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## Road Closure Hearing Panel Determination

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<b>Hearing:</b>	Council Chamber 137 Havelock Street Ashburton 7 September 2022, at 9am
<b>Panel:</b>	Mayor Neil Brown (Chairman) Crs Leen Braam, John Falloon, Rodger Letham, Lynette Lovett, Angus McKay, Liz McMillan, Diane Rawlinson and Stuart Wilson
<b>Appearances:</b>	(1) Carol Johns (Applicant) (2) Verity Jackson (Objector) (3) Terry McNab (Objector) (4) Bob McDonald (Objector)
<b>Determination:</b>	<b>7 September 2022</b> <b>The Determination of the Hearing Panel is to uphold the temporary road closure application for the Market Day Event to take place on Monday 26 September 2022.</b>

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### REASONS OF THE HEARING PANEL

#### INTRODUCTION

- [1] The hearing considered an application to temporarily close East Street, from Havelock Street to Moore Street, for an event (Ashburton Market Day), proposed to be held on Monday 26 September 2022.
- Application from Carol Johns (Ashburton Market Days)
- [2] Closure of East Street would also require closure of Burnett and Tancred Streets, from East Street to Cass Street, and this was reflected in the public notice of the application.
- [3] The proposed closure for this event was publicly notified on 16 August 2022, in accordance with the Transport (Vehicular Traffic Road Closure) Regulations 1965. When the objections period closed on 29 August 2022, three objections to the proposed closure were received with one objector including reference to 15 businesses in the CBD who were also opposed to the road closure application.

## **BACKGROUND**

- [4] Ashburton District Council received the application from Carol Johns on 4 August 2022. Ms Johns' application is for an event called "Ashburton Market Day", proposed to be held on East Street, Ashburton on Monday 26 September 2022, from 7.00am to 6.00pm.
- [5] Following the road closure advertisement, three objections were received from individuals who own and/or work in affected businesses in the Ashburton CBD:
- (1) Verity Jackson
  - (2) Terry McNab
  - (3) Bob McDonald (with written support of 15 businesses and retailers). The Hearing Panel noted that 11 of these provided written support and 1 subsequently withdrew their objection).
- [6] Council officers have not supported the road closure on the basis that it is unclear whether the applicant can provide sufficient evidence that the event will be safely managed (the health and safety and traffic management plans have not been provided). Ms Johns did not provide an approved traffic management plan, or health and safety plan with her application, pending discussion with Council officers on the possibility of the event not being able to proceed on this site. Officers have also taken into account the objections which indicate that the event isn't fully supported by the community. Officers have suggested that an alternative venue is considered for the Market Day event.
- [7] The officer's report recommended to the Hearing Panel that the application from Ashburton Market Days for the temporary closure of East, Burnett and Tancred Streets, on Monday 26 September 2022, be declined.

## **THE HEARING**

- [8] The following summarises the submissions presented to the Hearing Panel and identifies what were considered to be the salient comments.

### **The Applicants**

#### **Submission of Carol Johns (9.05am – 9.34am)**

- [9] Ms Johns tabled copies of her presentation in support of her application for the temporary road closure. The presentation commented on the past organisers of Boulevard Day advising they would no longer continue running this event, but a new organiser would take over. It wasn't until a Facebook post on 13 June when she became aware that the new organiser would not be proceeding with Boulevard Day this year.
- [10] After that announcement Ms Johns responded to a number of stallholders and found positive support for her holding a market day event. That prompted discussions with Council staff and her application being lodged on 4 August 2022. Confirmation of receipt of the application was received on 12 August and the application was publicly notified from 16 August, with objections called by 29 August.
- [11] On 15 August, Ms Johns began organisation of a traffic management plan and met with Council staff to discuss possible venues. Planning continued for the East Street option and "Plan B" was use of the West Street car park. With some assurance from Council staff, Ms Johns paid the insurance and booked advertising.
- [12] On 25 August, Ms Johns learned from Council staff that the West St car park was no longer a viable option due to increased traffic flow that would arise on 26 September as a result of intersection work being undertaken by Waka Kotahi (NZTA) at Walnut Ave (East and West Streets). Staff also advised that three objections had been received to Ms John's application. Because of the uncertainty she decided to put the traffic management plan on hold so as not to incur further cost (\$402.50 had already been paid after another TMP was drafted and not used).

- [13] Ms Johns, who is experienced in running events on East Street without problems, has spent approximately 240 hours planning the event. A number of stallholders have received registration forms and compliance papers for food vendors to trade. She referred to similar circumstances that arose with a hearing of road closure applications in 2019 and the comment made then by Boulevard Day organisers that “*their group is passionate about the CBD and would support any event or day that will help bring people into town*”. She commented that some of these people are now objecting to her event today.
- [14] Ms Johns also referred to the recent “*Shop Local*” campaign, noting that probably more than half the stallholders for the market day event are locals. The date coincides with South Canterbury Anniversary Day, and Boulevard Day was established on this day over 46 years ago for that reason.
- [15] Responding to the objectors, Ms Johns noted that:
- Paper Plus, up until the last event, had been a regular stall holder and did not appear to have a problem with the additional closures of Burnett and Tancred Streets.
  - Not all of the businesses named in Mr McDonald’s objection will be affected by the road closure (two are not retail, and one has an entrance from Moore Street). From her calculations, about 8% of the CBD businesses/retailers are opposed leaving 92% being a silent majority, either neutral or supportive).
- [16] Responding to questions from the Hearing Panel, Ms Johns noted
- Insurance will cover reinstatement of any damage caused to the grass and gardens. Stall holders will be asked to be respectful of the area.
  - More than 60 local stallholders have been confirmed. Other locations were looked at but discounted due to uncertainty about power, water, toilets and water – i.e. Mona Square. Tinwald Domain was suggested, but Ms Johns was unfamiliar with this area. The West St carpark was the preferred “Plan B”.
  - Ms Johns is the sole organiser but has a number of people and resources to call on. A good system and past events have been without problems.
  - Stall holders pay \$100/site (community groups \$50/site). Ms Johns will receive the profit, which is anticipated to be minimal (possibly up to \$1,000).
  - The suggestion that the event should have ‘a year off’ was rejected by Ms Johns who commented that, for her, the event already hasn’t happened for two years. She sees that there’s now opportunity to get vibrancy back into town – there’s no negative to having vibrancy and seeing around 10,000 people coming into town.
  - Would be willing to work with Council to try and use the Green area along East Street without closing the road, if required.

## **The Objectors**

### **Submission of Verity Jackson (9.34am – 9.36am)**

- [17] Ms Jackson made it clear that this is her personal objection and that she’s not speaking on behalf of other businesses. She strongly believes that if Ms Johns had done early consultation with businesses then a lot of the issues identified in the objections would have been aired before now and, with some compromise, the event could have gone ahead.

*(There were no questions from the Hearing Panel)*

### **Submission of Terry McNab (9.36am – 9.43am)**

- [18] Mr McNab is not objecting to Market Day, just the closure of East Street. In the past, Boulevard Day was a chance for businesses to clear stock and it was generally cash deals. But over time things have changed – retailers don’t have that stock on hold now as they are clearing stock constantly throughout the year. Suppliers have changed too and there’s not the same ability to buy-in items just for Boulevard Day sales.

[19] In the past few years Mr McNab has been buying the stall sites outside his store to keep other stall holders away from Paper Plus. In his view, the event has to be held in the West St car park (and he can't see why a section of that can't be used) and some of the Green. Mr McNabb commented that he hadn't received any contact from Ms Johns about whether Paper Plus wanted to be a stall holder this year – he first became aware of the event from Facebook.

[20] Responding to questions from the Hearing Panel, Mr McNabb noted

- Paper Plus wants to see people come into town, and foot traffic, but not by closing the main street. It's not necessary to shut the streets and block car parks. It's time for a change – the Green is the way to go. Keep the event in town, but don't use the roads.
- Monday is not a quiet day for Paper Plus (although he understands that eftpos data shows that Mondays are quiet for the town generally).
- Paper Plus is an agent for NZ Post, however the agreement doesn't obligate the store to be open on specific days/times.
- Paper Plus will not be a stall holder at the market day event.

**Submission of Bob McDonald (9.43am – 9.52am)**

[21] Mr McDonald said the biggest objection is around the closing down of town. The big problem now is that once East Street is shut, the whole town is shut by not having access on Burnett and Tancred Streets. Tancred St has a medical centre and pharmacy. Eastfield carpark is often full. Also have banks and couriers – that's the biggest objection from businesses – it simply shuts the whole town down.

[22] Mr McDonald commented that no one is objecting to Market Day – getting around 10,000 people into town is fantastic. But the past couple of years have been horrendous for businesses – Covid lock-downs, then the CBD redevelopment – so 2-3 years of tough trading with a lot of businesses now up against the wall. He disputes that there are 120 businesses in the CBD.

[23] Leading up to the last planned Boulevard Day, organisers were aware of issues with the town centre and planned to move the event to the Domain – while always an issue with the nearby intersection, it was considered that site would work. From meetings with the business group lots of people said Boulevard Day just didn't work for the town – stock was sometimes being bought in just to sell that day. But it was disappointing for service groups who had always benefited from Boulevard Day. The outcome was that the event couldn't go ahead in 2019 due Covid restrictions on the number of people allowed at events.

[24] Responding to questions from the Hearing Panel, Mr McDonald noted

- Allowing Market Day to go ahead, even though it's only one day, means another day's trading lost in what has been a hard 2-3 years. Instead, the Green space is one of a number of places to run a market day, without shutting down the main street.
- He isn't aware of the new group, proposing to develop a revamped "Boulevard Day," being set up yet. There's some discussion about revitalising the CBD. He hasn't been formally approached but confirmed that he would be interested in being part of this group and event.
- Three years ago, when he was part of the Boulevard Day application, it was an iconic event and a tradition so most businesses were still behind it. But some were just participating out of obligation. He agrees with Terry McNab – things have moved on and, once something stops, it's hard to wind it back up again. He would like to see market days but there's a better site alternative.
- In the past, any profit from Boulevard Day went to the Business Association. The more recent event saw the profit go to the event organisers (Bob McDonald and Sue Cooper) who each got approximately \$2,000 each. He agreed with Carol Johns – there's not money to be made for organisers of these events.

## Officers' Report

- [25] Roading Manager, Mark Chamberlain and Economic Development Manager, Simon Worthington responded to questions from the Hearing Panel
- Confirmed that Waka Kotahi are looking to close a section of the Walnut Ave (East St/West St) intersection on the same day as the proposed Market Day.
  - Officers could look again at the option of allowing the middle section of West Street carpark, or the Green to be used, while keeping the streets open.
  - Officers consider there would be an issue closing the West St carpark, due to the number of carparks that would be affected, the adjacent Bookarama event, and the impact of increased traffic movements that day. There is also concern that the newly planted grass, which is still establishing, could be damaged by stallholders and their vehicles.
  - The actions to date by staff show that Council has always been willing to work with the applicant to try and find a solution. While the applicant's health and safety, and traffic management plans haven't been received, staff understand the applicant's point of view and her concern around the uncertainty of the event being able to go ahead.
  - Should the Hearing Panel agree to the road closure application, staff would require that an acceptable traffic management plan be submitted at least 5 working days before the date of the proposed event. The other information relating to insurance and health and safety would also be required.

## Applicant's right of reply

- [26] Responding to comments made by Verity Jackson in respect to lack of consultation, Ms Johns advised that she spoke to a few businesses but acknowledged she probably should have spoken to more. This was in part due to the effect of the 2019 hearing process on her personally, and her perception of people having their own agenda.
- [27] Responding to comments made by Terry McNab, Ms Johns advised that she removed him from her mailing list after he withdrew his applications for two sites late in the process (previous mardi-gras event) leaving her with two spaces and a loss of \$200.
- [28] Ms Johns commented on the potential benefit of closing Burnett and Tancred Streets which would allow additional stalls to be sited there, likely freeing up parking in West Street for Bookarama. With the number of site requests she has received, it's possible that some would have to locate along the side streets.
- [29] No objections have been received from the medical centre, or the banks. Stall holders don't take over the footpath so there will be access to the shops. Emergency vehicles will always get through.
- [30] The CBD has seen a number of business owners change in the past three years. Every effort will be made to ensure the businesses are happy on the day. But what does worry her about using only the Green area is the number of people that would be along the street, including children. If the roads are not closed, there will be a safety issue.
- [31] At this late stage, the preference is to stay with the known – we know East Street has the space for stall holders and power sites. The TMP is almost complete (and similar to that provided in previous years). Insurance has been paid and evidence of that and the health and safety plan can be provided quickly.
- [32] In conclusion, Ms Johns asked Council to consider her request favourably and give the stall holders a chance.

## Close of Hearing

[33] The Hearing Panel adjourned at 10.09am. Deliberations were deferred until the Council meeting this afternoon.

## PANEL DELIBERATIONS

### The evidence which formed the basis for decision

- [34] Council considered the following evidence to support the decision
- i) The application to close East Street for the event requires that Burnett and Tancred Streets are also closed (between East St/Cass St) and the public notice of the event has stated this.
  - ii) To address concerns about potential damage to grass and gardens, conditions can be put in place to ensure the area is reinstated to what it was before the event. A further condition would be imposed to ensure that stall holders do not use the footpaths so that people are not impeded and shop access is kept clear. The use of the two side streets to allow stall holders to spread out would be a consideration.
  - iii) The applicant's requirement to provide acceptable traffic management and health and safety plans, and evidence of insurance, will be on the proviso that all of this information is with Council officers at least 5 working days before the date of the event.
- [35] Council acknowledged the concerns about potential damage and disruption to the upgraded CBD, and to the retailers and businesses. To address these concerns Council will impose conditions that must be met by the applicant before final approval is granted.
- [36] Council has not been convinced by the objectors that their concerns about the effects of closing the roads to hold this one-day market event will be detrimental on retailers and businesses in the town centre.
- [37] Council considers that there has been no compelling evidence provided from the objectors that would cause Council to decline the road closure application. In granting approval Council will require that the applicant provides acceptable traffic management and health and safety plans, along with evidence of insurance payment, by Friday 16 September 2022
- [38] Council, by resolution, upheld the application from Ashburton Market Days to hold the event with the following roads approved for closure between 7.00am until 6.00pm on Monday 26 September 2022:  
East Street (from Moore St to Havelock St), Burnett and Tancred Streets (from East St to Cass St).

**CONFIRMED THIS 7<sup>TH</sup> DAY OF SEPTMEBER 2022**

**MAYOR NEIL BROWN  
CHAIRMAN**

