



Statement of Proposal

AMENDMENTS TO THE DOG CONTROL POLICY AND DOG CONTROL BYLAW 2013

January 2020

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

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

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

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

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

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

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

2. The Proposal

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

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

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

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

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

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

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

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

Titoki Reserve — Change from off-leash to on-leash status.

Whakatū Drive Foreshore Reserve — Change from off-leash to on-leash status.

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

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

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

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

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

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

Proposed Policy, Bylaw and Maps

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

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

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

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

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

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

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

Determination under Section 155 of the Local Government Act 2002

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

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

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

- (a) the need to minimise danger, distress, and nuisance to the community generally; and
- (b) the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults; and

- (c) the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and
- (d) the exercise and recreational needs of dogs and their owners.

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

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

What is the perceived problem?

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

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

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

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

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

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

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

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

| Options for managing conflicts between dogs and the community | Assessment |
|--|---|
| Respond to complaints using the powers provided through the Dog Control Act. | <p>This approach gives Council the power to charge registration fees and intervene when an issue occurs, such as a dog attack.</p> <p>On its own, this approach does not comply with section 10 of the Dog Control Act, and would result in a reactive rather than a proactive approach to reducing conflicts between dogs and the wider community.</p> |

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| Rely on education and dog training. | <p>This approach encourages people to take responsibility for their dog, and gives them skills to control their dog when it is off-leash in a public place.</p> <p>On its own, this approach does not comply with section 10 of the Dog Control Act, and relies on all dog owners to manage any risks of conflict between their dogs and the community, which does not provide enough certainty for the wider community.</p> |
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Is the form of the Bylaw (the content) appropriate and if not, how should it be amended to be the most appropriate?

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

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

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

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

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

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

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

Special Consultative Procedure

Outcomes of this special consultative procedure could include:

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

General options

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

- Increasing restrictions.
- Reducing restrictions.

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

3. Nelson City Council’s Criteria

Background

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

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

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

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

Criteria

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

4. Alternatives considered by Council

RAILWAY RESERVE

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

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

Discussion:

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

Informal consultation in late 2018 provided the following feedback:

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

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

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

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

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

| Year | Reported crashes |
|------|------------------|
| 2011 | 15 |
| 2012 | 34 |
| 2013 | 35 |
| 2014 | 3 |
| 2015 | 20 |
| 2016 | 13 |
| 2017 | 17 |
| 2018 | 12 |

Assessment of options against criteria

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

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

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| | for cyclists). | | | | |
| Option D On-leash everywhere except the area between Quarantine Road and Songer Street. | Medium (this may concentrate more off-leash dogs in one area and increase the use of extendable leashes in other areas) | Medium | N/A | Low (variable rules for different sections is likely to be confusing) | Medium (likely to result in complaints about off-leash dogs in on-leash areas) |
| Option E On-leash during specific hours (e.g. 7–9am and 3–6pm). | Medium | Medium | N/A | Low (variable rules for different times of the day is likely to be confusing) | Medium (likely to result in complaints about off-leash dogs during on-leash hours) |

Options Analysis

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

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

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

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

Option E — setting specific on-leash hours in the Railway Reserve is less clear

and enforceable than Options A, B and C because the rules will change at different times of the day, and will impact on people who wish to exercise their dogs off-leash before or after work.

Preferred Option:

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

Reasons

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

Other reasons:

- Option B scores the highest in terms of minimising conflicts between people and dogs, providing dog owners with access to off-leash areas, and will result in clear and enforceable rules.
- While there have been a number of dog versus bike incidents over the past three years on the Railway Reserve, this is a small proportion of the overall number of dog related complaints.
- There are limited off-leash alternatives — particularly in the Victory and Bishopdale areas.
- If the Railway Reserve is identified as an on-leash area, there is potential for dog versus bike issues to grow due to more use of extendable leashes.
- Safety concerns may be addressed through dog and cycle owner education, including signage that dog walking is encouraged outside peak commuter times, and updated user etiquette information.
- Costs for increased education (described above) are not significant (approximately \$2,000 per annum) and can be accommodated within existing budgets.
- Accident data can be monitored to assess whether education is working or whether physical changes to the Railway Reserve may be needed in the future. A further change could be made to the Policy (with a consequent change to the Bylaw) if data showed an escalation of issues on the Railway Reserve. This change could be proposed and consulted on without triggering a full review of the Policy and Bylaw.

ISEL PARK

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

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

Discussion:

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

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

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

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

Assessment of options against criteria

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

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| Option C All off-leash. | Medium | High | N/A | High | High |
| Option D All on-leash. | High | Low | N/A | High | High |

Preferred option:

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

Reasons

Option B is the preferred option because:

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

GRAZED RESERVES

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

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

Discussion:

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

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

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

- Dog owners highly value the off-leash status of the Grampians and a dog provides extra security for solo runners and walkers.
- Because of the convoluted nature of the contours and the tracks on the

Grampians, it is a complete lottery whether you see a sheep or not, and they can appear out of nowhere with no warning.

- It is a problem with dogs running free with young children.
- There is a concern for ground birds when dogs are allowed off-leash.
- The Grampians isn't a reserve that can be managed with weed whackers, the weeds have taken off in recent years and this is primarily because of dogs. The grazier removed all sheep a few years ago because of dog attacks and has only just agreed to return sheep to this area.
- The grazier was asked about the extent of the problem and said the worst was 35 sheep killed in the middle of lambing and another eight in one go during Easter
- break. The latest was on Monday (in November 2019) as sheep were being put onto the Grampians a dog ran past chasing five from the previous load and then managed to cut one off and had it down against the fence.

Assessment of options against criteria

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

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| controlled around stock. | | | | | |
| Option D Require dogs to be on a leash in grazed areas (at all times) in the Grampians Reserve only. | N/A | High | Low (both the Grampians Reserve and the Sir Stanley Whitehead Park have been identified as at extreme fire risk, and the Maitai Conservation Reserve is identified as High Risk). | High | N/A |
| Option E Prohibit dogs from grazed areas (at all times). | N/A | Low | High | High | N/A |

Preferred option:

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

Reasons

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

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

GOOD DOG OWNER POLICY

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

- An ongoing discount for neutered dogs, or for dogs registered as members of

the New Zealand Kennel Club

- One voucher will be available per dog, for all dog owners towards attending a recognised training course or 1:1 training to address a behavioural issue (only payable by Council if it is redeemed with an approved provider).

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

Discussion:

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

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

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

Other issues with the Policy:

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

Assessment of options against criteria

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

Preferred option:

Option B — Delete the GDO Policy.

Reasons:

Option B is preferred because the GDO Policy:

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

MONACO RESERVE

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

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

Discussion:

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

Assessment of options against criteria

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

Preferred option:

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

Reasons:

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

TITOKI RESERVE

Benefits of current approach: Titoki Reserve provides a shaded, scenic area for dog exercise north of Nelson City, which is an area with limited off-road, off-leash dog exercise areas.

Problem: Titoki Reserve is a Conservation Reserve in which pest control is being actively undertaken to improve habitat for native birds. The presence of off-leash

dogs in this area has the potential to disturb birdlife within this reserve. In addition, this reserve is surrounded by farmland, so there is potential for conflicts between off-leash dogs and stock.

Discussion: The loss of an off-leash dog exercise area needs to be weighed against better protection of the ecological values within Titoki Reserve.

Assessment of options against criteria

| | Conflicts between people, wildlife and dogs are minimised | All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs | Cost-effective stock control of grass and weeds in Council reserves | Clear enforceable rules that are well understood | Cost-effective dog control services |
|---|--|--|--|---|--|
| Option A – Retain Titoki Reserve as an off-leash area | Low | High | N/A | High | N/A |
| Option B – Include Titoki Reserve in Schedule 2, as an on-leash area | High | Low (Access to off-leash areas is very limited to the north of Nelson City.) | N/A | High | N/A |

Preferred option:

Option B – Include Titoki Reserve in Schedule 2 (on-leash areas).

Reason:

Allowing dogs to be off leash in this area conflicts with the goals of the ecological restoration and pest control work being carried out in this Conservation Reserve.

WHAKATU DRIVE FORESHORE RESERVE

Benefits of current approach: The shared pathway within Whakatū Drive Foreshore Reserve provides an extensive exercise area for dog walking.

Problem: Dogs have the potential to adversely impact roosting shorebirds and banded rail in the neighbouring Waimea Estuary margins. In addition, the vegetation within the Whakatū Drive Foreshore Reserve provides good habitat for fern birds.

Discussion: There are significant ecological benefits of requiring dogs to be on-leash in this area. In addition, this reserve is located alongside State Highway 6, so use of this shared pathway for off-leash exercise is likely to be less attractive to dog owners than the other, extensive off-road exercise areas in Stoke and Monaco.

Assessment of options against criteria

| | Conflicts between people, wildlife and dogs are minimised | All dog owning residents have easy access to off-leash areas away from traffic for exercise and socialisation of dogs | Cost-effective stock control of grass and weeds in Council reserves | Clear enforceable rules that are well understood | Cost-effective dog control services |
|--|---|---|--|---|--|
| Option A – Retain Whakatū Drive Foreshore Reserve as an off-leash area | Low (dogs are particularly a problem for estuarine and coastal birds) | Medium (This area is located alongside State Highway 6.) | N/A | High | N/A |
| Option B – Include Whakatū Drive Foreshore Reserve in Schedule 2, as an on-leash area | High | Medium (Most of this shared pathway is located along SH6 and there is a significant number of off-leash exercise options available in the Stoke area.) | N/A | High | N/A |

Preferred option:

Option B – Include Whakatu Drive Foreshore Reserve in Schedule 2 (on-leash areas).

Reasons:

Requiring dogs to be on-leash in this area will reduce the risk of conflicts between wildlife and dogs around Waimea Estuary.

Dog owners have a number of other (safer) off-leash exercise options in Stoke and Monaco.

PAREMATA FLATS RESERVE AND DELAWARE ESTUARY

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

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

Discussion:

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

Assessment of options against criteria

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

Preferred option:

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

Reasons:

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

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

BOULDER BANK

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

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

Discussion:

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

Assessment of options against criteria

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

| | | | | | |
|---|------|---|-----|--|--|
| <p>Option B Include the Boulder Bank in Schedule 2 as an on-leash area (noting the prohibited status of part of the Boulder Bank from October to February to protect nesting birds).</p> | High | Low (very limited off-leash options in the Nelson North area) | N/A | High (consistency with DOC requirements) | Medium (this is an additional cost to Council) |
|---|------|---|-----|--|--|

Preferred option:

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

Reasons:

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

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

NUMBER OF DOGS

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

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

Discussion:

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

Assessment of options against criteria

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

Preferred option:

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

Reasons:

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

ENFORCEMENT PROVISIONS

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

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

Discussion:

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

Assessment of options against criteria

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

Preferred option:

Amend the wording of the Policy as follows:

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

Amend the wording of the Bylaw as follows:

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

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

- reduce the number of dogs on the premises;
- construct, alter, reconstruct or otherwise improve the kennels or other buildings or fences used to house or contain the dog;
- tie up or otherwise confine the dog during specified periods;

- (d) take such other action as necessary to minimise or remove the likelihood of nuisance or injury to health.”

Reasons:

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

ALL OTHER ASPECTS OF THE POLICY AND BYLAW

Proposal:

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

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

Reason:

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

5. Submissions

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

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

Submissions can be made:

- online at nelson.govt.nz/council/consultations
- by post to Dog Control Policy and Bylaw Review, PO Box 645, Nelson 7010
- by delivering your submission to Civic House, 110 Trafalgar Street, Nelson.

Submissions must be received no later than 28 February 2020.

Any person who wishes to speak in support of their submission will be given the opportunity to address the Council at a hearing on **24 March 2020**.

DRAFT FOR CONSULTATION

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

Maps

Maps showing the proposed changes are available on the website - nelson.govt.nz/council/consultations. Paper copies are available at the Customer Service Centre and in Nelson libraries.

Proposed Amendments to the Policy and Bylaw

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