



Minutes of a meeting of the Hearings Panel - Other

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

On Wednesday 19 February 2020, commencing at 9.00a.m.

Present: Councillor T Skinner (Chairperson), Councillor B McGurk, Councillor R Sanson.

In Attendance: Councillor Y Bowater and Governance Adviser (E Stephenson)

Apologies : Nil

1. Apologies

2. Confirmation of Order of Business

There was no change to the order of items.

3. Interests

There were no updates to the Interests Register.

Councillor McGurk noted an interest for two of the matters included in Item 10. Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules:

Schedule 9 – No Stopping and No Parking Areas

4.22 - 101 Milton Street / Weka Street Intersection No Stopping

4.24 - 2 Tasman Street No Stopping.

4. Public Forum

There was no public forum.

5. Confirmation of Minutes

There were no minutes for confirmation.

6. Street Naming Application - Montebello Village

Document number R13770, agenda pages 7 - 12 refer.

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

Resolved HEA/2020/001

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).***

McGurk/Sanson

Carried

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

Document number R13778, agenda pages 13 - 17 refer.

Manager Consents and Compliance, Mandy Bishop, and Consents Administrator, Lynda Greer, presented the report, noting officers agreed that Mansfield Way was considered sufficiently different to the existing Masefield Street.

Resolved HEA/2020/002

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).***

Sanson/McGurk

Carried

8. Te Manu Reserve - stormwater easement

Document number R12563, agenda pages 18 - 26 refer.

Team Leader Property, Peter Hunter, presented the report and noted the recommendation for public notification was to ensure the community was fully aware of the proposal, as there was strong community interest in the reserve. Mr Hunter answered questions regarding the communication process.

In response to a question, Mr Hunter confirmed that water collected naturally at the site of the proposed wetland.

Resolved HEA/2020/003

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).***

Sanson/McGurk

Carried

9. Temporary Road Closure - Summer Challenge

Document number R13720, agenda pages 27 - 32 refer.

Team Leader Transport Operations, Matt Bruce, and Contracts Supervisor – Roding, Gillian Dante, presented the report. Ms Dante advised of a correction to the recommendation in the agenda report. The correct date for the temporary road closure was Saturday 21 March 2020, not 31 March.

Ms Dante answered questions about the route and noted that a Traffic Management Plan was in place.

Resolved HEA/2020/004

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 21 March 2020, as per Attachment 1 (A2307342) of report R13720.***

Sanson/Skinner

Carried

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

Document number R10345, agenda pages 33 - 71 refer.

Councillor McGurk had previously declared in interest in the following two matters, which were considered separately:

Schedule 9 – No Stopping and No Parking Areas

4.22 - 101 Milton Street / Weka Street Intersection No Stopping

4.24 - 2 Tasman Street No Stopping

He took no part in discussion or voting on these matters.

Team Leader Transport Operations, Matt Bruce, presented the report and gave background and answered questions on the proposed amendments, which were considered individually:

Schedule 4 – Special Parking Areas

4.1 - Bicycle Park – Buxton Park

4.2 - Bicycle Park – Hardy Street

4.3 - Bicycle Park – Church Street

4.4 - Mobility Parks (Upper Trafalgar Street)

4.5 - St Vincent Street Bus Stop

4.6 - Halifax Street Bus Stop (Millers Acre)

4.7 - Trafalgar Street Bus Stop (Millers Acre)

4.8 - Authorised Parking Area – Trafalgar Street

The Panel agreed that this proposal would be further discussed in debate.

Schedule 5 – Metered Parking including pay and display

4.9 - Upper Trafalgar Street

Schedule 7 – Resident Parking Spaces

4.10 - Harper Street Resident Only Park

This proposal was put on hold until after the policy review at the 20 February Infrastructure committee meeting, to be brought back to the next Panel meeting.

Schedule 8 – Time Limited Parking Areas

4.11 - Port Nelson Layout Changes

Schedule 9 – No Stopping and No Parking Areas

4.12 - 30 Arapiki Road No Stopping

4.13 - Cambria Street / Tasman Street Intersection No Stopping

4.14 - Valerie Place No Stopping

It was noted that officers did not support this application.

4.15 - Port Nelson Layout Changes

4.16 - 101 Princes Drive No Stopping

4.17 - Forests Road Corner – No Stopping

The Panel agreed that this proposal would be further discussed in debate.

4.18 - Putaitai Library Entrance No Stopping

4.19 - Songer Street (Greenmeadows Centre Carpark)

4.20 - Main Road Stoke Bus Stop opposite Saxton Lodge

4.21 - Main Road Stoke Bus Stops – at Ernest Rutherford

4.23 - Nile Street Bus Stop at NMIT

The Panel suggested an amendment to this proposal to extend the bus stop, rather than the use of a No Stopping area, in light of the modal shift to larger buses.

4.25 - St Vincent Street Bus Stop No Stopping

Schedule 13 – Stop Signs

4.26 - Toi Toi Street / Montreal Road Stop Sign

Schedule 14 – Give Way Signs

4.27 - Elderberry Lane Give Way

Councillor McGurk left the table at 10.13a.m. for discussion and voting on the following matters that he had previously declared an interest in:

4.22 - Milton Street / Weka Street Intersection No Stopping

4.24 - 2 Tasman Street No Stopping

Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedule 9 - 4.22 and 4.24 of Report R10345

Resolved HEA/2020/005

That the Hearings Panel – Other

1. Approves amendments detailed in the report R10345 to the following Schedules of the Bylaw, Parking and Vehicle Control (2011), No 207 (A2338700):

- **Schedule 9, being 4.22 - Milton Street / Weka Street Intersection No Stopping and 4.24 - 2 Tasman Street No Stopping.**

Sanson/Skinner

Carried

Councillor McGurk returned to the table at 10.29a.m.

The motion was taken in parts.

Resolved HEA/2020/006

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).

Sanson/McGurk

Carried

The Panel debated the following proposals:

4.8 – Authorised Parking Area – Trafalgar Street

The Panel was supportive of a dedicated parking space, but had concerns that additional options had not been fully considered, although it was noted that the proposed location had not been dismissed. The item was deferred and a further report was requested to the next Hearings Panel – Other meeting with consideration of alternative/additional/proposed locations, authorised (permit) parking and to include health and safety issues.

The meeting was adjourned from 10.40a.m. until 10.52a.m.

4.17 Forests Road Corner – No Stopping

Although the Panel had no objection to the No Stopping, officers were requested to carry out a broad overview safety audit in that location and make some recommendations to a future Hearings Panel – Other meeting regarding no stopping zones etc.

4.10 Harper Street Resident Only Carpark

It was noted that this proposal would be addressed as part of the parking strategy.

4.23 Nile Street Bus Stop No Stopping

The Panel's preferred approach was to extend the bus stop rather than add a No Stopping area.

The meeting was adjourned from 10.58a.m. until 11.03 a.m.

The officer's was amended to defer a decision on 4.8 Authorised Parking Area, Trafalgar Street and to substitute the recommended No Stopping for the extension of 4.23 Nile Street Bus Stop at NMIT.

Resolved HEA/2020/007

2. ***Approves amendments detailed in the report R10345 to the following Schedules of the Bylaw, Parking and Vehicle Control (2011), No 207 (A2338700):***
 - ***Schedule 4, with the exception of 4.8 Authorised Parking Area, Trafalgar Street and the addition of the extension of 4.23 Nile Street Bus Stop at NMIT***
 - ***Schedule 5***
 - ***Schedule 7***
 - ***Schedule 8***
 - ***Schedule 9, with the exception of 4.23 Nile Street Bus Stop at NMIT, which is now covered under Schedule 4***
 - ***Schedule 13***
 - ***Schedule 14***

3. ***Declines the application for the Valerie Place no stopping detailed in paragraph 4.14 in the report R10158; and***
4. ***Defers any decision on the Harper Street Resident Only Parking application for reasons detailed in paragraph 4.10 in the report R10158; and***
5. ***Defers a decision on 4.8 Authorised Parking Area – Trafalgar Street, and requests a further report from officers including alternative/additional locations, Reserved Parking and health and personal safety of the office holder; and***
6. ***Substitutes the No Stopping under Schedule 9 - 4.23 Nile Street Bus Stop, to an extended Bus Stop under Schedule 4.***

McGurk/Sanson

Carried

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

Document number R11509, agenda pages 72 - 104 refer.

Team Leader Regulatory, Brian Wood, and Animal Control Officer, Bill Gaze, were present for this item.

Mr Wood advised the Panel that the objector, Mr Marek Holoubek, would not be attending the hearing and was now living in Napier. He confirmed that Mr Holoubek had been fully contacted and that there was nobody present representing him. He also confirmed that he had emailed the victim, Mr Andrew Newton, who was not available to attend the hearing.

Mr Wood clarified that Mr Holoubek was looking after the dog at the time whilst the owners, Mr Brendon Morris and Ms Alice Blackburn, were overseas. Mr Wood reiterated that the officers' recommendation was to dismiss the objection and that the classification be upheld.

The Chairperson noted that submissions had been received from both the victim and the objector and the objector's representatives and invited the Panel members to ask the officers questions.

In response to questions, the officers confirmed that:

- At the time of the alleged attack, the dog had been in Mr Holoubek's possession in excess of 72 hours
- The dog was now in Christchurch with Mr Morris and Ms Blackburn

- Mr Gaze was not present when Mr Newton tested the dog's reaction to the sheep
- The time stamps on the photographs were correct
- Mr Gaze was at the incident within the hour
- Officers were of the opinion that Mr Holoubek showed a good command of the English language
- Mr Gaze had asked Mr Holoubek to confirm that he understood every question and all email and telephone communications had been clear
- The injury to the sheep was felt to be consistent with a dog bite, not with the sheep getting caught in a fence
- There was no vet's report, if there had been any question as to the cause of the injury, a vet's report would have been obtained
- Officers believed beyond reasonable doubt that the dog committed the injuries to the sheep
- Mr Holoubek lost control of the dog when it ran after the sheep
- A member of the public pointed Mr Holoubek to where the dog was, where it was found on the sheep and it then came back when he called it
- Loui was a lovely dog, friendly with people, cats etc. however, he was felt to be dangerous to sheep
- Officers felt that the only way to deal with this was to classify it as menacing, which was the lowest classification under the Dog Control Act
- Officers confirmed that they felt that if the dog was muzzled and neutered that it would not be a menace to sheep, people or other animals
- There was no requirement for the dog to be on a leash, unless required under Council's bylaw.

Following questions, and prior to excluding the public whilst the Panel deliberated, the report was received.

Objection to Classification of dog as menacing – Marek Holoubek . Dog Loui. Receipt of the Report

Resolved HEA/2020/008

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).***

McGurk/Sanson

Carried

Exclusion of the Public

Resolved HEA/2020/009

That the Hearings Panel - Other

- 1. Excludes the public from the following parts of the proceedings of this meeting.***
- 2. The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(2) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:***

McGurk/Sanson

Carried

9	Objection to Classification of dog as menacing – Marek Holoubek . Dog Loui.	Section 48(1)(d) That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in any proceedings to which this paragraph applies.	Section 48(2) Paragraph (d) of subsection (1) applies to (a) Any proceedings before a local authority where - (i) A right of appeal lies to any Court or tribunal against the final decision of the local authority in those proceedings
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The meeting went into confidential session at 11.25am and resumed in public session at 11.36a.m.

The only business transacted in confidential session was to readmit the public. In accordance with the Local Government Official Information Meetings Act, no reason for withholding this information from the public exists, therefore this business has been recorded in the open minutes.

12. Re-admittance of the Public

Resolved HEA/2020/010

That the Hearings Panel - Other

1. Re-admits the public to the meeting.

Sanson/Skinner

Carried

Decision

During deliberations, the Panel discussed the evidence presented in relation to the objection to classification of the dog Loui as menacing. The members agreed that they were comfortable that all aspects of the matter had been covered.

Mr Marek Holoubek had objected to the classification of a Labrador Retriever dog named Loui as menacing. The dog was owned by Brendon Morris and Alice Blackburn. Mr Morris and Ms Blackburn live in Christchurch and Mr Holoubek was looking after the dog Loui in Nelson while the owners were overseas for an extended period.

The facts were not disputed. Mr Holoubek was walking Loui on the Grampians. Loui ran off and a member of the public directed him to the location of Loui. Mr Holoubek found Loui next to a sheep caught in a fence. The sheep had sustained serious injury and had to be euthanised by the sheep's owner, Mr Newton.

Section 33A of the Dog Control Act 1996, provides for a dog to be classified as menacing if the territorial authority considers that a dog be a threat to stock because of observed or reported behaviour.

It is alleged that Loui attacked and seriously injured a sheep and he was classified as menacing.

Mr Holoubek objected to the classification under Section 33B of the Dog Control Act.

The basis of Mr Holoubek's objection was that he had not lost control of Loui and that the sheep had become caught in the fence and Loui did not cause the injury to the sheep. He also submitted that his limited command of English resulted in him inadvertently implicating himself.

Mr Holoubek did not appear at the hearing and the Panel relied on the written communications between him and the officers.

The Panel heard from Mr Gaze, whose notebook statement was that Mr Holoubek initially admitted responsibility in his statement made within an

hour of the incident. Mr Holoubek said that Loui the dog saw and chased a sheep. He found Loui by the sheep caught up in the fence.

There was no evidence of anyone witnesses to the actual attack on the sheep.

Mr Holoubek took responsibility for the attack and recompensed the owner of the sheep for its value of \$400.

Mr Gaze, an experienced Dog Control Officer, expressed the opinion that the injuries to the sheep were consistent with a dog biting hard on the calf of the sheep's leg and tearing. the injuries were not consistent with being caught in a fence

Mr Newton, the sheep owner, leased council property for stock and has done so for more than 20 years. He is an experienced farmer and was very experienced in dog behaviour. He described the behaviour of Loui when he arrived at the scene and expressed the opinion that Loui was a "full on stock worrier with a very high level of malicious intent".

There was no evidence to say there was another dog in the vicinity and the wound was a fresh injury consistent with a dog attack.

The Panel was satisfied that Loui attacked the sheep and was responsible for the injury to the sheep. The Panel was satisfied that the threshold for classification has been met.

The Panel was not able to speak with Mr Holoubek and was not in a position to ascertain his understanding of English. The Panel was of the view that the written communications were fluent and coherent.

Mr Wood, the reporting officer, told the Panel that all communication with Mr Holoubek had been clear and understood, and he formed the view that he had a good command of the English language. Communication had been by email and phone, and in some cases, Mr Holoubek responded almost instantly to emails. Mr Wood was in no doubt that he was communicating with Mr Holoubek himself. Mr Holoubek had been clear and understood, he believed Mr Holoubek had a good command of the English language.

The Panel shared that view.

A report from a dog psychologist was provided. The report gave no view of the dog's behaviour around sheep. The Panel therefore took the view that that report should not be taken into account

Letters and photographs from Loui's owners and people familiar with Loui were also received. The comments in the letters were consistent with the officer's observations of Loui when away from sheep.

Officers confirmed that Loui had been in the care and control of Mr Holoubek for more than 72 hours and the letters from the owner indicated that Mr Holoubek was looking after Loui for a couple of months.

The Panel was satisfied that Loui caused the injury to the sheep and could be classified as menacing.

The Panel was also satisfied that Mr Holoubek was aware of the circumstances. He admitted liability at the time of the incident and later compensated the owner for the loss of the sheep.

The Panel was in agreement that the objection be dismissed and the classification upheld.

13 Objection to Classification of dog as menacing – Marek Holoubek . Dog Loui. – Decision

Resolved HEA/2020/011

That the Hearings Panel - Other

2. Dismisses the objection of Marek Holoubek; and

3. Upholds the classification of the dog Loui as menacing.

McGurk/Sanson

Carried

There being no further business the meeting ended at 11.37a.m.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date