



AGENDA

Ordinary meeting of the

**Planning and Regulatory Committee to
deliberate on submissions to the draft Urban
Environments Bylaw**

**Thursday 2 April 2015
Commencing at the conclusion of the Planning and Regulatory
Committee meeting
Council Chamber
Civic House
110 Trafalgar Street, Nelson**

Membership: Councillor Brian McGurk (Chairperson), Her Worship the Mayor Rachel Reese, Councillors Ian Barker, Ruth Copeland, Eric Davy, Kate Fulton (Deputy Chairperson), Matt Lawrey, and Mike Ward, and Ms Glenice Paine

Guidelines for councillors attending the meeting, who are not members of the Committee, as set out in Standing Orders:

- All councillors, whether or not they are members of the Committee, may attend Committee meetings (SO 2.12.2)
- At the discretion of the Chair, councillors who are not Committee members may speak, or ask questions about a matter.
- Only Committee members may vote on any matter before the Committee (SO 3.14.1)
- It is good practice for both Committee members and non-Committee members to declare any interests in items on the agenda. They should withdraw from the table for discussion and voting on any of these items.

2 April 2015

A1334220

Page No.

Apologies

1. Confirmation of Order of Business

2. Interests

2.1 Updates to the Interests Register

2.2 Identify any conflicts of interest in the agenda

3. Confirmation of Minutes – 12 March 2015

5-8

Document number A1333233

Recommendation

THAT the minutes of the meeting of the Planning and Regulatory Committee, to hear submissions to the draft Urban Environments Bylaw, held on 12 March 2015, be confirmed as a true and correct record.

4. Analysis of Submission on the draft Urban Environments Bylaw

9-77

Document number A1329982

Recommendation

THAT the report Analysis of Submissions on the Draft Urban Environments Bylaw (A1329982) and its attachments (A1329988, A1330114, A1329992, A1329999, A1330000, A1330003, A1334438, and A1334602) be received;

AND THAT the Draft Urban Environments Bylaw be amended to reflect the Committee's decisions on submissions.

Recommendation to Council

THAT the amended draft Urban Environments Bylaw, reflecting the Planning and Regulatory Committee's decisions on submissions, be adopted.

**Minutes of a meeting of the Planning and Regulatory Committee
to hear submissions to the Draft Urban Environments Bylaw**

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

On Thursday 12 March 2015, commencing at 9.02am.

Present: Councillors B McGurk (Chairperson), I Barker, R Copeland, K
Fulton (Deputy Chair), M Lawrey, M Ward and Ms Glenice
Paine.

In Attendance: Group Manager Strategy and Environment (C Barton),
Manager Planning (M Heale), Manager Community
Partnerships (S Hermsen), Kaihautu (Geoff Mullen), Manager
Communications (Paul Shattock), Manager Administration (P
Langley), and Administration Adviser (F O'Brien)

Apologies: Her Worship the Mayor R Reese, Councillor E Davy

1. Apologies

Resolved

***THAT apologies be received and accepted from
Her Worship the Mayor and Councillor Davy.***

McGurk/Lawrey

Carried

2. Confirmation of Order of Business

There were no changes to the order of business.

3. Interests

There were no updates to the Interests Register, and no interests with
agenda items were declared.

4. Submissions

4.1 Youth Council

Youth Councillors thanked the Council for the opportunity to speak and
discussed the results of the survey they carried out (A1314974).

In answer to a question, Youth Councillors clarified that they did not cover the subject of cat desexing in their survey but focused on registration.

In answer to a further question, Youth Councillors said that the survey was conducted in late February and information was collected in person, online through survey monkey and Facebook.

4.2 Nelson Police

Stephen Savage, Sergeant of the Nelson Police gave a presentation (A1327108) and spoke to his tabled document (A1327105).

Sergeant Savage clarified that calls for service during the day were substantially higher than the evening as there was no daytime liquor ban in place.

He discussed that there were clear side loading areas within the liquor ban area which resulted in bottles and debris being left behind and increased risk for business owners. He suggested that there be an extension to the area and hours in which the ban was valid for.

In answer to a question, Sergeant Savage advised that if a 24 hour liquor ban was implemented in Victory Square alone, then the issue would most likely migrate to Wigzell Park.

In answer to a question Sergeant Savage clarified that there were very few measures the Police could take if those drinking alcohol were not committing an offense. He confirmed that officers educate those drinking when caught for a first time but would issue a fine if caught a second time. He added that the Police wished to promote responsible drinking and each situation would be dealt with on a case by case basis.

Sergeant Savage highlighted the extended areas that he suggested the liquor ban cover.

4.3 Carolyn and Raymond Necklen

Mr and Mrs Necklen, as new residents bordering Wigzell Park, described the prolonged daytime sessions where drinking alcohol and antisocial behaviour occurred, often resulting in litter problems.

4.4 Brian Say and Amanda Stevens

Brian Say and Amanda Stephens, on behalf of Blind Citizens New Zealand, spoke in support of the proposal to widen footpath clearance to 2 metres.

Mr Say suggested that sandwich boards were not moved to kerbsides as proposed but instead to focus on the issue of clutter on footpaths. Mr Say noted that in the last 5-7 years, there had been additions to the footpaths such as seats, trees, food outlets and bicycle racks. He

questioned the benefit of moving sandwich boards if tables and chairs would remain outside cafes.

Mr Say suggested that a small working group be established to include Council and Blind Citizens New Zealand to move towards the elimination of sandwich boards and discuss other path related issues.

Ms Stephens described various cities which she believed promoted high quality pedestrian environments and emphasised the importance of accessibility to all. Regarding sandwich boards she noted that the most accessible cities had removed sandwich boards or demanded registration so rules could be enforced around them.

Ms Stephens discussed Standard 4121, cited in the New Zealand Building Act 2004 which related to access to buildings. She noted that obstacles on footpaths cause undue stress on shoppers and greatly affect the retail environment. She suggested bus stops and car parks as an alternative advertising medium to sandwich boards.

In answer to a question, Ms Stephens noted that her preference would be for sandwich boards to stay where they were as movement would require additional adjustment for the visually impaired.

5. Councillor Queries

Councillors requested clarity and additional information in advance of the Planning and Regulatory Committee meeting to deliberate on submissions to the Urban Environments Bylaw 2 March 2015.

- 5.1 Councillors queried whether consultation would need to take place if the CBD liquor ban was extended.
- 5.2 A clear map was requested of the suggested liquor ban area following Sergeant Savage's submission.
- 5.3 It was also queried whether the Victory Square area should cover the surrounding shops and streets and how far into private property the ban extended.
- 5.4 It was requested that other councils' approach to sandwich board advertising subject be considered.
- 5.5 It was also queried what penalty was in place for business' positioning sandwich boards in the middle of the footpath and if fines were indeed implemented, then whether this could be publicised.
- 5.6 Councillors queried whether all roads would be able to comply with the 2 metre footpath proposal.

There being no further business the meeting ended at 10.19am.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

Analysis of Submissions on the Draft Urban Environments Bylaw

1. Purpose of Report

- 1.1 To provide an analysis of the submissions on the draft Urban Environments Bylaw.

2. Delegations

- 2.1 The Planning and Regulatory Committee has the power to recommend to Council the final decisions on Special Consultative Procedures falling within its areas of responsibility.

3. Recommendation

THAT the report Analysis of Submissions on the Draft Urban Environments Bylaw (A1329982) and its attachments (A1329988, A1330114, A1329992, A1329999, A1330000, A1330003, A1334438, and A1334602) be received;

AND THAT the Draft Urban Environments Bylaw be amended to reflect the Committee's decisions on submissions.

Recommendation to Council

THAT the amended draft Urban Environments Bylaw, reflecting the Planning and Regulatory Committee's decisions on submissions, be adopted.

4. Background

- 4.1 The Council has reviewed and consolidated seven existing bylaws into one draft Urban Environments Bylaw. These form the basis of the draft Bylaw's chapters covering: keeping of animals, urban amenity, trading in public places, control of alcohol in public places, reserves and burial and cremations.
- 4.2 The existing bylaws which are being reviewed as part of this process are:

- Miscellaneous Matters Bylaw 2008 (No. 215)
- Numbering of Buildings Bylaw 2009 (No. 219)
- Trading in Public Places Bylaw 2007 (No. 213)
- Advertising of Commercial Sexual Services Bylaw 2011 (No. 208)
- Control of Drinking in Public Places Bylaw 2009 (No. 206)
- Reserves Bylaw 2014 (No. 222)
- Burial and Cremation Bylaw 2008 (No. 216).

4.3 The Council approved the Statement of Proposal for the draft Urban Environments Bylaw on 11 December 2014, by resolving:

THAT the amended Statement of Proposal, the draft Urban Environments Bylaw, and the Summary of the Statement of Proposal in documents A1281101, A1281105 and A1281085 be approved and advertised using the Special Consultative Procedure (section 86 of the Local Government Act), with a submission period from 13 December 2014 to 23 February 2015.

4.4 On 11 December 2014 the Council also resolved:

"THAT the Planning and Regulatory Committee hear submissions in March 2015;

AND THAT the Planning and Regulatory Committee deliberate and make decisions on submissions in April 2015;

AND THAT the Planning and Regulatory Committee recommend to Council that an amended bylaw be adopted, reflecting the Committee's decisions on submissions, in mid-2015.

4.5 A meeting was held on 12 March 2015 to hear submissions. Additional information was requested by the Planning and Regulatory Committee. This report provides that information and makes recommendations for the Planning and Regulatory Committee to consider.

5. Discussion – Analysis of Individual Submissions

5.1 The Analysis of Individual Submissions is shown in Attachment 1 to this report.

6. Discussion – Further information Requested by the Committee

6.1 Following the hearing of submitters on 12 March 2015, the Committee asked officers to provide the following information:

Item 1

- 6.2 Would the Council have to re-consult if it wanted to adopt the request from the Nelson Police for an alcohol ban between 9pm and 7am around the edges of the current CBD alcohol ban area?
- 6.3 Council has received legal advice indicating that the change requested by the Nelson Police can be made without re-consulting with the public. The consultation material indicated that the options were either increasing the alcohol ban areas through this process or by Council resolution. It was therefore open for the Police to extend the areas by a submission and open to Council to accept the submission based on the evidence presented in support.
- 6.4 The option of allowing future changes to be by way of Council resolution is also open to the Council should Council adopt this option as proposed. How this provision is exercised in the future will then need to be assessed against the statutory framework. If a significant change is proposed to the alcohol ban area in the future an additional consultation process will be required.

Item 2

- 6.5 A clearer map of the specific CBD areas requested by the Police for an alcohol ban from 9pm to 7am.
- 6.6 This is the block bounded by Riverside Drive, Hardy Street, Tasman Street and Collingwood Street. It does not include NMIT. This is shown in Attachment 2. Sergeant Savage said this would avoid sideloading rather than preloading. People will still drink before walking into the CBD (preloading), but they won't walk far to access alcohol then return to the bars (sideloading).

Item 3

- 6.7 Were the shops and the surrounding streets of Victory Square included in the Statement of Proposal?
- 6.8 The surrounding streets and the shops on the left hand side of Toi Toi Street were included in the Statement of Proposal.

Item 4

- 6.9 Clarification on the public place definition in the Local Government Act, as it relates to bylaws controlling alcohol, and the extent and implications for private properties within the area where alcohol bans are proposed to apply (eg Fresh Choice car park and McDonalds).
- 6.10 Section 147 of the Local Government Act (power to make bylaws for alcohol control purposes) states that in this section "public place—
 (a) means a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner

- or occupier of the place is lawfully entitled to exclude or eject any person from it; but
(b) does not include licensed premises.”

- 6.11 That means privately owned car parks, such as supermarket and business car parks which are accessed by the public are included within the definition of public places. This applies to the McDonalds car park which is in the current CBD alcohol ban area. It would apply to the Fresh Choice car park if the alcohol ban area is extended. It will not apply to anyone drinking on a residential property within the alcohol ban area.
- 6.12 Clause 6.3 of the draft Urban Environments Bylaw clarifies that the control of alcohol provisions in the Bylaw does not apply to private residential properties.

Item 5

- 6.13 Clarification on what was included in the Statement of Proposal related to sandwich boards, and whether a further consultation process would be required if Council decided to not allow sandwich boards.
- 6.14 The Council’s preferred option in the Statement of Proposal was: to continue to allow one sandwich board per premises in a Designated Commercial Area and to require all sandwich boards to be placed within 600mm of the kerb.
- 6.15 The full list of options considered is shown on page 15 of the Statement of Proposal. This included the option of requiring a permit to have a sandwich board, but it did not include the option of prohibiting all sandwich boards. Therefore further consultation would be required if Council wanted to not allow sandwich boards at all.

Item 6

- 6.16 A comparison of the approach to sandwich boards taken by other councils of a similar size to Nelson.
- 6.17 As shown in the list of approaches in Attachment 3 to this report, councils take a wide range of approaches to sandwich boards, including:
- requiring a permit to have this type of sign on the street;
 - requiring sandwich boards to all be on the kerb or all on the street frontage;
 - no limits on numbers or placement provided a clear pedestrian way is maintained.

Item 7

- 6.18 If the Council decides to change the current approach to sandwich boards, what is the likely cost of this change, in terms of time spent informing businesses and ensuring compliance?
- 6.19 The Manager Environmental Inspections has advised that increasing the level of enforcement, or enforcing a changed bylaw, can be done within current resources. This would involve a process of: education, warnings and enforcement.
- 6.20 The Manager Environmental Inspections has indicated that in the late 1990's they ran regular 'blitzes' on sandwich boards where warnings were issued followed by seizure of non-compliant signs, charging \$20 for their return.

Item 8

- 6.21 Are there areas of our streets where there isn't space for both a sandwich board (600mm) plus two metres of clear width for pedestrian use?
- 6.22 A review of the footpath widths on high pedestrian count streets within the CBD shows that the footpaths on Trafalgar (100%), Bridge (95%) and Hardy Streets (more than 95%), are in almost all cases wide enough to accommodate a 2m pedestrian area and 600mm for sandwich boards. There are a number of issues on narrower footpaths such as on the western end of Bridge Street, New Street, Church Street, Selwyn Place, in some laneways into the squares, and in some areas where leases have been granted for activities to occur on the footpath.

Item 9

- 6.23 What penalties apply if a business doesn't comply with the sandwich board provisions?
- 6.24 The Local Government Act sets out the penalties which apply for breaches of a bylaw. Sections 167 and 168 enable the Council or an authorised officer to seize and impound property involved in a bylaw offence, if someone doesn't stop committing the offence after receiving a verbal or written warning.
- 6.25 The Manager Environmental Inspections has advised that seizure of sandwich boards is an effective enforcement tool.
- 6.26 Under section 242 of the Local Government Act, any person who breaches a bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000. However, summary conviction requires the Council to take a person to Court, so it is highly unlikely that breaches of sandwich board provisions would result in a court hearing.

- 6.27 Instant fines cannot be imposed for non compliance with the sandwich board provisions, because this is not provided for as an infringement offence in legislation or in a Regulation made by the Governor General, in accordance with section 259 of the Local Government Act.

Item 10

- 6.28 What is the Council's current approach to publicising and enforcing the bylaw provisions related to sandwich boards?
- 6.29 Where complaints are received, the current approach is to visit the non compliant business, explain the rules and request compliance. This is usually the way people find out about the bylaw (rather than through publicity).
- 6.30 Environmental Inspections Limited (EIL) took over the role of enforcement of sandwich boards in October 2013. Since that time, enforcement has been in response to complaints, and there have not been many complaints. This follows the general complaints-driven approach to bylaw enforcement.

Item 11

- 6.31 More information about the NZ Standard – Design for Access and Mobility - Buildings and Associated Facilities (NZS 4121:2001).
- 6.32 A summary of the standard is attached as Attachment 7.

7. Discussion – Significant Committee Decisions

- 7.1 The following significant decisions relate to a number of the individual submissions shown in Attachment 1 to this report.

Committee decision 1

- 7.2 Whether or not to extend the area where alcohol is prohibited in the CBD.
- 7.3 Submitters 1, 2, 5 and 7 have requested an expansion of the inner city area where alcohol is prohibited, to discourage people from 'sideloading' (storing alcohol in cars outside bars and leaving the bar to drink it) close to the city centre and the current alcohol ban area.
- 7.4 At the hearing Submitter 7 (Police Sergeant Stephen Savage) requested an overnight (9pm – 7am) alcohol ban for the additional inner city area bounded by Riverside Drive, Tasman Street, Hardy Street and Collingwood Street. Sergeant Savage provided call for service statistics in support of this request. He also advised the Council that since the changes to legislation a year ago (section 239A of the Local Government Act 2002) the offence of drinking in a public place where this activity is banned is dealt with through infringement fines only, similar to a traffic offence. He also indicated that no one goes to Court any more, or gets a conviction for breaching an alcohol control bylaw.

- 7.5 Police still have discretion to warn people rather than fining them. Sergeant Savage gave the example of freedom campers not being aware of the alcohol ban.
- 7.6 Sergeant Savage said adjusting the current boundaries in the CBD will reduce alcohol related harm and promote public safety. The current boundary of Collingwood Street does not work as there are bars in the same area which are not in the alcohol ban area. This encourages sideloading in these public places.
- 7.7 Similarly, having an alcohol ban for only part of Nelson’s main drinking area does not work as people sit just outside the current boundaries and drink alcohol in an uncontrolled and often volatile environment. The ability to impose a fine in an alcohol ban area enables the Police to step in before disorder happens.
- 7.8 Sections 147 and 147A of the Local Government Act specify the Council’s powers to make bylaws for alcohol control purposes, and the criteria that must be met. The Council must be satisfied that—
- (a) there is evidence that the area to which the bylaw is intended to apply has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area; and
 - (b) the bylaw is appropriate and proportionate in the light of that crime or disorder.
- 7.9 These sections were added to the Local Government Act 2002 in December 2012 and require more evidence than was previously required before expanding the areas where controls on alcohol apply. (These sections are shown in full in Attachment 5 to this report.)

Options:

- 7.10 Option A – Retain the existing boundary for the alcohol ban area in the CBD.
- 7.11 Option B – Add an overnight (9pm – 7am) alcohol ban for the additional inner city area bounded by Riverside Drive, Tasman Street, Hardy Street and Collingwood Street.
- 7.12 Option C – Expand the CBD boundary to cover the areas requested by the Police and others on a 24/7 basis.
- 7.13 Option D – Retain the existing boundary for the alcohol ban area in the CBD, but seek ongoing feedback from the Police, the DHB, the Accident Compensation Corporation, Nelson Community Patrol and the Māori Wardens. Seek a report to Council reflecting this feedback. Where the Council considers there is sufficient evidence for an expansion of the areas where drinking of alcohol is prohibited, initiate an amendment to Schedule A of the Urban Environments Bylaw.

- 7.14 Recommendation: Option B with consequential changes to clause 6.18 and 6.19 of the Bylaw.
- 7.15 Reasons: Evidence has been provided by the Nelson Police which shows a high level of calls for service in the inner city area bounded by Riverside Drive, Tasman Street, Hardy Street and Collingwood Street. The location of bars within these areas, and the problems associated with one side of Hardy and Collingwood Street being in the alcohol ban area and the other sides not being included in it are additional reasons to support this change.
- 7.16 The Police submission also identified that concerns about people being arrested and convicted are no longer an issue.
- 7.17 Section 239A of the Local Government Act requires an infringement notice to be issued for breach of a bylaw made under section 147 of the LGA. This is the approach required under the Act, although the bylaw does also specify that obstruction of an enforcement officer is an offence against the Act (see clause 6.18 of the Bylaw). Legal advice indicates that clauses 6.18 and 6.19 of the Bylaw need to change to more closely reflect obstruction may lead to a conviction but an infringement notice is the only option for a breach of the alcohol ban bylaw pursuant to the LGA.
- 7.18 The Council has sufficient evidence to support its bylaw for alcohol control purposes, as required by section 147A of the Local Government Act 2002.
- 7.19 It is anticipated that alcohol based issues will change as a result of the alterations to the alcohol ban area. It is therefore recommended that a report is provided to Council when considering future changes to the alcohol ban area as outlined in Option D above.

Committee decision 2

- 7.20 Council's approach to publicising, monitoring and enforcement of the Urban Environments Bylaw.
- 7.21 Submitters 4, 9, 11 and 15 requested an increase in monitoring and enforcement of some aspect of the Urban Environments Bylaw. These submissions related to:
- advertising, begging and soliciting activities;
 - numbering of buildings;
 - the time limit on busking in Bank Lane on Saturday mornings;
 - non-compliance with the rules related to sandwich boards.
- 7.22 People generally find out about bylaw provisions when they are contacted by enforcement officers regarding a matter of non compliance. The approach to enforcement of the bylaws is currently complaints-

based. Some ongoing non-compliance has been highlighted by the submitters.

Options

- 7.23 Option A – continue the current approach to publicity, monitoring and enforcement of bylaws, which is primarily complaints-based.
- 7.24 Option B – increase publicity and information about the bylaw provisions.
- 7.25 Option C – increase monitoring and enforcement of all aspects of the bylaw.
- 7.26 Recommendation: Option B.
- 7.27 Reasons: The adoption of a new bylaw is a good opportunity to publicise the requirements, and to provide information in a targeted way to retailers, CBD building owners and others. Increasing the public’s general awareness of the provisions, and the process for making a complaint, also gives people the information they need to take action if they are adversely affected by any of the activities regulated through the Bylaw.

Committee decision 3

- 7.28 Whether or not to regulate the keeping of cats.
- 7.29 Submitters 13, 14 and 16 requested regulation of cats through the Urban Environments Bylaw. Submitter 13 requested a provision enabling the Council to limit the number of adult cats to three, where the number of cats is impacting on neighbours. Submitter 14 requested a bylaw provision requiring cat owners to keep their cats within their own properties. Submitter 16 requested regulation for health and nuisance reasons, as well as collaboration with the SPCA on a number of non-regulatory initiatives.

Options

- 7.30 Option A – No bylaw provisions regarding the keeping of cats.
- 7.31 Option B – Include a bylaw provision limiting cat numbers, where cats are impacting on neighbours.
- 7.32 Option C – Include a bylaw provision requiring cat owners to keep cats on their own property.
- 7.33 Recommendation: Option A.
- 7.34 Reasons: Section 146 (a) of the Local Government Act 2002 enables a council to make bylaws controlling the keeping of animals, and Council has the power to use a bylaw provision to control the keeping of animals for nuisance and public health reasons under sections 145 (a) and 145 (b) of the Act. However, it is more cost effective to apply section 33 of the Health Act 1956 to address nuisance issues related to cat faeces. This legislation is shown in Attachment 6 to this report.

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- 7.35 Council officers have been in discussion with Invercargill City Council who have a bylaw that enables to limit cat numbers to three. Their experience indicates that the Health Act is a more appropriate mechanism.
- 7.36 The Youth Council submitted seeking micro-chipping and/or registering of cats in the same way as dogs. However dogs have the potential to be a far greater safety risk than cats, which is why there is legislation (the Dog Control Act 1996) requiring Council to manage these risks through dog registration, micro-chipping and other measures.
- 7.37 Micro-chipping and registering cats would entail considerable expense, which is not justified given the effects to be managed relate to nuisance rather than threats to public safety. It is likely to be far more cost effective to invest in non-regulatory methods to promote limitations of cat numbers.
- 7.38 In response to issues and suggestions raised by Alison Moore (submitter 16), the Council may also wish to review its approach with the SPCA outside of the bylaw process, to increase promotion of neutering/spaying and promotion of responsible cat ownership.

Committee decision 4

- 7.39 Council's approach to sandwich boards.
- 7.40 Submitters 5, 15, 16 and 17 requested different approaches to sandwich boards. Submitter 5 requested that Council require sandwich boards to be beside the kerb. Submitter 15 (Blind Citizens) would like Nelson's streets to be free of sandwich boards and has asked the Council to consider setting up a small working group to resolve issues related to sandwich boards. Submitter 16 recommends requiring sandwich boards to be placed against shop frontages to make better use of footpath space and to avoid safety risks and damage to vehicles. Submitter 17 has requested that sandwich boards be placed within 100mm of the kerb, rather than within 600mm of the kerb as currently proposed in the draft Urban Environments Bylaw.
- 7.41 At the hearing, Brian Say and Amanda Stevens of Blind Citizens Nelson Branch (Submitter 15) pointed out that pedestrian-friendly environments work well economically, demographically and for health reasons. In response to a question from the Committee about where they would prefer the sandwich boards to be placed, if they do have to stay, Mr Say recommended keeping them where they are today. He also urged the Committee to work towards not having sandwich boards on Nelson streets in the longer term.

Options

- 7.42 Option A: Require all sandwich boards to be adjacent to the kerb, and placed within 600mm of the kerb.

- 7.43 Option B: Require all sandwich boards to be adjacent to the kerb, placed within 100mm of the kerb, and at the front and rear of parking spaces.
- 7.44 Option C: Require all sandwich boards to be adjacent to shop frontages.
- 7.45 Option D: Retain the approach in Nelson’s existing Trading in Public Places Bylaw which requires shops on the ground floor to place their sandwich board adjacent to their shop frontage, and upstairs shops to place their sandwich board adjacent to the kerb.
- 7.46 Recommendation: Option D.
- 7.47 Reasons: The range of views expressed by submitters, and the range of approaches taken by councils, suggests there is no ideal solution to sandwich boards.
- 7.48 The vast majority of sandwich boards are located directly outside businesses rather than at the kerb (EG - 93% on Trafalgar Street and 88% on Bridge Street). Altering the location to the curb would require a significant change for businesses.
- 7.49 There is a need to better coordinate management of structures on footpaths and it is not always possible to accommodate sandwich boards and allow for pedestrian access of 2.0m or more, particularly on narrower footpaths and laneways as outlined in paragraph 6.22 above.
- 7.50 Prohibiting the provision of sandwich boards is not within the scope of the bylaw.
- 7.51 Greater publicity and enforcement of the bylaw may help address issues in the short term.
- 7.52 Note: The Council controls the placement of sandwich boards on streets to protect the public from nuisance and to protect public safety on Nelson’s streets, as provided for by clauses 145 (a) and (b) of the Local Government Act 2002. The Nelson Resource Management Plan rules cover most types of signage. However, sandwich boards are generally exempt from those rules and are instead controlled through a bylaw.
- 7.53 The Committee may also wish to recommend that the signage provisions in the Nelson Plan are aligned with the adopted Bylaw.

8. Options analysis

- 8.1 The recommendations in this report fit with the purpose of local government because they are the most cost effective options for households and businesses, and consider both present and anticipated future circumstances, such as smaller sections and an ageing population.
- 8.2 Nelson City Council has specific bylaw-making powers to manage issues in the draft Urban Environments Bylaw. Addressing these issues is not legislated by central government or managed by the private sector.

9. Assessment of Significance against the Council's Significance Policy

- 9.1 Making decisions on submissions, and amending the Urban Environments Bylaw to reflect those decisions, is not a significant decision in terms of the Council's Significance and Engagement Policy. The focus of the bylaw is primarily on managing potential nuisances and any other impacts from day to day activities such as the keeping of animals, managing activities on inner city streets, and ensuring Nelson's public places are pleasant environments to visit.
- 9.2 The bylaw provisions relate to small-scale issues rather than significant impacts on the current and future social, cultural, economic or environmental wellbeing of the city.

10. Alignment with relevant Council Policy

- 10.1 As outlined in the report to approve the draft Urban Environments Bylaw for public consultation (document A1267611), this consolidated Bylaw is aligned with the Nelson Resource Management Plan, the Heart of Nelson Inner City Strategy, Nelson's Reserve Management Plans, the Community Facilities Activity Management Plan and Goals 4, 7 and 9 of the Nelson 2060 Strategy.
- 10.2 The recommended changes to the draft Bylaw, in response to submissions, are also aligned with these Council strategies and plans.
- 10.3 The additional cost associated with these recommendations are in this report are publicity about the new bylaw provisions and providing information in a targeted way to retailers, CBD building owners and others about the adopted provisions and the reasons for them. Outside of the bylaw process, the Council may also wish to work with the SPCA on options for increasing promotion of neutering and spaying.

11. Consultation

- 11.1 A special consultative procedure has been carried out, with an extended submission period, to ensure that all interested and affected persons have the opportunity to make a submission on the draft Urban Environments Bylaw.

12. Inclusion of Māori in the decision making process

- 12.1 The views of iwi representatives were sought as part of the informal pre-consultation process. All Māori had the opportunity to contribute to the decision making process during the Special Consultative Procedure.

13. Conclusion

- 13.1 Key issues raised by submitters related to: drinking of alcohol in public places, the Council's approach to enforcing the bylaw provisions, the keeping of cats and sandwich boards on footpaths.

- 13.2 A bylaw controlling the drinking of alcohol in public places has proven to be an effective tool for managing alcohol-related harm in public places. This report considers whether or not to increase the area where alcohol is prohibited.
- 13.3 The Council's current approach to enforcement has also been considered in response to submitters' concerns about some examples of ongoing non compliance related to sandwich boards and busking.
- 13.4 Application of section 33 of the Health Act 1956 to address issues related to cats is more cost-effective than a bylaw which requires prosecution and a summary conviction in order to address nuisance caused by cats.
- 13.5 Issues related to the placement of sandwich boards and their impacts on people who are blind, partially sighted or in wheelchairs is also considered.

Matt Heale
Manager Planning

Attachments

- Attachment 1: Individual Submissions Analysis [A1329988](#)
- Attachment 2: Map of the proposed inner city area where alcohol is banned [A1330114](#)
- Attachment 3: Other councils' approaches to sandwich boards [A1329992](#)
- Attachment 4: City of Gold Coast approach to cats (referred to in submission 14) [A1329999](#)
- Attachment 5: Sections 147 and 147A of the Local Government Act 2002 – powers to make bylaws for alcohol control purposes and criteria for making or continuing bylaws [A1330000](#)
- Attachment 6: Section 33 of the Health Act 1956 – proceedings in respect of nuisances [A1330003](#)
- Attachment 7: Summary of NZ Standard – Design for Access and Mobility - Buildings and Associated Facilities (NZS 4121:2001) [A1334438](#)
- Attachment 8: Proposed Urban Environments Bylaw [A1334602](#)

Attachment 1 – Individual Submissions Analysis

1. **Submitter 1 – Mark A’Court, Fresh Choice Supermarket (not heard)**

1.1 Decision requested: Include the following areas in Schedule A (Prohibition of Alcohol in Public Places) because these areas are not well lit and are often the chosen places for people to sideload alcohol while they are out on the town:

- Fresh Choice car park
- Streets around the Fresh Choice Supermarket, including Collingwood Street, Harley Street and Provincial Lane
- The areas around the “old Shed” and the Support Works Office (the old Med lab).

1.2 Recommendation and reasons: [Committee decision 1- see section 7 of the report].

2. **Submitter 2 – Ron Taylor, Little Rock Bar & Nightclub (not heard)**

2.1 Decision requested: Expand the inner city alcohol ban area (as listed in Schedule A, Prohibition of Alcohol in Public Places) to at least the other side of the Maitai River, to discourage people from preloading so close to the city centre and the current alcohol ban area.

2.2 My staff and I constantly remove alcohol bottles and cans for safety and to stop people hanging around in groups where trouble may start. These areas include: Fresh Choice supermarket car park, Harley Street, New Zealand Home Loans car park, Little Rock car park, Fresh Choice seating and planter boxes in Bridge and Collingwood Streets, the car park on the corner of Bridge and Harley Street, the Court House grounds and up Bridge Street to just past the Verdict.

2.3 People sit in their cars in these areas, or stand around, consuming alcohol on most nights before moving into the bars or the central city.

2.4 Recommendation and reasons: [Committee decision 1 – see section 7 of the report].

3. **Submitter 3 – Donald Stevens, Keep Nelson Tidy (not heard)**

3.1 Decision requested: Clean the Collingwood Street bridge and remove dog faeces from the area. Install ridge fences on top of the bridge to stop bridge walkers.

3.2 Recommendation: Reject the submission.

3.3 Reasons: This submission raises operational matters which are outside of the scope of the draft Urban Environments Bylaw.

4. Submitter 4 – Hugh Briggs (not heard)

4.1 Decision requested (1): Retain the purpose statement in clause 1.3 of the draft Bylaw, particularly (with reference to Lewis Stanton) sub clauses (i), (ii) and (iv).

4.2 Recommendation: Accept the submission.

4.3 Reasons: The Local Government Act 2002 (the Act) gives the Council the power to use a bylaw to control each of the activities listed in the purpose statement. Sections 145 (a) and (b) of the Act enables the Council to make bylaws to protect the public from nuisance, and to protect, promote and maintain public health and safety. Section 146 (a)(vi) of the Act enables Council to make bylaws to regulate trading in public places.

4.4 Decision requested (2): Ensure that breaches of the bylaw are enforced, as provided for in clauses 1.5 and 1.6 of the draft Bylaw.

4.5 Recommendation and reasons: [Committee decision 2– see section 7 of the report].

4.6 Decision requested (3): Note that Lewis Stanton’s regular activities fit within the draft Bylaw’s definitions of ‘advertising’, ‘begging’ and ‘nuisance’. He also has ‘signs’ on his cart. He is ‘soliciting’ payment through his signage seeking koha, and setting up a display on the footpath outside of a business. He has also advertised when he has used chalk on the footpath in the past.

4.7 Recommendation: Accept the submission.

4.8 Reasons: Provisions related to these activities are included in Part Five (Trading in Public Places) of the Urban Environments Bylaw.

5. Submitter 5 – Nelson Youth Council (heard)

5.1 Decision requested (1): Retain the minimum distance of poultry houses from neighbouring dwellings, and add a requirement for a two metre setback from a property’s boundaries.

5.2 Recommendation: Reject the submission.

5.3 Reasons: Requiring a setback from a property boundary, in addition to the five metre setback from neighbouring dwellings, would reduce flexibility regarding location of a poultry house, excluding more people from keeping poultry.

5.4 Decision requested (2): Include a limit of three adult cats per household. Consider the feasibility of requiring registration of cats, similar to the existing requirement for dog registration. Note that in a recent survey

carried out by the Youth Council (with 291 responses) 38% supported compulsory microchipping of cats and 55% supported compulsory registration of cats. A commonly expressed view was that cats should be treated the same way as dogs.

- 5.5 Recommendation and reasons: [Committee decision 3 – see section 7 of the report].
- 5.6 Decision requested (3): Remove the 50 day limit for use of caravans on residential properties, as well as the current boundary limit of 1.5 metres. Allow caravans to be kept in front yards.
- 5.7 Recommendation: Reject the submission.
- 5.8 Reasons: The conditions ensure Council has the power to act where people living in caravans is causing a nuisance to neighbours. Section 145 (a) of the Local Government Act 2002 enables the Council to adopt bylaw provisions to protect the public from nuisance.
- 5.9 The bylaw provisions controlling use of caravans for residential purposes (clauses 4.2 – 4.4 of the draft Urban Environments Bylaw) will be reviewed through the Nelson Plan process, where more comprehensive consideration can be given to both the protection of amenity values in residential zones and the need to address housing affordability issues.
- 5.10 Decision requested (4): Retain the proposed approach to begging in the draft Bylaw.
- 5.11 Recommendation: Accept the submission.
- 5.12 Reasons: The proposed provision is a continuation of the approach in the existing Trading in Public Places Bylaw, which does not allow begging in Nelson.
- 5.13 There is a high level of community support for protecting the public from nuisance related to begging. In a recent People’s Panel survey 83% of respondents said begging should not be allowed in Nelson. Section 145 (a) of the Act enables the Council to make bylaws to protect the public from nuisance and section 146 (a)(vi) of the Act specifically enables Council to adopt bylaw provisions to regulate trading in public places.
- 5.14 Decision requested (5): Retain the proposed approach to busking in the draft Bylaw (the one hour limit, and the ability for the Council to seize equipment if a busker is in breach of the rules). Consider setting up a “busker sign in system” either online or at the Council. Note that in a recent survey carried out by the Youth Council (with 291 responses) 23% supported a one hour time limit for buskers, and 42% opposed it (38% were neutral). Most of the people who opposed the one hour time limit felt that there should be no limit on how long someone could busk.
- 5.15 Recommendation: Accept the submission.

- 5.16 Reasons: The Council considers a one hour time limit is a reasonable amount of time for a performer to busk in one area. The current bylaw provisions require people to provide their name and contact details with the Council, and to collect a copy of the rules related to busking, before commencing this activity. Section 145 (a) of the Act enables the Council to make bylaws to protect the public from nuisance and section 146 (a)(vi) of the Act specifically enables Council to adopt bylaw provisions to regulate trading in public places.
- 5.17 Decision requested (6): Retain the proposed approach to require sandwich boards to be located beside the kerb, for both aesthetic and safety reasons.
- 5.18 Recommendation and reasons: [Committee decision 4– see section 7 of the report].
- 5.19 Decision requested (7): Consider including extra areas (of the CBD) in Schedule A because these areas have the potential to become unsafe if alcohol is not prohibited. Note that in a recent survey carried out by the Youth Council (with 291 responses) 56% of respondents supported the provision enabling permits to be granted for low risk activities involving a limited amount of alcohol.
- 5.20 Recommendation and reasons: [Committee decision 1– see section 7 of the report].
- 5.21 Decision requested (8): Retain the proposed approach to conditions on headstones and monuments in Part 8 of the draft Bylaw.
- 5.22 Recommendation: Accept the submission.
- 5.23 Reasons: The conditions outlined in clauses 8.11 to 8.13 of the draft Bylaw enable the Council to manage cemeteries and protect them from damage, as provided for by section 146 (b) of the Act.
- 5.24 Decision requested (9): Retain the proposed approach in Part 8 of the Bylaw to not include a provision related to animals in cemeteries.
- 5.25 Recommendation: Accept the submission.
- 5.26 Reasons: The Control of Dogs Bylaw 2013 requires dogs to be on a lead in cemeteries. Access to the cemeteries by other animals has not been an issue in the past and if it became an issue in future, access to cemeteries could be controlled by the Council as the landowner.

6. Submitter 6 – Macalister Family (not heard)

- 6.1 Decision requested: Retain the proposed approach to impose a 24/7 alcohol ban at Victory Square and Wigzell Park. As neighbours of Wigzell Park we have experienced an ongoing problem with alcohol-related antisocial behaviour in the area.
- 6.2 Recommendation: Accept the submission.

- 6.3 Reasons: The Council is satisfied that there is sufficient evidence that Victory Square has experienced a high level of crime and disorder that can be shown to have been caused or made worse by alcohol consumption in these areas; and that the bylaw provisions are appropriate and proportionate to the level of crime and disorder in these areas. The Council is also satisfied that there is sufficient evidence that the problems experienced at Victory Square would migrate to Wigzell Park when Victory Square becomes an area where alcohol is banned at all times.
- 6.4 Other parks in the central Nelson area are also subject to alcohol bans, including: Pioneers Park, Rutherford Park, Queens Gardens. A number of other parks in central Nelson have overnight alcohol bans, including Fairfield, Botanics, Branford, Miyazu, Neale and Guppy Parks.

7. Submitter 7 – Stephen Savage, New Zealand Police (heard)

- 7.1 Decision requested (1): Retain the proposed approach to impose a 24/7 alcohol ban at Victory Square. As the alcohol harm prevention officer in Nelson Bays and a police officer in Nelson for the past 17 years, I have seen how implementing a bylaw banning alcohol in public places has decreased the number of offences, and made the areas safer.
- 7.2 At the hearing Sergeant Savage provided information related to call outs to the Victory Square area. This showed a notable increase in calls for service over the past year, with more robberies, serious assaults, intimidation, disorder, suspicious activity and theft.
- 7.3 He noted that there were more calls in the day, when no liquor ban currently applies, and said a liquor ban during the day would help to reduce these problems. There are a lot of youth problems where alcohol is involved, but the Police are currently powerless to deal with them.
- 7.4 In response to a question from the Committee about Wigzell Park, Mr Savage said the statistics for Police call outs to the Wigzell Park area are not currently at high levels, with 15 call outs for service including one for disorder. However, if Victory Square became an area where alcohol was banned at all times there was a high risk that the problem would migrate to Wigzell Park, particularly due to its proximity to Victory Square.
- 7.5 Recommendation: Accept the submission.
- 7.6 Reasons: The Council is satisfied that there is sufficient evidence that Victory Square has experienced a high level of crime and disorder that can be shown to have been caused or made worse by alcohol consumption in these areas; and that the bylaw provisions are appropriate and proportionate to the level of crime and disorder in these areas. The Council is also satisfied that there is sufficient evidence that the problems experienced at Victory Square would migrate to Wigzell Park when Victory Square becomes an area where alcohol is banned at all times.

- 7.7 Other parks in the central Nelson area are also subject to alcohol bans, including: Pioneers Park, Rutherford Park, Queens Gardens. A number of other parks in central Nelson have overnight alcohol bans, including Fairfield, Botanics, Branford, Miyazu, Neale and Guppy Parks.
- 7.8 Decision requested (2): Include the block bounded by Collingwood Street, Nile Street and the Maitai River in Schedule A of the draft Bylaw. These areas are very close to the Nelson CBD and problems are occurring here. The car parks and streets within this area are used for preloading, and the Police find signs in the form of empty and broken bottles every night the bars are operating.
- 7.9 At the hearing Sergeant Savage provided maps and statistics at the hearing, in support of the request to expand the CBD area where alcohol is banned. He advised the Council that since the changes to legislation a year ago (section 239A of the Local Government Act 2002) the offence of drinking in a public place where this is banned is dealt with through infringement fines only, similar to a traffic offence. That means no one goes to Court any more, or gets a conviction for breaching the bylaw.
- 7.10 Police still have discretion to warn people rather than fining them. They have also retained the power of arrest but rarely use it, and only for the most difficult people.
- 7.11 Based on his experience of 17 years of policing in Nelson, Sergeant Savage said banning alcohol in specific public places is one of the best tools Police have, and the community has become considerably safer. Congregation spots such as Buxton Carpark were able to be policed effectively, and as a result the amount of alcohol fuelled problems has greatly reduced.
- 7.12 He said adjusting the current boundaries in the CBD will further help to reduce alcohol related harm and promote public safety. The current boundary of Collingwood Street does not work as there are bars in the same area which are not in the alcohol ban area. This encourages side-loading in these public places.
- 7.13 Similarly, having an alcohol ban for only part of Nelson's main drinking area does not work as people sit just outside the current boundaries and drink alcohol in an uncontrolled and often volatile environment. Sergeant Savage recommended that the Council include the block bounded by Riverside Drive, Collingwood Street, Hardy Street and Tasman Street in Schedule A of the Bylaw, as an area where alcohol is prohibited from 9pm to 7am. He clarified that this will reduce side-loading, rather than pre-loading.
- 7.14 Police also indicated that people also don't feel safe dropping off needles at the needle exchange at night.
- 7.15 In response to a question from the Committee, Sergeant Savage said an alcohol ban in the Hathaway Court car park area was not supported by statistics.

7.16 In response to a question from the Committee, Sergeant Savage said the ability to impose an infringement fine enables the Police to step in before disorder happens. It is a crime prevention tool.

7.17 Recommendation and reasons: [Committee decision 1- see section 7 of the report].

8. Submitter 8 – Transpower NZ Ltd (not heard)

8.1 Decision requested: Retain clause 7.12 of the draft Bylaw, which provides an exemption from the provisions in Part 7 (Reserves) of the draft Bylaw for the operation, maintenance, development and upgrading of network utilities.

8.2 Recommendation: Accept the submission.

8.3 Reasons: Retaining clause 7.12, which provides an exemption for Transpower and other network utilities, ensures the draft Bylaw is not more stringent than the National Environmental Standard for Electricity Transmission Activities, and that the maintenance and upgrading of network utilities within the Council's reserves will not be subject to an additional approval process.

9. Submitter 9 – National Council of Women (not heard)

9.1 Decision requested (1): Retain clause 1.3 (purpose) of the draft Bylaw.

9.2 Recommendation: Accept the submission.

9.3 Reasons: Legislation (including sections 145, 146 and 147 of the Local Government Act 2002) gives the Council the power to use a bylaw to control each of the activities listed in the purpose statement.

9.4 Decision requested (2): Consider widening the scope to include the banning of the sale and use of legal highs in public places. We appreciate this omission may be because legal highs come under other legislation.

9.5 Recommendation: Reject the submission.

9.6 Reasons: The Statement of Proposal for the draft Urban Environments Bylaw did not include the option of controlling use of legal highs in public places. For this reason, it is outside of the scope of the changes the Council can make in response to submissions. The public has not had an opportunity to submit in support or opposition to its inclusion.

9.7 It is unlikely that any legal highs will be available for some time (up to five years from now). As a result of changes in legislation, all legal high products need to be approved, following proof that they pose no more than a low risk of harm. It is unlikely that any synthetic cannabinoid that was available during the interim period (when the Act managed products already on the market) would now be approved. It is also unlikely that any new product will be approved for some time, due to the ban on animal testing.

- 9.8 Decision requested (3): Note that some gardens will be too small to enable a poultry house to be sited five metres from dwellings on neighbouring properties. This could be the intention of the bylaw provision, conceding that some modern sections are too small to allow the keeping of poultry.
- 9.9 Recommendation: Accept the submission.
- 9.10 Reasons: Very small sections, where a five metre setback from neighbouring dwellings is not achievable, are unlikely to be suitable for the keeping of poultry. Section 146 (a)(v) of the Local Government Act 2002 enables Council to regulate the keeping of animals.
- 9.11 Decision requested (4): Retain clause 4.9 of the draft Bylaw, requiring building numbers to be displayed. This provision must apply to the CBD as it is difficult to track building numbers in this area.
- 9.12 Recommendation: Accept the submission.
- 9.13 Reasons: The numbering of buildings provision (clause 4.9) applies throughout the 'City', which is defined as the whole area within the Nelson City Council territory. Section 22AB (1)(x) of the Land Transport Act 1998 enables the Council to require building owners and occupiers to display a building's number in a position that is visible from the road.
- 9.14 Decision requested (5): Publicise the adopted Urban Environments Bylaw in Live Nelson, and ensure sufficient funds are available for monitoring.
- 9.15 Recommendation and reasons: [Committee decision 2- see section 7 of the report].

10. Submitter 10 – Nelson Marlborough District Health Board (not heard)

- 10.1 Decision requested (1): Retain the public places listed in Schedule A of the draft Bylaw, as areas where alcohol is prohibited. In particular, the DHB supports the continuation of the existing ban in the Inner City and the 24/7 bans for Victory Square and Wigzell Park. Victory Square and Wigzell Park are situated within low socio-economic areas. A report by the New Zealand Law Commission shows that people living in areas of higher deprivation experience a greater burden of alcohol-related harm compared to other New Zealanders.
- 10.2 Recommendation: Accept the submission.
- 10.3 Reasons: The Council is satisfied that there is sufficient evidence that Victory Square has experienced a high level of crime and disorder that can be shown to have been caused or made worse by alcohol consumption in these areas; and that the bylaw provisions are appropriate and proportionate to the level of crime and disorder in these areas. The Council is also satisfied that there is sufficient evidence that the problems experienced at Victory Square would migrate to Wigzell

Park when Victory Square becomes an area where alcohol is banned at all times.

- 10.4 Other parks in the central Nelson area are also subject to alcohol bans, including: Pioneers Park, Rutherford Park, Queens Gardens. A number of other parks in central Nelson have overnight alcohol bans, including Fairfield, Botanics, Branford, Miyazu, Neale and Guppy Parks.
- 10.5 Decision requested (2): In any future reviews of the draft Bylaw, consider extending Schedule A to cover other areas in Nelson with similar deprivation levels.
- 10.6 Recommendation: Accept in part.
- 10.7 Reasons: Section 147A of the Local Government Act requires specific evidence of alcohol related crime or disorder in an area before imposing controls on alcohol consumption. However, the Council welcomes information from the DHB providing specific evidence of alcohol related harm in public places which could be used to support an extension of the areas listed in Schedule A in future.
- 10.8 Decision requested (3): Amend clause 6.12 of the draft Bylaw to provide more clarity and certainty, as follows: "A permit granted in accordance with this section of the Bylaw may include conditions related to the following matters to ensure that the activity remains low risk with respect to minimising alcohol related harm:"
- 10.9 Recommendation: Accept the submission.
- 10.10 Reasons: The suggested wording provides greater clarity regarding the purpose for setting conditions for low risk activities involving alcohol.

11. Submitter 11 – Sue Ware and Peter Kortegast (not heard)

- 11.1 Decision requested (1): Enforce the time limit for busking in Bank Lane on Saturday mornings. This is not currently enforced, despite repeated requests to the Council.
- 11.2 Recommendation and reasons: [Committee decision 2 – see section 7 of the report].
- 11.3 Note: Regarding the specific situation in Bank Lane, the Manager of Environmental Inspections has spoken to the busker two or three times and asked him to comply. These requests have been ignored. To take further enforcement action, the Council would have to either seize the busker's equipment or prosecute him. The Environment Inspection Manager's recommendation is not to take either of these actions because the Council has not received any other complaints about this busker causing a nuisance to adjoining businesses and the wider public.
- 11.4 Decision requested (2): Amend the bylaw provisions to enable more effective enforcement of the time limit for busking, including revoking of a busking licence for repeat offenders.

- 11.5 Recommendation: Reject the submission.
- 11.6 Reasons: The draft Bylaw provides for the Police and Enforcement Officers to require a busker to cease busking if they have not advised the Council of their intention to busk, or if they are not complying with the Bylaw rules for busking. If, after a verbal warning, a person continues to busk in a way that is in breach of the Bylaw provisions, a Police or Enforcement Officer may seize and impound property materially involved in the activity.

12. Submitter 12 – Carolyn and Raymond Necklen (heard)

- 12.1 Decision requested: Retain Wigzell Park and Victory Square in Schedule A, as areas where alcohol is prohibited at all times. Banning alcohol will make these areas more family friendly. The same approach needs to be taken to both reserves, otherwise the problem would simply shift from Victory Square to Wigzell Park.
- 12.2 At the hearing Mr and Mrs Necklen explained they have lived near Wigzell Park for three months and during that time there had been several drinking sessions in the park, involving antisocial behaviour and language. The Necklens said that during these times it was an intimidating environment which didn't feel safe for children.
- 12.3 They expressed concerns that problems currently experienced in Victory Square could migrate to Wigzell Park due to the recent decision to install security cameras at Victory Square, as well as the proposal for the Square to be an alcohol prohibited area at all times. In addition, they said that the lowered blood alcohol levels for drivers were reducing people's use of bars by 10%, with potential for more people to choose to drink in parks instead.
- 12.4 Wigzell Park is currently a family friendly park, used by a lot of teenagers. They were not drinking in the park, but they are more likely to do so if they see adults drinking there. Bottles and cans are often left on the park benches.
- 12.5 Recommendation: Accept the submission.
- 12.6 Reasons: The Council is satisfied that there is sufficient evidence that Victory Square has experienced a high level of crime and disorder that can be shown to have been caused or made worse by alcohol consumption in these areas; and that the bylaw provisions are appropriate and proportionate to the level of crime and disorder in these areas. The Council is also satisfied that there is sufficient evidence that the problems experienced at Victory Square would migrate to Wigzell Park when Victory Square becomes an area where alcohol is banned at all times.
- 12.7 Other parks in the central Nelson area are also subject to alcohol bans, including: Pioneers Park, Rutherford Park, Queens Gardens. A number of other parks in central Nelson have overnight alcohol bans, including Fairfield, Botanics, Branford, Miyazu, Neale and Guppy Parks.

13. Submitter 13 – David Stephenson (not heard)

- 13.1 Decision requested: Include a bylaw provision that enables the Council to reduce a household's number of cats to a maximum of three, where the number of cats is impacting on neighbours. The option provides a reasonable backstop in the event that keeping of cats is adversely impacting on neighbours.
- 13.2 Recommendation and reasons: [Committee decision 3 – see section 7 of the report].

14. Submitter 14 – Adrian Abraham and 12 other residents (not heard)

- 14.1 Decision requested: Include a bylaw provision to require cat owners to keep their cats within their own properties. This can be achieved by keeping cats indoors, or building a cat enclosure. Note that the reason people don't complain to the Council about cats causing a nuisance is that the Council website advises people to contact the SPCA regarding any problems with a cat. However, the SPCA is powerless to take any action regarding wandering cats due to a lack of any laws or bylaws relating to cat control. Restricting the number of cats isn't the solution, nor is microchipping. See the Australian approach to cat nuisance issues, particularly the Gold Coast (see Attachment 4 to this report).
- 14.2 Reasons that cats are a nuisance and should be controlled by a bylaw are:
- cat excrement all around the property
 - damage to seeds and seedlings in gardens, requiring netting to protect them
 - impact of seeing birds being killed and traumatised by cats
 - cats getting into the house, and spraying inside.
- 14.3 Recommendation and reasons: [Committee decision 3 – see section 7 of the report].

15. Submitter 15 – Brian Say, Blind Citizens Nelson Branch (heard)

- 15.1 Decision requested (1): Establish a small working group to resolve issues related to sandwich boards, and in the meantime require sandwich boards to be beside shop frontages. Blind Citizens would like the Council to not allow any sandwich boards on footpaths.
- 15.2 Reasons to consider not allowing any sandwich boards on footpaths are:
- The benefits of high quality pedestrian access (people who walk to main streets spend more and visit more often – a good walking environment is a good retail environment)

- An ageing population needs an accessible street environment. Many seniors are affected by falls, and sandwich boards are a trip hazard
 - Retail displays and public seating are increasing the obstacles on Nelson's footpaths
 - Melbourne dispensed with sandwich boards as part of becoming one of the world's top 10 cities.
- 15.3 At the hearing, Brian Say and Amanda Stevens pointed out that a high quality urban environment was good for retailers. Pedestrian-friendly environments work well economically, demographically and for health reasons. Ms Stevens also pointed out the relevance of Article 9 (Accessibility) of the United Nations Convention on the Rights of Persons with Disability.
- 15.4 Ms Stevens described a recent experience of being slapped by a wet flag. She said the effort required to avoid sandwich boards, creates tension for blind and partially sighted people.
- 15.5 The Committee asked if sandwich boards do have to stay, would you prefer them on the kerb or beside shops? Mr Say recommended keeping them where they are today, and urged the Committee to work towards not having sandwich boards on Nelson streets in the longer term.
- 15.6 Recommendation and reasons: [Committee decision 4 – see section 7 of the report].
- 15.7 Decision requested (2): Consider requiring a permit for sandwich boards. Note that Invercargill City Council has introduced a licensing system that could be used as a basis for licensing sandwich boards in Nelson.
- 15.8 Recommendation and reasons: [Committee decision 4 – see section 7 of the report].
- 15.9 Decision requested (3): Take a firmer approach to compliance with the bylaw. The current complaints-based approach, which relies on the goodwill of the public to notify the Council of offences against the bylaw, means that it can take a significant period of time for enforcement to occur, and the non-compliance often recurs after two to four weeks.
- 15.10 Recommendation and reasons: [Committee decision 2 – see section 7 of the report].
- 15.11 Decision requested (4): Retain the proposed approach to retail displays, to require a two metre width of the footpath to be available for pedestrians. This will provide additional space for pedestrians and is aligned with Tasman District Council's provisions.
- 15.12 Recommendation: Accept the submission.
- 15.13 Reasons: Requiring a two metre width of footpath to be available for pedestrians when considering permits for retail displays is consistent

with the Bylaw requirements related to sandwich boards. This is also consistent with Tasman District Council's approach. Section 146 (a)(iv) of the Act enables Council to regulate trading in public places, and section 145 (b) of the Act enables the Council to make bylaws to protect, promote and maintain public safety.

- 15.14 Decision requested (5): Consider establishing some rules and penalties for cyclists, to reflect the increasing use of bicycles. If a working group is set up to deal with sandwich boards, this group could also deal with this issue.
- 15.15 Recommendation: Accept in part.
- 15.16 Reason: Rules and penalties regarding the use of cycles is most appropriately addressed through the Parking and Vehicle Control Bylaw 2011. There will be an opportunity to consider this soon, as that bylaw is due for review by December 2016. Section 1(zk) of the Land Transport Act 1998 enables road controlling authorities to make bylaws regulating any road-related matters enhancing or promoting road safety.

16. Submitter 16 – Alison Moore (not heard)

- 16.1 Decision requested (1): Require sandwich boards to be placed against shop frontages rather than beside the kerb. Reasons for this approach are:
- It makes better use of footpath space, as people walk a foot or two away from a shop frontage.
 - Sandwich boards on the kerb could result in toddlers playing around them, and being invisible to parking drivers.
 - Tripping on a sandwich board near the road would have more serious consequences, due to the difference in height of footpaths to roads, and the traffic.
 - Sandwich boards on the kerb will cause damage to cars during medium to high winds.
- 16.2 Recommendation and reasons: [Committee decision 4 – see section 7 of the report].
- 16.3 Decision requested (2): Include a bylaw provision regulating cats for both nuisance and public health and safety reasons. There are provisions regulating most other animals.
- 16.4 Recommendation and reasons: [Committee decision 3 – see section 7 of the report].
- 16.5 Decision requested (3): Require cats to be micro-chipped.
- 16.6 Recommendation and reasons: [Committee decision 3 – see section 7 of the report].

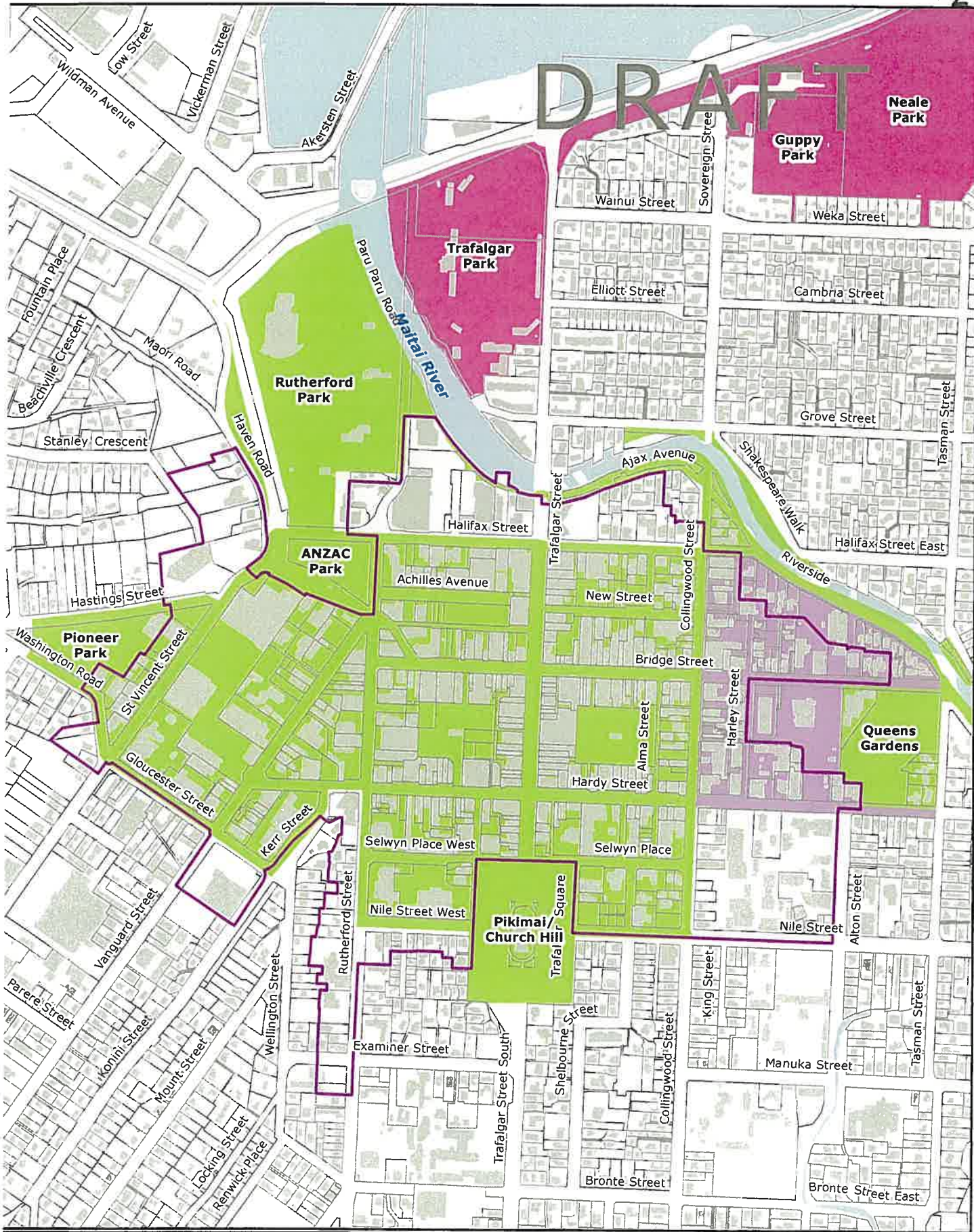
- 16.7 Decision requested (4): Collaborate with the SPCA regarding neutering to reduce cat numbers to a manageable level.
- 16.8 Recommendation and reasons: [Committee decision 3 – see section 7 of the report].
- 16.9 Decision requested (5): Encourage cat owners to take some responsibility, for example consider providing cat-owning households with cat litter trays and supporting the SPCA to run cat-training courses.
- 16.10 Recommendation and reasons: [Committee decision 3 – see section 7 of the report].

17. Submitter 17 – Steve Cotter (not heard)

- 17.1 Decision requested (1): Require sandwich boards to be 100mm off the kerb and to be placed at the front and rear of parking spaces, away from opening car doors.
- 17.2 Recommendation and reasons: [Committee decision 4 – see section 7 of the report].
- 17.3 Decision requested (2): Increase the penalties (especially for continued non-compliance) to deter non-compliance related to sandwich boards and other advertising.
- 17.4 Recommendation: Reject the submission.
- 17.5 Reasons: The Local Government Act sets out the penalties which apply for breaches of a bylaw.
- 17.6 Sections 167 and 168 enable the Council or an authorised officer to seize and impound property involved in a bylaw offence, if they do not stop committing the offence after a verbal or written warning.
- 17.7 Under section 242 of the Local Government Act, any person who breaches a bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000. However, summary conviction requires the Council to take a person to Court, so it is highly unlikely that breaches of sandwich board provisions would result in a court hearing.
- 17.8 Instant fines cannot be imposed unless this is provided for as an infringement offence in legislation or in a Regulation made by the Governor General, in accordance with section 259 of the Local Government Act. Infringement fines for sandwich boards are not covered by any existing legislation and there are no Regulations covering this issue.

18. Submitter 18 – Donald Stevens (not heard)

- 18.1 Decision requested: Restrict households to keeping two stock and one dog. (Other items listed in this submission are unrelated to the draft Urban Environments Bylaw.)
- 18.2 Recommendation: Reject the submission.
- 18.3 Reasons: Two dogs are permitted as of right, under the Control of Dogs Bylaw 2013. A permit to keep stock ensures the keeping of stock on urban properties can be assessed on a case by case basis. Section 146 (a)(v) enables Council to make bylaws regulating the keeping of animals.



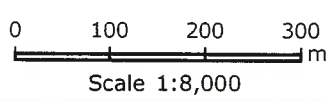
The map is an approximate representation only and must not be used to determine the location or size of items shown, or to identify legal boundaries. To the extent permitted by law, the Nelson City Council, their employees, agents and contractors will not be liable for any costs, damages or loss suffered as a result of the data or plan, and no warranty of any kind is given as to the accuracy or completeness of the information represented. Nelson City Council information is licensed under a Creative Commons Attribution-NonCommercial 3.0 New Zealand License. Nelson City Council data must not be sold without prior written consent. For more information please contact us. Cadastral information derived from the Land Information New Zealand. CROWN COPYRIGHT RESERVED.

Inner City Zone

Alcohol Ban Areas

Legend

- No Alcohol 24-7
- No Alcohol 9PM -7AM
- No Alcohol 9PM -7AM (Proposed)
- Inner City Zone



March 2015

Attachment 3 – Other councils' approaches to sandwich boards

Area	Approach
Tasman District Council	<p>This is managed through the Resource Management Plan (16.1.4.1)</p> <p>One sandwich board sign may be placed on the footpath adjoining a commercial, mixed business or industrial premises provided that the sign is:</p> <ul style="list-style-type: none"> (a) no larger than 900 millimetres in height or 600 millimetres in width; (b) made of flexible material; (c) placed in such a position that at least 2 metres width of footpath remains available for pedestrian movement; and (d) located on the road reserve where the speed limit is below 70 kilometres per hour.
Timaru District Council	<p>The term 'portable advertising signs' is used. These are permitted outside shops or places of businesses in the areas zoned Commercial in the Timaru District Plan. There is no limit on numbers of signs, but the maximum size is 1000mm x 600mm. They are able to be impounded if not removed on request.</p>
Grey District Council	<p>Grey District Council's Sandwich Board Bylaw states that signs placed on Council property - public footpaths, roadsides, traffic islands and other public places - must be licensed. Signs must be located as close as practical to the outside edge of the footpath of urban areas, and must be of a specified size and material.</p>
Dunedin	<p>Dunedin City Council requires sandwich boards to be by the kerb - because most people walk closer to the shops. And the sandwich boards are placed between car parks - these are for all Dunedin's streets which have parallel parking.</p> <p>For the one street where they have angle parking, they require the sandwich boards to be against the shops.</p>
Tauranga	<p>One sign permitted, to be located</p> <ul style="list-style-type: none"> (i) Within the frontage of the shop or business being advertised (ii) In the area within 1.5 metres from the shop front or within 1 metre from the kerb line (iii) In no cases within the Pedestrian Way. <p>[The 'Pedestrian Way' is defined as "the thoroughfare along a footpath for use by pedestrians which, unless otherwise specified by Council in any particular case, is part of the Footpath 2.5 metres in width measured 1.5 metres from and running parallel to any adjacent shop front."]</p>
Napier	<p>In any Public Place a Person must not:</p> <p>"Place or leave any Material, including signage, on a Public Place that could obstruct the public's right of passage, without the permission of an Authorised Officer and then only in accordance with any required conditions"</p>

How many pets can I keep on my property?

To provide a safe and happy environment, there is a limit to the number of pets that can be kept on the Gold Coast. If you wish to keep additional pets, please contact us to apply.

	Property size	Number allowed		Property size	Number allowed
Dogs (must be registered with City of Gold Coast)	All	2	Geese, turkeys, ducks and other poultry	<800m ² 800m ² - 1999m ² >2000m ²	0 6 10
Cats	All	2	Domestic hens	<600m ² >600m ²	0 1 per 100m ²
Budgerigars, canaries and similar-sized birds	<300m ² 301m ² - 1999m ² >2000m ²	4 20 30	Roosters, peacocks, ostriches, emus	<4000m ² >4000m ²	0 1 per 4000m ²
Cockatiels and similar-sized birds	<300m ² 301m ² - 1999m ² >2000m ²	2 10 30	Horses and cattle	<4000m ² >4000m ²	0 1 per 4000m ²
Cockatoos, galahs and like sized birds	<300m ² 301m ² - 1999m ² >2000m ²	1 2 4	Sheep, pigs and goats	<4000m ² >4000m ²	0 1 per 4000m ²
Pigeons	<300m ² 301m ² - 1999m ² >2000m ²	2* 20* 30*	Mice	All	10
			Rats	All	4

* Note: exclusions apply to members of approved aviculture societies and the Pigeon Racing Association, contact us for further information.

If you keep animals on your property they must be kept in accordance with our local laws.

For further information please contact Animal Management on 07 5581 6664 or visit cityofgoldcoast.com.au/animals



CITY OF
GOLD COAST.

Quick guide to keeping pets on the Gold Coast

Love your pet, they're part of our city too.

CITY OF
GOLD COAST.

Identify your pets

Identifying your pet helps us reunite lost pets with their owners. It is compulsory under State Legislation for dogs and cats aged three months and older to be microchipped. Dogs must also be registered annually with the City of Gold Coast.

Ensure your pet is not a nuisance

As a responsible pet owner, you have an obligation to care for the health and wellbeing of your pet, as well as a duty to ensure their activities don't interfere with your neighbours or the environment. Nearly all dogs bark, but excessive barking can be annoying for neighbours. Uneaten food scraps, manure and any other material likely to become offensive (ie faeces, soiled bedding and/or litter) needs to be collected at least daily.

Contain your pets safely on your property

All animal owners have a duty to provide proper fencing and enclosures to prevent them (including cats) from wandering. A roaming pet is in danger of becoming lost, injured or killed in a road accident and can annoy neighbours by damaging gardens, destroying private property or fouling footpaths and lawns. At worst they may threaten or attack people, other pets and wildlife, get attacked themselves or pose a traffic hazard.

Walk your dog on a leash

Any dog that is taken into a public place must be kept on a leash at all times and it remains the dog owner's responsibility to pick up and dispose of the dog's droppings. City of Gold Coast has allocated a large number of parks, reserves and beaches where dogs can be exercised off their leash. Despite areas being zoned off leash, owners need to be vigilant that their dogs do not cause a nuisance and that dogs remain under effective control at all times.

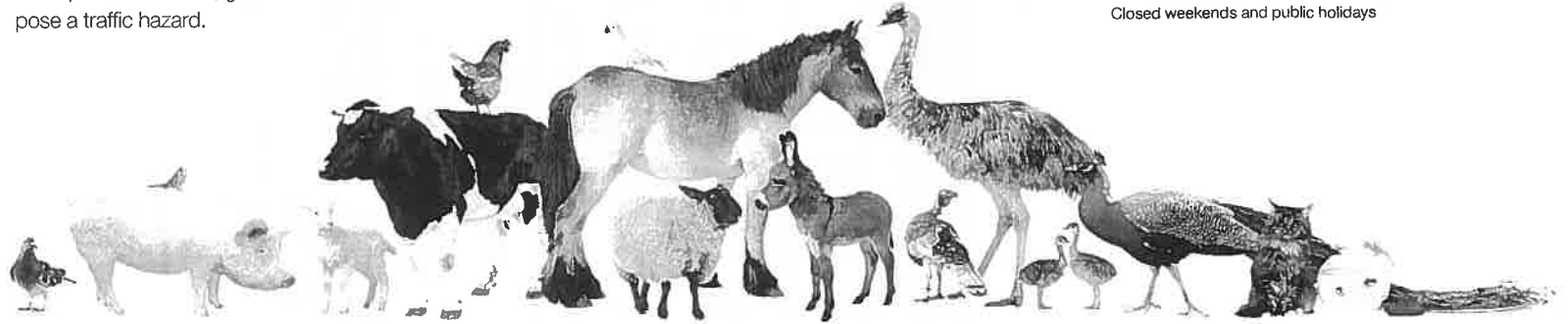
If your pet can't be found it may be at the pound

Coombabah Shelter Road 07 5581 7600

Monday to Friday – 8am to 5.30pm
Saturday – 8am to 4.30pm
Public holidays – 10am to 2pm
Closed Sundays, Good Friday and Christmas Day

Stapylton Rossmans Road 07 3807 0580

Monday to Friday – 8am to 12.30pm
Closed weekends and public holidays



Attachment 5 – Sections 147 and 147 (a) of the Local Government Act 2002

147 Power to make bylaws for alcohol control purposes

- (1) In this section,—
 - alcohol** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012
 - licensed premises** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012
 - public place**—
 - (a) means a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it; but
 - (b) does not include licensed premises.
- (2) A territorial authority may make bylaws for its district for the purpose of prohibiting or otherwise regulating or controlling, either generally or for one or more specified periods, any or all of the following:
 - (a) the consumption of alcohol in public places;
 - (b) the bringing of alcohol into public places;
 - (c) the possession of alcohol in public places.
- (3) In conjunction with a bylaw under subsection (2), a territorial authority may make bylaws for its district for the purpose of prohibiting or otherwise regulating or controlling, either generally or for one or more specified periods, the presence or consumption of alcohol in vehicles, or vehicles of stated kinds or descriptions, in public places.
- (4) A bylaw under this section does not prohibit, regulate, or control, in the case of alcohol in an unopened container,—
 - (a) the transport of the alcohol from licensed premises next to a public place, if—
 - (i) it was lawfully bought on those premises for consumption off those premises; and
 - (ii) it is promptly removed from the public place; or
 - (b) the transport of the alcohol from outside a public place for delivery to licensed premises next to the public place; or
 - (c) the transport of the alcohol from outside a public place to premises next to a public place by, or for delivery to, a resident of the premises or his or her bona fide visitors; or
 - (d) the transport of the alcohol from premises next to a public place to a place outside the public place if—
 - (i) the transport is undertaken by a resident of those premises; and
 - (ii) the alcohol is promptly removed from the public place.
- (5) Subsections (2) and (3) do not limit section 145.

147A Criteria for making or continuing bylaws

- (1) Before making a bylaw under section 147, a territorial authority—
 - (a) must be satisfied that it can be justified as a reasonable limitation on people's rights and freedoms; and
 - (b) except in the case of a bylaw that will apply temporarily for a large scale event, must also be satisfied that—
 - (i) there is evidence that the area to which the bylaw is intended to apply has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area; and
 - (ii) the bylaw is appropriate and proportionate in the light of that crime or disorder.

(2) Before deciding that a bylaw under section 147 should continue without amendment, a territorial authority must be satisfied that the level of crime or disorder experienced before the bylaw was made (being crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area concerned) is likely to return to the area to which the bylaw is intended to apply if the bylaw does not continue.

(3) Before making under section 147 a bylaw that is intended to replace an expiring bylaw and is to the same effect (or to substantially the same effect) as the expiring bylaw, a territorial authority must be satisfied that—

- (a) the bylaw can be justified as a reasonable limitation on people's rights and freedoms; and
- (b) a high level of crime or disorder (being crime or disorder caused or made worse by alcohol consumption in the area concerned) is likely to arise in the area to which the bylaw is intended to apply if the bylaw is not made; and
- (c) the bylaw is appropriate and proportionate in the light of that likely crime or disorder.

(4) Subsection (1) does not apply to a bylaw of a kind described in subsection (3).

Attachment 6 – Section 33 of the Health Act 1956

33 Proceedings in respect of nuisances

- (1) All proceedings under this Act in respect of nuisances shall be heard and determined by a District Court presided over by a District Court Judge alone.

- (2) The court, if satisfied that a nuisance exists on the premises, or that, though abated, it is likely to recur, may by order—
 - (a) require the owner and the occupier to abate the nuisance effectively;
 - (b) prohibit the recurrence of the nuisance;
 - (c) both require the abatement and prohibit the recurrence of the nuisance;
 - (d) specify the works to be done in order to abate the nuisance or prevent its recurrence, and the time within which they shall be done.

- (3) If the court is of opinion that by reason of the nuisance any dwelling or other building is unfit for human occupation, it may, by the same or any subsequent order, prohibit the use thereof for that purpose until the nuisance has been effectively abated to its satisfaction, or until provision has been made to its satisfaction to prevent the recurrence of the nuisance.

- (4) Any order made under subsection (3) may be rescinded by the court when it is satisfied that the nuisance has been effectively abated, or, as the case may be, that due provision has been made to prevent its recurrence; but until the order is rescinded it shall not be lawful to let or occupy the house or building to which the order relates.

- (5) Every person commits an offence against this Act who makes default in duly complying with any order made under the foregoing provisions of this section.

- (6) If the default consists of not doing the works necessary in order to abate the nuisance effectively, or to prevent its recurrence, the local authority, or the medical officer of health on behalf of the local authority, shall cause the works to be done at the expense in all things of the owner and the occupier, who shall be jointly and severally liable for the cost of the works.

- (7) If there is no known owner or occupier of the land or premises on which any such nuisance as aforesaid exists, or if the owner or occupier cannot be found, the court may by order direct that the nuisance be abated by the local authority or medical officer of health at the expense of the local authority.

- (8) All expenses incurred by or on behalf of the local authority under this section, together with reasonable costs in respect of the services of the local authority, shall be recoverable from the owner or the occupier of the premises in respect of which they are incurred as a debt due to the local authority, and until paid they shall by virtue of this Act be deemed to be a charge on the land on which the premises are situated.

(9) All materials, refuse, and things removed by the local authority or the medical officer of health in abating any such nuisance or doing any such works as aforesaid shall be sold, destroyed, or otherwise disposed of as the local authority or the medical officer of health thinks fit. All money arising therefrom shall be applied in or towards satisfaction of the expenses incurred, and the surplus, if any, shall be carried to the account of the fund or rate applicable to works relating to sanitation, or, if there is no such fund or rate, shall form part of the general funds of the local authority.

(10) In any proceedings under this section the District Court Judge may himself examine the premises or authorise any other person to do so, and may direct the owner and the occupier of any other premises to be summoned in respect of the nuisance, and join them as parties to the proceedings.

Summary of NZ Standard – Design for Access and Mobility - Buildings and Associated Facilities (NZS 4121:2001)

This Standard sets out requirements for the design of buildings, facilities within buildings, driveways, car parks, passages and any associated landscaping and accessways for use by people with disabilities as required by the Building Act 1991 and the Local Government Act 1974.

The list of the types of buildings it applies to (in clause 1.1.2) does not include public streets. However, the Objective in section 1.2 includes the following: "The purpose of the Standard is also to provide workable solutions for the creation of accessways in urban areas that facilitate the movement of people between buildings, along pavements and across roads and streets."

Section 6 (footpaths, ramps and landings) states that the minimum clear width shall be 1200 mm at kerb level.

Section 13 (accessible outdoor public areas) includes the following clause 13.2.3 regarding permanent and temporary obstacles.

"Objects fixed permanently to the ground or to the side of an accessway e.g. telephone booths or outdoor furniture, including temporary obstructions such as display stands, billboards, sandwich boards etc. shall:

- (a) *Not intrude into or obstruct the 1200mm clear accessway;*
- (b) *Have a feature within 150 mm of the ground that will be detectable by a person using a white cane;*
- (c) *Be colour contrasted to the surroundings.*

Clause 13.5 (street furniture) states that "street furniture, which includes objects such as seats, tables, drinking fountains, planter boxes, rubbish bins and the like, shall comply with the following:

- (a) *Objects must not protrude into an accessible path of travel. Seats must be a minimum of 500 mm away from the path of travel;*
- (b) *Objects shall be of a colour that provides a contrast with their background and have a luminance factor of not less than 0.3 (30%)."*



Draft Urban Environments Bylaw (No. 225)

December 2014

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1. PART ONE - INTRODUCTION

Title

1.1 The title of this bylaw is the 'Urban Environments Bylaw 2015'.

Commencement and Review Date

1.2 The bylaw came into effect on [day and date] and will be reviewed by June 2020.

Purpose

1.3 This bylaw has one or more of the following purposes:

- (i) To protect, promote and maintain public health and safety in Nelson's urban environments
- (ii) To maintain and enhance the amenity of Nelson's urban environments and to protect the public from activities that may constitute, or have the potential to constitute, a nuisance, including the keeping of animals, bees and poultry
- (iii) To minimise the potential for disorder or offensive behaviour within Nelson's urban environments, including controlling the bringing of alcohol into specified public places and the consumption and possession of alcohol in those public places
- (iv) To regulate trading in public places, including soliciting donations, busking and begging
- (v) To manage activities within Nelson's parks and reserves, including Nelson's cemeteries
- (vi) To promote the display of street numbers on buildings
- (vii) To regulate the use of public rubbish bins.

Exemption

1.4 Nothing in this Bylaw shall prevent or restrict Iwi from carrying out activities which are provided for in the legislation enacting their individual Deeds of Settlement.

Breach of Bylaw

1.5 Any person who breaches this Bylaw must, on verbal or written request by an Enforcement Officer, immediately stop the activity.

1.6 Any person failing to promptly comply with a request under clause 1.5 commits a further offence against this Bylaw.

Penalties and Powers

1.7 Under section 242 of the Local Government Act 2002, any person who breaches this Bylaw, commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

1.8 Under section 163 of the Local Government Act 2002 the Council or an authorised officer may remove or alter any work or thing that is or has been constructed in breach of this Bylaw and may recover the costs of doing so from the person who committed the breach. This does not affect that person's liability for the breach.

- 1.9 Under section 162 of the Local Government Act 2002 the Council may apply to the District Court for an injunction restraining a person from committing a breach of this Bylaw.
- 1.10 The Council or an authorised officer may seize and impound property materially involved in committing an offence, under sections 164 and 165 of the Local Government Act 2002.
- 1.11 The Council will return or may dispose of property seized and impounded in accordance with sections 167 and 168 of the Local Government Act 2002.
- 1.12 Under s 176 of the Local Government Act 2002 any person who has been convicted of an offence under this bylaw is liable to pay the Council the costs of remedying any damage caused in the course of committing the offence.

Fees and Charges

- 1.13 Council may at any time by resolution (after consultation as part of the Long Term Plan or the Annual Plan) prescribe fees that may be charged in respect of any licence, certificate, authority, approval, consent given, inspection made or service given by Council under the provisions of the Local Government Act 2002 or any other enactment where that enactment contains a provision for authorising Council to charge a fee.

Revoked Bylaws

- 1.14 On the coming into effect of this bylaw, the following Nelson City Council bylaws are revoked:
- Miscellaneous Matters Bylaw 2008 (No. 215);
 - Numbering of Buildings Bylaw 2009 (No. 219);
 - Trading in Public Places Bylaw 2007 (No. 213);
 - Advertising of Commercial Sexual Services Bylaw 2011 (No. 208);
 - Control of Drinking in Public Places Bylaw 2009 (No. 206);
 - Reserves Bylaw 2014 (No. 222);
 - Burial and Cremation Bylaw (No.216).
- 1.15 All bylaws revoked shall remain in full force and effect so far as they relate to anything done or any offence committed, penalty incurred, prosecution or proceeding commenced, right or liability accrued, licence issued, notice given, or order made, under or against any of the provisions of that bylaw before the coming into force of this Bylaw.
- 1.16 All licences issued under any revoked bylaw shall, after the coming into force of this Bylaw, be deemed to have been issued under this Bylaw and be subject to the provisions of this Bylaw.
- 1.17 All Inspectors and other officers appointed by the Council under or for the purpose of any revoked Bylaw, and holding office at the time of the coming into operation of this Bylaw, shall be deemed to have been appointed under this Bylaw.

- 1.18 All fees and charges fixed by resolution of Council in regard to any goods, services, inspections or licences provided for in any revoked bylaw shall apply under the corresponding provisions of this Bylaw until altered by further resolution of Council.

2. PART TWO - DEFINITIONS

- **Advertisement** means any banner, placard, poster, or other material bearing any writing or pictorial representation which advertises a product or service, disseminates news or any other information, or is a decoration or personal promotion;
- **Alcohol** has the meaning given to it in the Sale and Supply of Alcohol Act 2012;
- **Authorised officer** means any member of the staff of the Council, a Police Officer or any other person appointed by the Council to act on its behalf and within its authority;
- **Begging** means soliciting donations or goods of any kind for private benefit;
- **Busker** means any itinerant musician, actor, entertainer or other person who performs in an outdoor setting for the benefit of the public generally, whether such performance is free, for a fixed payment, or for contributions from the audience;
- **Caravan** means a wheeled vehicle or device, whether self-propelled or not, which has the purpose of providing sleeping accommodation, and includes any vehicle commonly described as a campervan, or mobile or motor home;
- **Chief Executive** means the person for the time being exercising the functions of the Chief Executive of the Council;
- **City** means the territory contained within the City of Nelson as defined in Schedule 2 to the Local Government Act 2002;
- **Commercial Services** means the soliciting of patronage for, or provision of, any service which is offered or provided, on payment of a fee, charge or other valuable consideration, including an invitation to make a gratuitous contribution, either on a casual basis to passers-by or door to door, and includes the taking and selling of photographs, the production and sale of personal portraits, the telling of fortunes, the soliciting of commercial sexual services, and any other service of any kind whatsoever;
- **Commercial Sexual Services** means sexual services that:
 - involve physical participation by a person in sexual acts with, and for the gratification of, another person; and
 - are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person).
- **Council** means Nelson City Council;
- **Council** (as the term applies to the **Burial and Cremation** bylaw provisions in this Bylaw) means Nelson City Council or any person or officer delegated the authority to exercise any powers pursuant to this Bylaw;

- **Designated Commercial Area** means those areas of the City which are zoned "Inner City Centre;" or zoned "Suburban Commercial" at Victory Square, Tahunanui, or Stoke, under the Nelson Resource Management Plan (NRMP), or any other resource management plans which replace the NRMP after this Bylaw is adopted;
- **Enforcement Officer** means a person appointed by the Council pursuant to Section 177 of the Local Government Act 2002 to exercise the powers of an Enforcement Officer in relation to offences against this Bylaw;
- **Footpath** means so much of any street as is laid out or constructed by authority of the Council primarily for pedestrians, and includes the edging, kerbing and channelling thereof, and includes any area of land owned or controlled by the Council which is set aside for the convenience of pedestrians generally, as a square, place, plaza or public accessway;
- **Grave** means an occupied plot;
- **Holder** (as the term applies to the **Burial and Cremation** provisions in this Bylaw) means the purchaser of the exclusive right of burial and any person to whom such right might be transferred under this Bylaw, and in respect of any grave includes the personal representative or family of the deceased;
- **Hours of Darkness** means any period of time between half an hour after sunset on one day and half an hour before sunrise on the next day;
- **Household Refuse** means ashes, sweepings, dust, bones, waste, food, cans, cartons, or other food containers or any other rubbish or refuse arising or resulting from domestic housekeeping activities or operations;
- **Itinerant Trader** means any person who carries or takes about any goods, wares or merchandise for speculative sale to any person, whether or not that sale is intended to be conducted on public or private property, but excluding the following:
 - Any person who in response to an invitation by the owner or occupier of any private property to call, conducts a sale of any goods, wares or merchandise on private property;
 - Any person who operates a mobile shop.
- **Low risk activity** (as the term applies to the **Control of Alcohol** provisions in this Bylaw) means consumption of alcohol where it is ancillary to a wedding, funeral or other function.
- **Mobile Shop** means a vehicle, whether self propelled or not, from which goods, wares or merchandise (including food) are offered or exposed for sale, or from which such goods, wares or merchandise may be ordered; while such vehicle is in any public place;

BUT does not include any vehicle used for the purpose of transporting and delivering goods, wares or merchandise pursuant to a prior order placed for the delivery of such goods, wares or merchandise;

- **Motor vehicle** has the same meaning as in the Land Transport Act 1998;
- **Natural burial** means chemical free interment (without embalming and using rapidly biodegradable caskets) in a separate area which is subsequently planted to form a native bush or forest area and does not have a traditional headstone or memorial on the grave. Burial sites are recorded digitally;
- **Network utility** has the same meaning as in the Resource Management Act 1991;
- **Nuisance** has the same meaning as section 29 of the Health Act 1956 and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place;
- **Offence** (as the term applies to the **Control of Alcohol** provisions in this Bylaw) means an offence under sections 147, 239A, 242, 245, or 246 of the Local Government Act 2002 that is a breach of this Bylaw;
- **Pet Animals** means animals normally kept as domestic pets, and includes aviary birds, poultry, aquarium specimens, guinea pigs, and all the animals specified in the Fifth Schedule to the Wildlife Act 1953;
- **Plot** means an area of land within a cemetery set aside for the future burial of the holder of the exclusive right of burial or anybody permitted by the holder to be buried in such plot;
- **Poster Tower** means any structure, wall or other erection set aside by the Council specifically for use by the public for the display of posters or other advertisements giving notice of coming events;
- **Poultry** includes turkeys, geese, ducks, and domestic fowls of all descriptions;
- **Public Place** (as the term applies to the **Keeping of Animals** and **Urban Amenity** provisions in this Bylaw) means all streets, footpaths, pedestrian precincts, and public car parks within the City owned or controlled by the Council, and all parks and gardens and reserves within the City;
- **Public Place** (as the term applies to the **Trading in Public Places** provisions in this Bylaw) means all streets and public carparks within the City owned or controlled by the Council, and all parks and gardens and reserves within the City;
- **Public Place** (as the term applies to the **Control of Alcohol** provisions in this Bylaw, and as defined in section 147 of the Local Government Act 2002)
 - a) means a place that is open or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it; but
 - b) does not include licensed premises.

- **Public Place** (as the term applies to the **Advertising of Commercial Sexual Services** provisions in this Bylaw) means a place that is open to, or being used by, the public, whether admission is free or on payment of a charge and whether any owner or occupier of the place is lawfully entitled to exclude or eject a person from that place; and includes any aircraft, hovercraft, ship, ferry, or other vessel, train, or vehicle carrying or available to carry passengers for reward;
- **Reserve** means any land which is owned by or under the control of the Council and which is set aside for public enjoyment as a reserve, park, garden or open space. It does not include road reserve;
- **Residential Property** (as the term applies to the **Advertising of Commercial Sexual Services** provisions in this Bylaw) means any land zoned Residential within the Nelson Resource Management Plan, which is used or able to be used for residential activity;
- **Residential Unit** means the self-contained residence of a single household;
- **Sandwich Board** means any signboard or other advertising device, whether rigid or flexible, including "floppy" signs, flags, banners, "A" frame boards and the like designed to be free standing, and which are designed and used for the purpose of advertising any commercial operation or service or product provided by any commercial operation and which stand on any footpath or protrude onto any footpath in a position less than 2.2 metres above such footpath.
For the avoidance of doubt the term "sandwich board" does not include any advertising board or flyer or poster holder which is fastened to or otherwise set against and displayed parallel to, the front wall of the business concerned.
- **Schedule A Public Place** means a public place described in Schedule A of this Bylaw;
- **Sign** (as the term applies to the **Advertising of Commercial Sexual Services** provisions in this Bylaw) means any structure, board or other thing which has as its purpose the disseminating of a message, providing directions to or attracting the attention of passers-by to a site, building, forthcoming event, or available goods and or services; or any combination thereof, and includes any advertising leaflet or flyer;
- **Stock** includes any horse, cattle, deer, ass, mule, sheep, pig, or goat of any description;
- **Street** means the whole of any land which has been laid out by or vested in the Council for the purposes of a road, footpath or street, every accessway or service lane under the control of the Council and every square or place intended for use by vehicles;

- **Street Stall** means any vehicle, table, or other construction or erection which pursuant to a licence to occupy issued by the Council is authorised to occupy a dedicated site within the City, and includes an outdoor dining area established with the authority of the Council on any footpath or other public place;
- **Trade Refuse** means any scrap or waste material resulting from the carrying on of any business manufacture, process, trade, market or other undertaking;
- **Urban Zone** means any area of the City carrying a "Residential", "Inner City", "Suburban Commercial" or "Industrial" zoning in the Nelson Resource Management Plan (NRMP), or any other resource management plans which replace the NRMP after this bylaw is adopted;

3. PART THREE - KEEPING OF ANIMALS

Scope

- 3.1 This part of the Bylaw regulates the keeping of animals in the City.

Keeping of animals

- 3.2 Every person keeping or having control of any stock, poultry or pet animals on any land or premises within the City shall ensure that any building or other structure or yard in which they are kept is maintained in a clean and sanitary condition to the satisfaction of the Council, and that noise or odours associated with the animal(s) is as far as practicable confined within the land or premises concerned.

Poultry and roosters

- 3.3 No person shall keep or allow to be kept or to remain on any land within the City, any poultry except in a poultry house or otherwise confined within the owner's property.
- 3.4 No person shall keep more than 12 poultry except with the written permission of the Council and subject to such conditions as the Council may impose.
- 3.5 Poultry houses must be at least five metres from dwellings on neighbouring properties. This excludes garages, and other buildings used for storage.
- 3.6 No person shall keep, or allow to be kept, a rooster on any land or premises within an urban zone of the City.

Stock

- 3.7 No person shall keep stock on any properties within an urban zone of the City, except pursuant to a Council permit and subject to such conditions as the Council may see fit to impose.
- 3.8 Every person keeping any stock anywhere in the City shall ensure such stock is effectively confined on that property on which the stock is kept, except at such time when it is under the direct and continual control of the owner.
- 3.9 All fencing used to confine stock must meet the requirements of the Fencing Act 1978.

4. PART FOUR - URBAN AMENITY

Scope

- 4.1 This part of the Bylaw regulates a range of activities that have the potential to affect the amenity of residential and inner city environments, and public health and safety.

Caravans for residential purposes

- 4.2 No person being the owner or occupier of land within the City shall use, or permit to be used, any caravan for the time being located on such land for the purposes of a separate or part of an existing residential unit without a Council permit.
- 4.3 Exception: On any property containing a residential unit a registered caravan having a current warrant of fitness may be occupied by any member or members of the family, of the owner or occupier of the property as a temporary sleeping place if:
- The occupants of such caravan use the toilet and cooking facilities of the residential unit exclusively for those purposes; and
 - The caravan is not parked in the front yard of the site as defined in the Nelson Resource Management plan in relation to accessory buildings; and
 - No part of the caravan is nearer than 1.5 metres to any boundary of the site;
 - The caravan is not used for such purpose for more than 50 days in any calendar year without the specific consent of the Council and then only in accordance with any conditions which might be imposed on such consent.
- 4.4 Note: This bylaw provision does not apply to any caravan located within a campground subject to a current certificate of registration under the Camping Ground Regulations 1985, and which is utilised as a "temporary living place" pursuant to those regulations.

Barbed Wire and Electric Fences

- 4.5 Neither electric fences nor barbed or razor wire on fences is permitted near or on the boundary of land which is adjacent to any street, reserve or other public place, where the fence is in a position or at a height to be accessible to the public.

Slaughter of animals

- 4.6 No person shall slaughter any stock or poultry on any property where such is visible from any public place or neighbouring property, and stock may only be slaughtered on farmland used for grazing purposes (except in such case as may be necessary arising out of accident or any other urgent reason).

Storage of carcasses

- 4.7 No person shall hang or otherwise store any animal carcass in such a position as to be visible from any public place or neighbouring property.

Public rubbish bins

- 4.8 No person shall deposit or cause or permit to be deposited in any rubbish bin located within any public place:
- any explosive, hot ashes, or other burning material;
 - any highly flammable material or acid or other corrosive material;
 - any Household Refuse;
 - any Trade Refuse.

Numbering of buildings

- 4.9 Where the Council has allocated a number to any area of land on which a building is located, or to any building or separately occupied part of any building within the City, the owner or occupier shall display the number allocated in a position where it is visible from the road.
- 4.10 Where any person fails to display the allocated street number, and continues this failure after being advised by the Council of the requirements of this bylaw, the Council may take such steps as it deems appropriate and necessary to cause the number to be displayed and shall recover any costs incurred in doing so as a debt from the owner or occupier of the property concerned.

5. PART FIVE - TRADING IN PUBLIC PLACES

Scope

- 5.1 This part of the Bylaw regulates use of public places within the City for trading and ancillary activities.

Itinerant Traders and Mobile Shops

- 5.2 No person shall carry on business in Nelson as an itinerant trader, or as an operator of a mobile shop, without a Council permit, except in the case of an itinerant trader or a mobile shop participating in a Council approved street market or street stall.

Permit conditions

- 5.2.1 Permits are issued for a maximum period of 12 months, and failure to comply with any of the permit conditions is an offence against this Bylaw. Applications to renew permits may be made prior to the expiry of a permit. Approval will be subject to the applicant's compliance with the permit conditions and payment of the permit fee.
- 5.2.2 Permits are not transferable and do not authorise any person other than the person named in the permit to carry on the trade or business of mobile salesperson or operator of a mobile shop.
- 5.2.3 Every permit holder shall make the permit available to any Police or Enforcement Officer who requests it. The operator of a mobile shop shall ensure his or her permit is prominently displayed at all times when the mobile shop is being used or operated.
- 5.2.4 Every itinerant trader or operator of a mobile shop shall move from a public place to any other public place, if requested to do so by any Police or Enforcement Officer. Any person who fails to comply with any such request commits an offence against this Bylaw.
- 5.2.5 No itinerant trader, or operator of a mobile shop, shall stand or remain stationary in any public place within the City, for any period longer than 15 minutes in the case of an itinerant trader and one hour in the case of any mobile shop.
- 5.2.6 No itinerant trader or operator of a mobile shop shall carry out their commercial activity on any footpath or other public place within the Designated Commercial Areas.
- 5.2.7 The Council may require any itinerant trader or operator of a mobile shop to discontinue the use of any vehicle used in carrying out their business.
- 5.2.8 The Council may suspend or revoke any permit issued to any itinerant trader or operator of a mobile shop where it is satisfied that there has been a breach of the permit conditions, or in any case where the permit holder has been convicted of an offence related to the business for which the permit was granted. This action shall be in addition to and not in substitution for any other enforcement action provided for in this Bylaw.

Additional restrictions

- 5.2.9 In addition to the restrictions listed above for itinerant traders and operators of mobile shops, the Council may by resolution:
- prohibit these businesses from operating in any specified public place within the City;
 - limit or restrict the classes or types of goods that these businesses may offer for sale;
 - limit the hours or days during which such businesses may operate.

Commercial Services

- 5.3 No person shall use any public place for the purpose of providing a commercial service, without a Council permit.
- 5.4 Permits are not transferable and do not authorise any person other than the person named in the permit to carry on the commercial service.
- 5.5 Every permit holder shall make the permit available to any Police or Enforcement Officer who requests it.
- 5.6 The Council or the Police may at any time withdraw a permit for reasons of public health or safety. They may also require that the services cease in a particular public place for such period as the Council or Police deem necessary.

Soliciting of Donations and Selling Lottery Tickets

- 5.7 No person shall occupy any public place for the purpose of soliciting donations, or other contributions, without a Council permit.
- 5.8 No person shall occupy any public place for the purpose of selling tickets in any lottery (as defined within the Gambling Act 2003) without a Council permit.
- 5.9 A Council permit to undertake the soliciting of donations or selling of lottery tickets may be granted where the Council is satisfied that the activity is by or on behalf of a local school, community group, or a local or nationally recognised and registered charity.
- 5.10 Every person engaged in these activities shall hold a copy of the permit, and make it available to any Police or Enforcement Officer who requests it.

Begging

- 5.11 Begging is prohibited anywhere within the boundaries of the City.
- 5.12 A Police or Enforcement Officer may require any person to cease begging and may seize equipment used for this activity (after a verbal warning).

Busking

- 5.13 No person shall perform as a busker in any public place without having first provided their name and contact details to the Council and having obtained a copy of the rules related to this activity, outlined below.

Busking Rules

- 5.13.1 No person shall while performing as a busker in any public place:

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- Occupy any footpath adjacent to any retail or other commercial premises without the consent of the owner or Manager of such premises.
 - Occupy any footpath or pedestrian way in such a way as to obstruct or impede the free movement of pedestrians along the footpath, or way or through the public place.
 - Allow the persons forming the audience to obstruct or impede the free movement of pedestrians along the footpath or way or through the public place.
 - Use language or behaviour which is abusive, insulting, threatening or offensive.
 - Undertake or perform any busking activity which generates any noise which in the opinion of any Police or Enforcement Officer unreasonably interferes with the peace, comfort and/or convenience of any person or persons.
 - Continue to occupy any place or site on a footpath or in any public place for longer than one hour continuously in any two hour period.
- 5.13.2 A Police or Enforcement Officer may require any busker to cease busking who has not advised the Council of their intention to busk, or who is not complying with the rules outlined in this Bylaw, or who is otherwise causing a nuisance or obstructing the free passage of pedestrians by the busking, and/or spectators.
- 5.13.3 If, after a verbal warning, a person continues to busk in a way that is in breach of the Bylaw provisions, a Police or Enforcement Officer may seize and impound property materially involved in the activity.

Additional restrictions

- 5.13.4 The Council may, by resolution, specify particular types of busking activities which will require a Council permit, and may determine, as part of that resolution, the terms and conditions of that permit.
- 5.13.5 Where any specific busking activity has been resolved by the Council to require a permit, it is an offence against this Bylaw for any person to carry on any such busking activity without first obtaining and holding a valid permit.

Sandwich Boards on Footpaths

- 5.14 No person shall display or cause to be displayed on the footpath adjacent to any retail or other business premises any sandwich board which does not relate directly to the business or promote or display the products or services specific to the business carried on within such premises;
- 5.14.1 AND no person in respect of any business premise within a Designated Commercial Area shall display or cause to be displayed more than one such sandwich board;
- 5.14.2 Provided that where any such business has frontage to more than one street or public place one sandwich board may be displayed at each frontage;

- 5.14.3 AND no person shall display or continue to display on any footpath any sandwich board which due to its design or location on the footpath constitutes a hazard for pedestrians or which reduces the width of the footpath available to pedestrians to less than two metres;
- 5.14.4 AND no person shall display or continue to display on any footpath any sandwich board which has flashing illumination.
- 5.15 Any sandwich board displayed shall be located immediately adjacent to the business to which it relates and shall be sited so as to extend no further onto the footpath than 600mm from the frontage ~~kerb~~ outside of the business to which it relates.
- 5.16 Provided that where the business is situated on other than the ground floor, or is situated within a lane or Mall in such a way that the frontage to the footpath consists of no more than an entrance or doorway, the sandwich board may be sited adjacent to the kerb, directly in front of the said entrance, and extending no more than 600mm onto the footpath from the kerb.
- 5.17 Sandwich boards which are on the kerb must be placed in a way which ensures they do not obstruct car doors, and must be of sufficient weight to remain in position in light winds.

Retail Displays on Footpaths

- 5.18 No operator of a business within a Designated Commercial Area, shall place, erect, or establish any display on the footpath adjacent to their business without a Council permit, except in conjunction with, and as part of any general promotion or other like event within the Designated Commercial Area.
- 5.19 A permit will not be granted for retail displays if their design or location on the footpath is a hazard for pedestrians or if it reduces the width of the footpath available to pedestrians to less than two metres.

Advertising

- 5.20 No person shall place an advertisement on any street or any other public place, or any tree or structure which is under the control of the Council other than a dedicated "poster tower" without a Council permit which specifically authorises such advertising.
- 5.21 No person may write, paint, chalk, spray or etch on, or otherwise mark, any street, footpath, or any tree or structure which is under the control of the Council, without a Council permit.
- 5.22 A permit will only be granted where the Council is satisfied that the advertisement is for an identifiable public or community purpose, will cause no detraction from the amenities of the City, will not inhibit or interfere with the use of the immediate area by the public, and will not cause harm to or otherwise damage the thing on which the advertisement is to be fixed or made.

Advertising of Commercial Sexual Services

- 5.23 No person may use a sign which is visible from any public place or residential property to advertise any Commercial Sexual Service, if the sign could be

deemed to be likely to cause a nuisance or serious offence to any ordinary member of the public, or be incompatible with the existing character of the area.

- 5.24 The decision as to whether any sign is permissible under Clause 5.22 will be made by the Chief Executive.

Washing of vehicles

- 5.25 A person must not use a public place to wash, or offer to wash, a vehicle or any part thereof, in a manner that may be unsafe or intimidate or cause a nuisance to any person, or cause an obstruction to traffic.

6. PART SIX - CONTROL OF ALCOHOL IN PUBLIC PLACES

Scope

- 6.1 This part of the Bylaw controls the bringing of alcohol into specified public places and controls the consumption and possession of alcohol in those public places.
- 6.2 The Local Government (Alcohol Reform) Amendment Act 2012 defines a public place as a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it, but does not include any licensed premises.
- 6.3 This definition enables the Council to consider whether there is any privately owned land which is accessed by the public (such as a car park) for which there are good reasons to restrict the drinking of alcohol. The control of alcohol bylaw provisions do not apply to private residential properties.

Prohibited Activities

- 6.4 No person shall:
- bring alcohol into;
 - possess alcohol in; or
 - consume alcohol
- in any place listed in Schedule A during the period specified for that place.

Addition or deletion of places where alcohol is prohibited

- 6.5 The Council may from time to time pass a resolution to amend the places listed in Schedule A to which this Bylaw applies, or amend the period during which drinking alcohol is prohibited in a specified place.
- 6.6 Every resolution made to change Schedule A shall be publicly notified at least 14 days before it shall take effect.

Exceptions

Transport of Alcohol

- 6.7 The Bylaw does not prohibit, in the case of alcohol in an unopened bottle or other unopened container:
- The transport of that alcohol from premises that adjoin a public place during any period when, under the Sale and Supply of Alcohol Act 2012, it is lawful to sell alcohol on those premises for consumption off the premises, provided the alcohol is promptly removed from the public place.
 - The transport of that alcohol from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of alcohol under the Sale and Supply of Alcohol Act 2012.
 - The transport of alcohol from outside a public place to premises that adjoin a public place:

- o by, or for delivery to, a resident of those premises or by his or her visitors; or
- o from those premises to a place outside the public place by a resident of those premises, provided the alcohol is promptly removed from the public place.

Licensed Premises

- 6.8 The bylaw does not prohibit the possession of, or consumption of, alcohol in any public place, or part of a public place, where this is authorised by a licence issued under the Sale and Supply of Alcohol Act 2012, or where BYO alcohol is permitted by the organiser of any Council-approved function or event making use of the public place.

Council Permission

- 6.10 Any person may apply to the Council for a permit for any low risk activity involving a limited amount of alcohol that would be in breach of any prohibition under section 6.4 of this Bylaw.
- 6.11 A Council permit for this activity may be granted by Council, the Chief Executive of Council, or any Licensing Inspector appointed under section 197(1) of the Sale and Supply of Alcohol Act 2012.
- 6.12 A permit granted in accordance with this section of the Bylaw may include conditions related to the following matters to ensure that the activity remains low risk with respect to minimising alcohol related harm:
- (i) the date and time the exemption applies;
 - (ii) the person or number of persons that are required for running the activity during the period the exemption applies;
 - (iii) the nature of the activity associated with the exemption;
 - (iv) the numbers of persons that may attend the event while the exemption applies;
 - (v) what controls may be required to ensure anyone under the age of 18 will not have access to alcohol at the activity;
 - (vi) how much alcohol will be available;
 - (vii) what host responsibility provisions will apply, including provision of food, low or non-alcoholic drinks, and alternative transport options.

Powers of arrest, search and seizure

Powers of the Police

- 6.13 Where a prohibition on the possession or consumption of alcohol is in effect in respect of any public place, pursuant to the foregoing provisions, a member of the police may, without warrant:
- for the purpose of ascertaining whether alcohol is present, search
 - a container (for example, a parcel, package, bag, or case) in the possession of a person who is in, or entering, the public place;
 - a vehicle that is in, or is entering, the public place;
 - seize and remove alcohol and its container if the liquor is in the public place in breach of that prohibition;
 - arrest a person whom the member of the police finds committing an offence against that prohibition;
 - arrest a person who has refused to comply with a request by a member of the police:
 - to leave the public place; or
 - to surrender to a member of the police the alcohol that, in breach of that prohibition, is in that person's possession.

Warning by the Police

- 6.14 Before exercising the power of search in relation to a container or a vehicle, a member of the police must:
- inform the person in possession of the container or the vehicle, as the case may be, that he or she has the opportunity of removing the container or the vehicle from the public place; and
 - provide the person with a reasonable opportunity to remove the alcohol or the vehicle, as the case may be, from the public place.

Specific events

- 6.15 Where the Council considers it appropriate for the safe and effectual holding in any public place or part of a public place of any public event, function or gathering, it may make a publicly notified resolution no less than 14 days before the event to:
- Prohibit the consumption of alcohol in the specified public place during that period or periods, the bringing of alcohol into the specified public place during that period or periods, and the possession of alcohol in the specified public place during that period or periods;
 - Prohibit the presence or use of any vehicle in that public place at that time.

Powers of search, confiscation and arrest

- 6.16 Where the Council has resolved to prohibit vehicles and/or the consumption or possession of alcohol in any specified public place, on the occasion of the holding of any public event, function or gathering, any member of the Police may:
- immediately and without further notice, for the purpose of ascertaining whether alcohol is present, search any container (for example parcel, bag or case) in the possession of any person who is in or entering the specified public place or search any vehicle that is in or entering the specified public place;
 - Seize and remove liquor and its container if the alcohol is in the public place in breach of this prohibition;
 - Arrest a person whom the member of the police finds committing an offence against this prohibition;
 - Arrest a person who has refused to comply with a request by a member of the Police:
 - to leave the public place; or
 - to surrender to a member of the police the alcohol that, in breach of this prohibition, is in that person's possession.

Power to request name and address

- 6.17 If an Enforcement Officer or member of the Police believes on reasonable grounds that a person is committing or has committed an offence against this bylaw, either of them may direct the person to give:
- his or her name and address; and
 - the name and address and whereabouts of any other person connected in any way with the alleged offence.

Obstruction of Enforcement Officer

- 6.18 Every person who intentionally refuses to give their name and address when requested to do so by an Enforcement Officer or member of the Police, or knowingly misstates or provides false information, commits an offence against section 229 of the Local Government Act 2002 and is liable on summary conviction to the penalty specified in section 242(2) of the Act. ~~this bylaw and is liable on summary conviction to a fine not exceeding \$1,000.~~

Breach of alcohol-related bylaw provisions and penalty

- 6.19 Any person who acts in breach of any provision within this part of the Urban Environments Bylaw commits an infringement offence and is liable to be proceeded against pursuant to section 239A of the Local Government Act 2002. ~~against this Bylaw and is liable on summary conviction to a fine not exceeding \$1,000.~~

7. PART SEVEN - RESERVES

Scope

7.1 This part of the bylaw manages activities within Nelson's parks and reserves.

Motor vehicle use

7.2 No person shall, without the prior written permission of an authorised officer, drive a motor vehicle in excess of 20km/h in a reserve.

7.3 No person shall drive, ride or park any motor vehicle on any area of any reserve except:

- on those areas developed and/or set aside specifically for that purpose, or
- where signs or markings indicate that motor vehicles are permitted, or
- at the direction or with the permission of any authorised officer.

Hazard of damage

7.4 No person is permitted to undertake any activity in any reserve which causes, or is likely to cause, a hazard to users of the reserve or damage to any part of the reserve or any structure on a reserve.

Golf

7.5 No person shall practice or play golf on any area of any reserve other than on the Waahi Taakaro Golf Course and the designated area in Neale Park.

Activities requiring permission

7.6 Permission to undertake the following activities in reserves can be granted, but they do require a Council permit:

- use of chainsaws or other tree felling implements;
- taking of rocks, minerals and sand;
- possession of firearms of any kind or the killing of any animals, including shooting of game birds and control of animal pests. This includes the use of traps and toxins;
- planting, spraying or removal of vegetation;
- grazing of livestock;
- landing of recreational motorised aircraft;
- placing or erection of memorials including plaques.

7.7 Any permission given under this Bylaw may be subject to such terms and conditions as Council sees fit, and may be revoked at any time where those terms and conditions are not complied with.

Respect for other reserve users

7.8 No user of any reserve shall impact on the safety and legitimate enjoyment of the reserve by others.

Public access to reserves

- 7.9 No person shall enter or remain in any reserve during any time that the Council has determined that the reserve should be closed to the public. Reasons for access restrictions include fire risk, health and safety, and ecological restoration.

Exemptions

- 7.10 Nothing in this part of the Bylaw shall prevent authorised officers from carrying out activities in reserves.
- 7.11 Nothing in this part of the Bylaw shall prevent Iwi from carrying out activities in reserves which are provided for in any legislation enacting Deeds of Settlement between Iwi and the Crown.
- 7.12 Nothing in this part of the Bylaw shall prevent the operation, maintenance, development, and upgrading of network utilities where this is otherwise permitted or approved by the Council or other legislation.
- 7.13 Ambulances and other emergency services are exempt from the motor vehicle provisions in this part of the Bylaw.

8. PART EIGHT - BURIAL AND CREMATION

Scope

- 8.1 This part of the Bylaw manages activities within Nelson's cemeteries, including burial and cremation.

Purchase of exclusive right of burial

- 8.2 Any person making application on the appropriate form and paying the requisite fee may at any time purchase the exclusive right of burial in any available plot on the terms and conditions from time to time set by the Council.
- 8.3 Where no prior purchase of an exclusive right of burial has been made by, or on behalf of, the deceased at the time an application is made for an Interment Warrant, the exclusive right of burial shall be purchased at the same time as the Interment Warrant.
- 8.4 Where any person of insufficient means has been interred in any cemetery any friend or relative of such person may, within such time as the Council might allow, purchase the exclusive right of burial in relation to the grave subject to the terms and conditions applying in respect of the purchase of such right.

Burials

- 8.5 No person shall undertake any burial, including the burial of ashes, in any cemetery within the City without first obtaining an Interment Warrant from the Council.
- 8.6 Applications for an Interment Warrant shall be made on the appropriate form and be accompanied by the fee set by the Council for the warrant.
- 8.7 Any application for an Interment Warrant in respect of a deceased person of insufficient means shall be accompanied by a certificate duly signed by the applicant certifying that the deceased has not left sufficient funds to meet the cost of either or both, the Interment Warrant or the exclusive right of burial, and that there are no friends or family willing or able to meet these charges.
- 8.8 All burials shall be undertaken in accordance with the conditions from time to time set by the Council and as outlined on the Interment Warrant.

Cremations

- 8.9 No cremation shall take place in any crematorium provided by the Council unless the provisions of the applicable regulations have been complied with and the requisite fees have been paid.
- 8.10 All necessary applications, certificates and approvals shall be made or obtained or deposited with the Council as the case might require prior to the cremation taking place.

Headstones and monuments

- 8.11 No person shall erect any headstone, plaque, fence or other structure on or about any plot or grave unless they hold the exclusive right of burial in respect of that plot or grave and have obtained a permit from the Council for the work.

- 8.12 No person shall erect any headstone, plaque, fence or other structure on or about any plot or grave in any cemetery except in accordance with the Council standards relating to the erection of memorials, headstones or other structures.
- 8.13 The Council may from time to time by resolution add to or amend the standards relating to the erection of memorials, headstones or other structures.

Undertaking work

- 8.14 No person erecting or repairing any headstone, monument, fence or other work in, on, or around any plot or grave in any cemetery, shall make use of any footpath or other part of the cemetery for placing or depositing thereon any tools or material in connection with the work for a longer time than is reasonably necessary for the purpose of completing such work.
- 8.15 Any person who, after service upon them of a notice in writing from the Council requesting the removal of any tools or materials within a time specified in such notice, neglects or refuses to remove any such tools or material from the cemetery, commits an offence against this Bylaw.
- 8.16 No person shall make use of any footpath or roadway in the cemetery for the purpose of mixing cement or mortar otherwise than upon a proper mixing board or in other approved manner.

Wreaths, flowers and vegetation

- 8.17 No tree shall be planted in any cemetery by any person without permission first being obtained from the Council. Shrubs planted in any portion of the cemetery may at any time be trimmed, removed, or cut down by the Council. Reasonable attempts will be made to contact the person who undertook the planting or their representative prior to such work being undertaken so as to enable such plantings to be removed.
- 8.18 No person shall plant anything on any plot or grave, in other than a natural burial cemetery. During a period of two (2) weeks following interment, or such longer time as may be agreed with the family of the deceased, a wreath or wreathes or other tributes may be placed on a grave, but shall be removed at the expiration of the agreed period.
- 8.19 After the two week period referred to in clause 8.21 has expired no person shall place on any grave more than two tributes being either flowers and foliage placed in receptacles of an approved type inset into the base on which the memorial is placed, or other appropriate items.
- 8.20 In the case of any lawn cemetery two receptacles may be installed adjoining and at the same level as any tablet or plaque.
- 8.21 The Sexton of the Cemetery may at any time remove damaged receptacles or dead flowers or foliage, or inappropriate tributes, and at the expiration of the 2 week period or of any other period agreed with the family in accordance with Clause 8.21, may remove any tributes not removed within the period permitted under Clause 8.21.

Hours of opening

- 8.22 No person shall enter or remain in any cemetery between the hours of sunset and sunrise.

Vehicles

- 8.23 No person shall drive any vehicle on any part of any cemetery except the roads open for vehicular traffic.
- 8.24 No person shall drive or park any vehicle in any cemetery other than in accordance with the traffic signs or markings therein.

Removal of kerbs, headstones or monuments

- 8.25 No person shall, without the authority of the Council, or the holder of the exclusive right of burial in respect of any grave, remove or take from such grave, any vase, wreath, plant, flower, or any kerb, headstone or monument or any other thing. The Council may cause to be removed any neglected or broken material of this nature subject to reasonable attempts being made to contact the holder of the exclusive right or their representative prior to such removal.

Misconduct

- 8.26 No person shall, in any part of any cemetery, by any disruptive, noisy, violent or improper behaviour, prevent, interrupt, or delay any funeral service.
- 8.27 No person shall on any monument, tombstone, memorial or any other structure whatsoever, place or allow to be placed any epitaph, inscription, writing or lettering or any words, marks or characters or any picture or thing or object which is offensive or objectionable.

Damage to monuments

- 8.28 No person shall interfere with, disturb, remove, displace, deface, disfigure, damage, injure or destroy any building, monument, tombstone, plaque, memorial, fence, sign, noticeboard or any fitting or implement of any kind within or enclosing the whole or any portion of any cemetery.
- 8.29 No person shall, without authority from the Council, take, deposit, remove or disturb any soil or uproot any plant, or injure any shrub, tree, hedge, or other growth within any cemetery.

Commercial operations

- 8.30 No person shall advertise or solicit any order or custom for any work whatsoever in any cemetery without a Council permit.
- 8.31 No commercial photographer shall, without the consent of the family concerned, attend any funeral at a cemetery for the purpose of taking photographs.

Fees

- 8.32 Council may from time to time by resolution publicly notified, amend the fees or charges payable by any person in respect of any permission, certificate or service provided by the Council.

Change of conditions

- 8.33 The Council may from time to time by resolution add to or amend any forms to be used or any condition to be complied with pursuant to this bylaw.

Offences and penalties

- 8.34 Any person who acts contrary to any provision of this part of the bylaw or to any direction given by any Sexton or Council Officer in relation to the use of any cemetery, commits an offence against this Bylaw and on summary conviction is liable to a fine not exceeding \$500, and where the offence is a continuing one, to an additional fine not exceeding \$50 for every day or part of a day during which the 'offence' continues.

SCHEDULE A – PROHIBITION OF ALCOHOL IN PUBLIC PLACES

1. In the following areas the period of prohibition is 24 hours 7 days a week.
 - i) Any public place within the area bounded by and including Halifax Street, Collingwood Street, Nile Street, Trafalgar Square (Church Hill) and Rutherford Street.
 - ii) Pioneers Park
 - iii) Anzac Park
 - iv) The Maitai River walkways and reserves from Queen Elizabeth II Drive to Nile Street
 - v) Queens Gardens
 - vi) Rutherford Park (excluding the Trafalgar Centre)
 - vii) The central islands of Haven Road between its intersections with Halifax Street and Queen Elizabeth II Drive
 - viii) The Lions Playground - Tahunanui Reserve
 - ix) That area of Stoke Commercial Centre bounded by and including Main Road Stoke, Songer Street, Neale Avenue and Poorman Valley Stream.
 - x) Extension of the Nelson Business District westwards to include the area bounded by Kerr Street, Gloucester Street, Pioneers Park, ANZAC Park, and Halifax Street
 - xi) Wigzell Park
 - xii) Victory Reserve
 - Both sides of the street in the square around Victory Reserve
 - The shops and private car parks behind shops on Emano Street and St Vincent Street
 - Victory Reserve
2. In the following areas the period of Prohibition is from 9.00 pm on any day to 7.00 am on the following day:
 - i) The area of the inner city bounded by Riverside Drive, Collingwood Street, Hardy Street and Tasman Street.
 - ii) The Maitai Walkway and reserves (including Branford Park) from the Nile Street Bridge to the western boundary of the Waahi Takaaro Golf Course;
 - iii) Tahunanui Reserve (excluding the Lions Playground);
 - iv) Miyazu Gardens;
 - v) Fairfield Park;
 - vi) Trafalgar Park (excluding the Trafalgar Pavilion);
 - vii) Saxton Field Reserve;
 - viii) Isel Park;

- ix) Broadgreen Gardens;
- x) Marsden Reserve;
- xi) The Botanics Reserve;
- xii) Paddy's Knob;
- xiii) Green Meadows;
- xiv) Abel Tasman Statue car park;
- xv) Neale Park/Guppy Park;
- xvi) Railway Reserve (Tahunanui Drive to Saxton Road);
- xvii) QEII Walkway/Cycleway and surrounds (Trafalgar Street to the eastern end of Neale Park).

SCHEDULE B – PERMITS, WRITTEN AUTHORITIES AND LICENCES

Information about the application process and the conditions that apply to permits, written authorities and fees related to this bylaw are available on the Council website, at the Customer Service Centre, and on request.

Keeping of animals

Poultry (permit required for more than 12)

Commercial Activities in Public Places

Itinerant traders and mobile shops (permit required)

Commercial services (permit required)

Soliciting of donations (permit required)

Selling lottery tickets (permit required)

Busking (permit sometimes required)

Advertising in public places (permit required, if not on a dedicated poster tower)

Control of Alcohol in Public Places

Low risk activity involving a limited amount of alcohol that would be in breach of clause 6.4 of the Control of Alcohol bylaw provisions (permit required).

Reserves

Permit required for these activities:

- Use of chainsaws or other tree felling implements;
- Taking of rocks, minerals and sand;
- Possession of firearms of any kind or the killing of any animals, including shooting of game birds and control of animal pests. This includes the use of traps and toxins;
- Planting, spraying or removal of vegetation;
- Grazing of livestock;
- Landing of recreational motorised aircraft;
- Placing or erection of memorials including plaques.

Burials and Cremations

Exclusive right of burial in a plot (purchase required)

Interment warrant (purchase required)

Cremations (cremation fee required)

Headstones and monuments (permit required)

Plantings in cemeteries (permission from Council required)

Commercial operations in cemeteries (Council permit required)

SCHEDULE C – STANDARD

The following standard is available on the Council website, and on request from the Customer Service Centre:

Burial and Cremation

- Council standards for the erection of memorials, headstones or other structures.