hill Loui followed. I lost sight of him and the sheep.

A passer-by indicated where they had gone. When I caught up with them the sheep was caught in the fence.

I got Loui off the sheep and placed a leash on him. I then rang the Police. The Police put me through to the SPCA who called Council.

The owner of the sheep arrived about 15mins before I did.

He removed the sheep from the fence. He then euthanised the sheep."

Loui was soon after that seized under Section 57 and held under Section 71.

NOTE: When Marek was provided with a copy of his statement he requested via e-mail that it be corrected as follows:

Where the statement reads: *"I got Loui off the sheep..."*

Marek said: "This statement does not mean that I had to pull Loui away from the sheep by force. Loui was next to the sheep when I saw them. Then I called him to me. He obeyed and ran to me."

Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 4

Brian Wood

From: Marek Holoubek <hmarekus@seznam.cz>
Sent: Friday, 9 August 2019 10:41 a.m.
To: Bill Gaze
Subject: Incident - Loui

Dear Mr. Gaze,

I am writing to you following an incident associated with my dog. I would like to clarify one sentence in my statement, which may be misleading.

The statement reads "..I got Loui off the sheep ..".

This statment does not mean that I had to pull Loui away from the sheep by force. Loui was next to the sheep when I saw them. Then I called him to me. He obeyed and ran to me.

I'm sorry to write it now, I read the statement over and over, and this sentence in my head sounds right. English is not my mother language, so I prefer to give this clarification.

I believe you will take this into account when making your decision.

Best regards
Marek Holoubek

Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 4

Statement of Andrew Newton,

Regarding an attack on one of his sheep in the Grampians Reserve on 7 August 2019

Andrew James Newton States:

I am a leaseholder of numerous Nelson City Council reserves, including the Grampians where I run a flock of 50 Wiltshire sheep.

I have grazed Nelson City Council blocks for 27 years. Over this time there have been numerous attacks by dogs on my stock.

I own working farm dogs of my own and have owned and run working farm dogs for 41 years so my experience with dogs and the damage they cause when sheep are bitten or attacked is extensive.

When I arrived on the scene at the Grampians on the 7th of August there was no doubt that the gentleman that had the dog under his control (or not) was "owning up to the attack". A phone call from animal control indicated that a man had rung about his dog attacking a sheep and was waiting at the site.

Clearly by the damage done to the rear left leg and rump of my sheep it was not just a bite but a sustained attack by a large and powerful dog over a period of time.

The foreign gentleman that had the dog under his control would most certainly have had to physically remove the dog from the sheep.

In my opinion the dog was clearly not just a retriever, it had a large solid bully head.

On arriving at the scene the sheep was half under the fence trying to get away from the dog. The dog was tied up to a nearby tree.

I stood the sheep up on three legs and to test the dogs' reaction to the sheep, I asked the gentleman to release the dog, which he did.

It immediately ran downhill and attempted to attack the sheep whereby I whacked it with a tree branch to get it off.

The sheep was so badly injured I had to put it down on the spot.

I let the gentleman know in no uncertain terms that the dog would do this again unless he sorted it out with an electric collar or some very firm discipline.

I normally recommend some remedial action to stop the dog from re-offending, particularly when the owners are remorseful and are keen to stop it happening again.

In the 27 years I have grazed NCC blocks this would be probably the worst attack of many I have seen.

After euthanizing the injured sheep I examined the injuries to it.

The injuries were extensive with a large chunk of meat chewed from the rump area of its rear left leg and the Femur bone was broken.

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Marek Holoubek. Dog Loui.: Attachment 4

The injuries could not have been caused by the sheep simply being caught in the fence. The injuries were clearly caused by a prolonged attack by a large dog with a powerful bite.

This is only the second time in 27 years that I would have to highly recommend having a (this) dog put down. There are chasers and worriers, this dog is a full on stock worrier with a very high level of malicious intent as shown both by the injuries and its full on direct attempted attack when given a second chance, even with me next to the sheep.

In light of the confession by the gentleman in charge of the dog and the injuries sustained, I find it astonishing that the owners would not recognise the gravity of the incident as I am sure the gentleman with the dog at the time must have explained.

It would be good to have this dog presented with a sheep to prove if this was a one off event or not.

I run Wiltshire sheep in the Grampians area. They are extremely quiet and well used to dogs, so don't startle or take much notice of people or dogs so give little reason for a dog to chase them.

Signed:


Andrew James Newton

Date:.....10 / October.....2019

Item 11: Objection to Classification of dog as menacing.

Marek Holoubek. Dog Loui.: Attachment 6

Statement of William (Bill) Gaze

Regarding an attack on a sheep on the Grampians Reserve on 7th August 2019

Bill Gaze States:

I am employed as an Animal Management Officer by Nelson Council.

I have been involved in dog control for over 14 years

On the 7th August 2019, at about 10.40am I was notified of an attack by a dog on a sheep that had taken place at the start of the Grampians Track. I was told the dog owners name was Marek Holoubek and that he was waiting at the start of the Grampians track at the top of Collingwood Street, Nelson.

The notification of this attack had come from the Police via the SPCA.

I was informed that the stock owner Andrew Newton had been notified and was on his way to the Grampians Track.

I made my way up to the Grampians Track and as I approached the end of Collingwood Street I saw Andrew Newton's ute parked there.

I parked my vehicle and spoke with him.

Andrew said that he had euthanised the sheep after examining its wounds as there was no way of treating such severe injuries successfully.

I examined the dead sheep and saw a large dog bite on the left rear leg. There was a large amount of blood on the surrounding wool. The wound was a bite and tear wound that I have seen in other dog attacks.

The wound was so severe it would not have been survivable.

I took photographs of the wounds to the sheep as it lay on the deck of Andrew's ute.

Andrew Newton told me that after he had arrived and spoken to the man in charge of the dog he told him to release the dog from its lead. Once this had happened the dog made a bee line for the sheep to return to the attack. He hit the dog with a piece of wood to reinforce to the dog that attacking a sheep was not a thing to do.

I then walked up to where Mr Holoubek was with his dog Loui, a Black Lab.

I introduced myself and showed him my Warrant card.

I outlined what the process from here would be. Mr Holoubek's grasp of English was good.

I asked him to place Loui in the cage in the back of my vehicle, which he did.

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Marek Holoubek. Dog Loui.: Attachment 6

I completed a section 69 Form (Seizure Form) and a Section 71 Notice (holding a dog until a decision whether to proceed with a prosecution is made).

I explained these forms and the purpose of them to him.

I told him that I would take Loui to the pound and arranged to meet him later at Nelson City Council offices on Trafalgar Street.

When he arrived I explained that the meeting was to take a statement in regard to what had happened.

I cautioned him that he did not have to tell me anything, he could see a lawyer and make any statement in the lawyer's presence.

He told me that he was happy to continue as he was.

He then made a statement which I recorded in my note book. Once this was finished he read it through. He said he was happy with it and signed it for me.

I told him that he needed to claim the dog by paying the impound fees.

I made sure he understood that he would not get the dog back there and then but having claimed Loui meant that Council would not take ownership of Loui after seven days. He understood this and paid the fees owing.

I explained to him what would happen; that I would send a recommendation to my team leader and once the recommendation had been agreed I would contact him and arrangements could be made to return the dog to him if that was authorised by my team leader.

Signed:



William (Bill) Gaze

15th October 2019

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