

In the matter of: Resource Management Act 1991

AND

In the matter of: An application by Seventh Day Adventist Church to use an existing building at 9 Towai Street, Stoke for church services, church meetings and for community purposes.

Application No: RM095026

Hearing Date: Monday 18 May 2009

Hearing Panel: Commissioner I Barker (Chairperson) and Commissioners G Collingwood and R Reese

Hearing Venue: Nelson City Council Chamber, Civic House, Trafalgar Street, Nelson

Appearances: For the Applicant: Mark Lile (Resource Management Consultant), Tom Harvey (Chairman of the Seventh Day Adventist Church Board) and Phil Leenhouders (Minister of the Seventh Day Adventist Church).

For the Council: Susanne Bernsdorf (Planner), Mandy Bishop (Team Leader Consents) and Andrew James (Transportation Manager).

Submitters: Diane and Graham Hodgson, Eva and Raymond Marshall, Sibly Family Trust per Bill and Barbara Sibly, and Phil Walton.

1. The Application

The application sought resource consent to:

- i) Use the existing site and building at 9 Towai Street, Stoke (being Lot 10 DP 326736) for church services, church meetings and community purposes (wedding, funerals and meetings).

The church activities to include:

- (a) Church services between 9.30am and 2pm on Saturdays for up to 200 people at one time. Note this provides scope for the existing church congregation to grow from its current size of 130 persons; and
- (b) Church group meetings up to 30 people. There would be no more than two such meetings per month and be held within the daytime hours of 9am to 5pm; and

- ii) Consent is also sought to enable the church building to be used by the wider community. It is proposed the church/building be available for funerals, weddings and for community group meetings. The applicant proposes that there be no more than 6 funerals and 6 weddings on any calendar year. No such service/function would be able to run beyond 9.30pm.

The use of the facilities for community group meetings would be limited to 30 people and no more than one meeting per week. These community meetings would also be within the daytime hours of 9am to 5pm.

There will be no alcohol consumed on the premises. A strict alcohol ban will be enforced.

- iii) Consent is also sought to reduce the number of on site car parks to 30 from the required 49, and to dispense with the requirement for an on-site loading bay.

2. Preliminary Matters

i) Scope of the application

During the course of the hearing the applicant advised that it wished to amend the application to use the site for church group meetings from 9am to 9.30pm, for community group meetings also from 9am to 9.30pm rather than the 9am to 5pm which the application originally proposed.

The applicant also sought to amend the application in relation to funerals and weddings such that no wedding shall run beyond 9.30pm and no funeral shall run beyond 5.30pm.

The applicant advised that the assessment of environmental effects accompanying the application clearly indicated that community group meetings would be able to run up to 9.30pm. The Panel noted that paragraph 4.2.2.4 of the assessment of environmental effects gave such advise, where it stated, “dealing first with the matter of sensitive night time hours, this application does not involve operating hours before 9am, nor beyond 9.30pm. The proposed facility will not therefore have impact on night time amenity.”

The applicant also advised that in any event having regard to the fact that the events for which consent was being sought to extend to 9.30pm were limited to meetings involving no more than 30 people the effects on the environment would be no more than if the events terminated at 5pm.

The Hearings Panel accept that the assessment of environmental effects did in fact provide some latitude in relation to the hours of use and it accepted that consideration of the application could proceed on that basis.

ii) **Timing of the hearing**

The Panel noted that the hearing of the application was taking place 29 days after the closing date for submissions which had been Friday 3 April 2009, and thus outside the 25 days provided for by the provisions of section 101 Resource Management Act 1991.

The Consent Authority noted that the Applicant had agreed to the hearing date and it being satisfied that no other party having an interest in the application had been disadvantaged by the delay resolved to waive compliance with the time limit pursuant to section 37 of the said Act,

3. Summary of the Evidence Heard by the Consent Authority

1) The Applicant

- (a) Mr Harvey (Senior Elder and Chairman of the Board) presented and read evidence outlining the makeup of the church and its intentions in relation to the proposed purchase of the property at 9 Towai Street.

He advised that as a result of the church's desire to provide for its parking demands on site it had decided to reduce the proposed attendance numbers to 140 persons which it considered would provide for some small growth in its current church membership.

Mr Harvey also advised that the church had purchased a second courtesy van which it used to collect members for the Saturday morning services, and he considered that with the location in Stoke up to 10 or more members would walk to services.

Mr Harvey also stressed that it was never the church's intention to allow the general public to use the facilities for weddings and funerals and these would be restricted to members of the church, notwithstanding that members of the public could obviously attend the events. He also advised that as a result of assessing the likely use the church proposed to reduce the number of funerals and weddings held within the building to 3 of each per year.

Mr Harvey also advised that the community groups likely to use the building on limited occasions were groups that were generally organised from within the church.

Mr Harvey explained that he was confident that the building had sufficient acoustic insulation to ensure that any amplified music used at the weekly church service would comply with permitted noise standards that applied to the residential zone and therefore the applicant opposed the ban on amplified music suggested by the reporting officer.

In conclusion Mr Harvey drew the panel's attention to the set of volunteered conditions of consent attached to Mr Lile's evidence.

- (b) Mr Mark Lile presented and read planning evidence in support of the application explaining his involvement with the applicant since December 2008.

He outlined the property concerned and explained that the site was initially developed and used by the Exclusive Brethren Church in 1964, which later subdivided the site and developing numbers 11A to 11G Towai Street as a comprehensive housing development in 2001. Subsequently the International Middle School was established and operated on this site from 2005. However, that school had now closed and the site was on the market.

Mr Lile also advised that the adjacent property at 5 Towai Street has received consent in 2007/08 for the development of a church hall which had consent to cater for 134 people with 17 on site parking spaces.

He also advised that the consent obtained by the International Middle School authorised the school to cater for up to 100 pupils and 8 staff.

Mr Lile outlined the Seventh Day Adventist proposal explaining that the building would be used for church services only on Saturday mornings and therefore its use would not clash with the Brethren use of 5 Towai Street which involved services on Friday and Sunday.

Mr Lile advised that the applicant now proposed that the church cater for no more than 140 people (including all children) at any one time.

Mr Lile tabled an amended site plan which indicated that a total of 37 on site parking spaces was now able to be provided. He explained that in his opinion this, in conjunction with the use of the two mini vans, would mean that all car parking activity associated with the Saturday morning service would be accommodated on the site. Notwithstanding there was still a shortfall of 10 parking spaces in terms of the requirements of the Nelson Resource Management Plan.

Mr Lile pointed out that although the church would not fill the building during its services, it was caught by the fact of an existing building which had an existing footprint, which was non complying in relation to building coverage which meant that the application as a whole was to be considered as a non complying activity pursuant to Section 104 and 104D of the Act.

Mr Lile undertook an assessment of the environment effects of the proposal. He advised that as far as streetscape and visual amenity were concerned the building, because of its scale and shape, would always play a dominant role in the streetscape/ residential environment. However, the works proposed to the exterior of the building and the new landscaping of the front yard would greatly enhance the visual appeal of this site.

Mr Lile also undertook an assessment of the parking requirements for the church, explaining that in his opinion even if all of the 140 future members attended church the parking demand would be 3.1 persons per car park, whereas the Brethren church hall was only required to provide spaces on the basis of one park per 10 people and was not constrained by the size of the building as in the applicant's case.

Mr Lile concluded that any potential affects of the activity as far as parking was concerned had been mitigated by the new site parking layout shown on the site plan tabled at the hearing, and by the applicant volunteering to limit attendance to 140 persons.

Mr Lile also undertook an assessment of the likely traffic to be generated by the proposal in relation to that which might be permitted were the area to be developed for residential purposes (the permitted baseline).

While he noted that the reporting officer had dismissed the assessment of the permitted baseline, he concluded that vehicle movement from the applicant's proposal at approximately 50 per week would be significantly less than the movements (392-505 per week) likely to be generated by a normal residential development of the site.

He acknowledged that the proposed traffic movements from the church occur within a shorter time horizon, basically 9.30am to 2pm on Saturday, however, he did not consider that at this time of the day that is was likely to be a nuisance.

He also explained that there would be very little traffic movements outside of the peak on Saturday morning and surely that was of benefit when considering the potential nuisance for the existing residential environment.

He stressed that in this evidence one could not ignore that a residential use developed on this site would also have traffic effects.

In assessing the residential character and amenity Mr Lile advised that he concurred with the reporting officer who concluded that the noise generated by the activity would need to comply with the permitted noise standards for the residential zone. On this basis he

considered that the condition prohibiting amplified music was unnecessary.

He also reiterated that in his opinion the proposed level of traffic movements would be less than what should be reasonably anticipated in a residential zone and would also occur at a time that would not disturb normal sleep patterns.

From the point of view of the community benefit Mr Lile explained that he considered there were a number of beneficial or positive effects that would arise from the granting of this consent. Not only the visual improvements to the building on the site and the efficient use of an existing use of a building resource but also through the wider community use of the facility.

He explained that the church at 5 Towai Street was not in any way available to any other sector of the community and therefore it was not correct to say that the additional benefit created by the second would be less than the benefit created by the first church as the reporting officer had inferred.

In conclusion Mr Lile explained that he considered the actual and potential effects of the amended proposal on the environment would be less than minor.

Mr Lile then undertook an assessment of the proposal in relation to the Nelson Resource Management Plan firstly dealing with the district wide objectives and policies relating to land transport. He concluded that his assessment of the traffic and parking effects of the proposal indicated that it had been properly planned and the actual or potential effects were no more than minor. He also explained that the number of vehicle movements had been minimised to a reasonable level through the use of two courtesy van and controls over attendance at the various activities, and for these reasons considered the proposal was consistent with the district wide land transport provisions.

In assessing the proposal in relation to the objectives and policies for the residential zone and in particular those relating to residential character, noise, streetscape, non-residential activity, community location and community benefit, he concluded that in his opinion the application was entirely consistent with the general and specific directions contained in the Nelson Resource Management Plan.

Mr Lile also undertook an assessment of the application in terms of the submitters concerns explaining that the reduced scale of the proposal and parking demand should dispel their concerns over insufficient parking. Given the changes to the application in respect of the infrequent use of the site for funerals or weddings, potential effects associated with the activities overlapping with the use of the Brethren Church Hall at 5 Towai Street, and creating a problem, was very unlikely.

Mr. Lile in concluding his overall assessment expressed the opinion that both tests of Section 104D could be passed and hence the application could be considered on its merits. He explained that it was his professional opinion that the application as amended represented an entirely appropriate and sustainable use of an existing building and existing residential land resource. He pointed out that the applicant proposed to provide more than twice the number of parking spaces on site than that provided by the Brethren Church Hall at 5 Towai Street with effectively the same number of maximum attendance. He stressed that the church proposed to meet its own needs on site and therefore would not be causing any congestion on Towai Street.

Mr Harvey explained that there had been no issues regarding noise from any of the neighbours in respect of the existing Church building in Collingwood Street and he considered that the present building was much better designed to cater for any noise generated by the church.

2) Submitters

i) Diane and Graham Hodgson

Mrs Hodgson advised that they considered that they were the submitter most affected by the traffic as they lived on the corner of Maitland Ave and Towai Street.

She also advised that in her opinion a residential use of the property would engender traffic at different times of the day whereas the church traffic would all be on Saturday morning.

Other points which Mrs Hodgson made included

- a) Although they could not hear any noise coming from the inside of the existing building they could at times hear doors slamming both in the building and on vehicles at the school.
- b) There is already one church operating on Sunday and with one proposed for Saturday there would always be activity in the street from the churches and weekends would no longer be quiet.
- c) Other community facilities were available in Stoke for the community activities.
- d) The courtyard at the front of the building appeared ready made for noisy activities such as a children's playground.
- e) Rejuvenation of the building would be welcome but the overall development was out of place in the residential area.

Mrs Hodgson also advised that she could not think of any other activity for which the building was suitable.

ii) Eva and Raymond Marshall

Mrs Marshall expressed their concern at the impact which the traffic and car parking would have on their lifestyle and also the likely nuisance arising from noise generated on the site during night time activities.

She explained that they had no objection to the church services but foresaw that parking would be a problem having regard to the problems that arose with the former Brethren use of the building.

The submitters also advised that as the new vehicle access to the property would take six metres out of the street this will have an impact on available on-street car parking spaces.

In conclusion they explained that in their opinion Towai Street was a narrow street and there were already problems with on-street parking and traffic flows and the proposed church would do nothing to improve the situation.

iii) Sibly Family Trust

Mr W G Sibly explained that the Trust's concerns related to parking, traffic flows and noise which all could lead to health and safety problems for the residents.

He explained that they had always experienced parking and traffic problems as Towai was a narrow street and, as there was no weekend parking enforcement, users of the church would not be discouraged and the situation would only get worse.

Mrs Sibly advised the Panel that young children presently enjoyed the use of the street with their bikes and the proposed use of the church on Saturday mornings would mean that there would be little time when the street was not busy.

Mr Sibly tabled photographs outlining the congestion which occurred when a working bee at the new Brethren hall and fundraiser at the school, in the building in question, coincided, and he expressed concern that if such should happen on a regular basis access for emergency vehicles could well be prejudiced.

The Panel queried whether if the church gave the residents prior warning of the holding of a funeral or wedding in the building this would be of any benefit to the submitters.

Mr Sibly advised that while this might be neighbourly it would not help the parking situation.

iv) Phil and Agnes Walton

Mr Walton explained that as he saw it, a Saturday service in the Seventh Day Adventist church, together with a Sunday Service in

the Brethren Hall would mean the weekend would be taken up by church services and the parking and traffic associated with this activity would be inappropriate and a burden on the residents. He also indicated that people's sleep patterns were not all the same, so shift workers and other people would be disturbed by the daytime activity.

Mr Walton expressed the opinion that as he saw it the residents were expected to compromise their peace and quiet for the sake of the church. He also explained that during the use of the building by the school there had been complaints regarding the noise from amplified music associated with a theatre group using the building, which could clearly be heard beyond the site and as a result this activity had been closed down by the Council.

He also pointed out that noise could also arise from persons visiting the property ie car motors, car doors, children playing outside.

Other points which Mr Walton made included:

- a) Neighbours were put to the disadvantage of having to contact the Council with complaints and became the de facto monitoring system.
- b) The present heating system of the building was on the boundary close to his property and was noisy.
- c) When the school used the property the school was not secured at night and open to use by skate boarders and other persons.
- d) When the building was used by the Brethren church it had had a much larger buffer area and also had another access from Maitland Avenue.
- e) Another use for the building would be an early childhood learning centre.
- f) He would prefer to see the school continue rather than the building being used for the Seventh Day Adventist church, as school operations were normal day time operations and there were limited night time, and generally a very limited number of weekend activities.
- g) He drew the Panel's attention to the operating hours of the new Brethren hall, explaining that the addition of Saturday service from this application would completely saturate the weekends.
- h) While the use of a register of events was appropriate, what reporting back to neighbours would there be?

- i) Weddings can make noise without alcohol.
- j) There should be a specific loading zone for the vans to use rather than taking up parking spaces and this loading zone should be located well away from neighbouring properties.
- k) Nose to tail parking as provided on the site plan did not seem to be appropriate.
- l) The only way in which the proposal would be acceptable to him would be to restrict it to church activities on Saturday only and delete the three parallel parks on the boundary nearest to his property.

3) Reporting Officer

Ms Bernsdorf advised that she stood by her recommendation that the application not be granted. She also raised a query as to whether the amendment to the scope of the application to 9.30pm as requested by the applicant would have been consented to by those who gave their written consent in the initial stages.

She also pointed out that not all written consents had been given by the occupier of the property.

Other points which she drew to the panel's attention included:

- a) No evidence had been presented which would indicate that the residential noise limit could be met and therefore she would suggest that a further condition be imposed requiring monitoring of the first three services so that actual noise limits could be ascertained.
- b) It will not be easy to monitor the conditions relating to numbers at various functions to ensure that maximum numbers were not exceeded.
- c) She stood by her opinion that the permitted baseline was not applicable as the timing of the traffic in relation to residential development would not be the same as in relation to the church.
- d) The cumulative effects of the proposal outweighed any benefits that would be obtained by another church in this cul-de-sac.
- e) She considered the effects were more than minor in relation to residential amenity, and the cumulative effects arising from the fact that Saturday was no longer available for purely residential use in the neighbourhood.
- f) Weddings should not be permitted past 5.30pm.
- g) Provision of a loading zone for the vans could be appropriate.

- h) While three weddings and three funerals in each year might not be unreasonable in a residential zone it was of a different scale to normal residential activity.
- i) The present school was not specifically limited as to the time of its activities, however, consent to the application had been granted on the understanding that these would be daytime activities only
- j) There would be no greater community dislocation but less of a community benefit from the establishment of the church.
- k) Monitoring of the conditions would generally be carried out as a result of complaints by neighbours.
- l) If consent was granted it might well be appropriate for additional landscape or screening to be carried out along the south-western boundary.

Andrew James (Transportation Manager) advised that:

- a) If vehicles were parked against the kerb in a legal fashion there would still be room for an emergency vehicle to traverse the street, although traffic would be restricted to one lane.
 - b) No assessment has been made of the parking which is presently taking place on the street.
 - c) The opportunity exists for the applicant to provide 10 bike parks in lieu of four car parks.
 - d) The stacking parking as shown was probably appropriate for the type of activity as it could be managed among the congregation.
 - e) Traffic movements concentrated on the Saturday would cause some congestion in the street but this would act to slow traffic and hence not prejudice safety.
 - f) Provision of a traffic management plan providing for a parking warden might well be an appropriate condition if parking became an issue.
- 4) Right of Reply

Mr Lile in the Right of Reply for the applicant advised the Panel that the church wanted to buy the property as it suited its needs as it was a small church and it was confident that it could operate in a way that did not impact on the neighbours. However, if it was to be restricted in relation to its use then it would not buy the property.

The church acknowledged the concerns raised by the Brethren use of the building which had involved buses which often parked on the street, however, the Seventh Day Adventist Church did not operate in this way.

Mr Lile explained that while the submitters might prefer to see a residential subdivision of the land such would result in a much greater number of traffic movements over the week. While the Church would give rise to an increased number of movements on Saturday there were corresponding benefits for the residents for the rest of the week.

Residential subdivision would also give rise to more crossings onto the road, with more visitors and more cars endeavouring to park on Towai Street.

Mr Lile advised that while he acknowledged that shift workers and night time workers would be upset by daytime activity the Resource Management Plan recognised night time hours as more sensitive.

Other points which Mr Lile responded to included:

- a) Night time meetings of the Church would be similar to the school meetings which had occurred after hours without problems.
- b) The Christmas service mentioned in evidence occurs on the nearest Saturday prior to Christmas not on Christmas Day itself.
- c) If the Council was concerned regarding the acoustic qualities of the building it could well require the applicant to provide a certificate from an appropriately qualified consultant and this report could also serve as a noise management plan covering how amplified music and the use of the building should be managed.
- d) While the Church might hire out the hall it was not done as a commercial operation.
- e) Clearly there are community benefits in relation to groups that the Church presently catered for which did not have facilities available elsewhere.
- f) A loading zone was not necessary as the van would unload in the car park in which they parked.
- g) The Council could require the applicant to provide a yellow line in front of its property if it felt that on-street parking was a problem.
- h) No parishioners currently cycle to church so the trade off in relation to car parking spaces would be of no benefit.
- i) The applicant was happy to prepare a Parking Management Plan and manage parking for weddings and funerals.

The hearing closed at 2.45pm and the Panel reserved its decision.

4. Decision

That in accordance with Section 104B and after consideration of the matters in Section 104D and 104 Resource Management Act 1991 consent be GRANTED to the application by the Seventh Day Adventist Church to enable the use of the existing site and building at 9 Towai Street Stoke for church services, church meetings and for community purposes (weddings, funerals and meetings) subject to the following conditions:

General

1. The activity be undertaken in accordance with the application dated 3 March 2009 as amended at the Council Hearing on 18 May 2009 and the following conditions of consent.
2. There shall be a total of no more than 140 persons on site during Saturday Church services.
3. The Saturday church activities shall be held within the hours of 9.30am and 2.00pm.
4. Church services shall occur only on the Saturday of any week.
5. The use of the site for group meetings shall be limited to a frequency not exceeding three per month involving no more than 30 persons and be held within the hours of 9.00am to 9.30pm.
6. The use of the site for funerals and weddings shall be limited to functions for members of the Seventh Day Adventist Church and their guests. There shall be no more than three funerals and three weddings held in any one calendar year. No wedding shall run beyond 9.30pm and no funeral shall run beyond 5.30pm.
7. No alcohol shall be consumed on site.
8. A register shall be kept by the Consent Holder and made available to the Council upon request. The register shall contain the date of any church activity, funeral or wedding or group meeting, the number of attendees and any complaints received.

Noise

9. All activities on the site shall comply with the noise performance standards of the Nelson Resource Management Plan as set out within residential rule REr.43 "Noise".
10. The applicant shall provide the Council's Monitoring Officer with an Acoustic Report from a qualified and experienced acoustic consultant prior to church activities occurring on site, that confirms that the use of amplified music within the building as proposed would comply with the permitted activity and noise performance standards in the Nelson Resource Management Plan relating to the residential zone. Subject to

compliance with the above the Acoustic Report shall also serve as a Noise Management Plan setting out how the use of amplified music within the building should be undertaken to ensure ongoing compliance with the said noise performance standards.

Traffic and Car Parking

11. The Consent holder shall operate a minimum of two courtesy vans for the purpose of mitigating any actual or potential adverse parking and traffic effects associated with the use of the site on Saturdays.
12. Prior to the church activities commencing on site the Consent Holder shall undertake the following works:
 - a) Installation of a new vehicle crossing as indicated on the plan labelled RC1.1 "Site Plan" – Revision 3 – tabled at the hearing.
 - b) Formation of at least 37 car parks on site generally as shown on said Site Plan labelled RC1.1. The car parks shall be permanently marked to ensure their efficient use and to easily identify each parking space.
 - c) Installation of a five berth cycle rack on site.
13. The Consent holder shall prepare and submit to the Council a traffic management plan outlining how traffic will be managed during any wedding or funeral held on the premises, and this shall include provision for the use of a parking warden during these occasions.

Landscape and screening

14. A Landscape Plan shall be prepared by a qualified landscape architect, landscape designer, tertiary qualified horticulturalist specialising in amenity horticulture or member of the Landscape Industries Association prior to the church activities commencing on site. The Plan shall provide for planting alongside the north western (rear) property boundary and along the street frontage with Towai Street for the purpose of screening the activity and softening the appearance of the building. The Plan shall incorporate an Establishment and Maintenance Schedule including timing details of plantings to be undertaken. A copy of the plan shall be provided to the Council's Monitoring Officer by 4 September 2009.
15. The Landscape Plan required in condition 14 above shall be implemented in accordance with the Establishment and Maintenance Schedule including timing details of plantings to be undertaken, provided that all plantings shall be established within 6 months of the church activities commencing.
16. Written confirmation from the Qualified Landscape specialist or Horticulturalist that the Plan has been implemented shall be forwarded to the Council's Monitoring Officer within 1 month of the work being completed.

17. The landscaping required in condition 14 above shall thereafter be maintained for the life of the Consent including the replacement of any dead plants in the next available planting season.

Monitoring

18. The Consent holder shall advise the Council's Monitoring Officer in writing at least 5 working days prior to activities commencing on site so that monitoring of the conditions of the consent can be undertaken. Please advise the Consent No. RM095026.

Review of consent

19. For the purposes of, and pursuant to, Section 128 of the Resource Management Act 1991 the Council reserves the right to review the conditions of this consent six and twelve months after the commencement of the activity, and annually thereafter, commencing from the date this Consent is granted, for any of the following purposes:
 - i. To impose any additional, or to modify existing conditions of consent relating to the effects of the activity on the environment.
 - ii. To require the Consent holder to adopt the best practical option to mitigate any adverse effect upon the environment, arising from the generated effects of the activities.
 - iii. If the Council deems that this is necessary to do so in order to deal with any adverse effect on the environment which may arise from the exercise of this Consent, in which it is appropriate to deal with at a later date, including matters of safety and any potential adverse effect outside or inside the site.

5. Reasons

1. The Consent Authority acknowledges that the application is to be considered as a non complying activity due to the site coverage issue relating to the building however it accepts that the Nelson Resource Management Plan provides for churches and other community activities to establish in a residential zone as discretionary activities.
2. The Consent Authority also acknowledges that the car parking requirements as set out within Appendix 10 of the Nelson Resource Management Plan, for places of assembly, requires one space per 20 square metres of gross floor area or 1 space per 10 seats, whichever is the greater, and that this tends to disadvantage the applicant as the existing building is very large. If parking was required on the basis of the maximum capacity permitted by the conditions imposed on the Consent the car parking requirement would likely be 14, whereas 37 on site car parking spaces are proposed to be provided.

The Consent Authority acknowledges that the Church is endeavouring to provide its parking needs on site and, having regard to the evidence provided by the applicant's Consultant Planner regarding parking

demand it is satisfied that during normal church activities the applicant's intentions will be met. It is therefore satisfied that any effects arising from the parking of vehicles in relation to normal church activities, will be no more than minor.

3. The Consent Authority notes from the evidence provided by the applicant that the total vehicle movements associated with the use of the site calculated on a weekly basis would be considerably less than if the property was fully developed for residential use. The Consent Authority also notes the applicant's contention that this permitted baseline clearly shows that traffic generated by the activities on site will have no more than minor effect on the environment.

While the Consent Authority acknowledges that a residential use of the site would have traffic effects it does not consider that those effects would have a direct relationship to the proposed activity, in that the proposed traffic movements would occur within a shorter time horizon (9.30am – 2.00pm) on one day a week ie Saturdays. Notwithstanding this the Consent Authority is satisfied that Towai Street is capable of accommodating the additional traffic without giving rise to any safety concerns. In addition, as the time of the day during which the increased traffic will be generated is outside the sensitive night time hours the affects of the traffic associated with the church activities will be no more than minor.

The Consent Authority acknowledges that traffic generated by the weddings and funerals might well be more than the normal traffic associated with the church activity. To this extent the Consent Authority considers that the traffic effects are likely to be more than minor. However, the Authority considers that from time to time it can reasonably be expected that large numbers of people will be attracted to a property within a residential zone, for example through a garage sale, private party, or similar activity. Having regard to the fact that the funerals and weddings are limited in number to no more than three each in any one year, and that the applicant accepts the condition relating to the development of a Traffic Management Plan and the use of a parking warden to assist with the management of traffic generated by such functions, the effects of the additional traffic will be mitigated.

While the Consent authority notes the Applicant's advice that currently no parishioners cycle to services, it considers that the encouragement of cycling is a matter which has positive benefits for the social and economic wellbeing of the Community and the health of its residents, and therefore it is appropriate that the applicant make provision for the on site parking of cycles.

4. The Consent Authority notes that the building concerned was erected in the 1960s that it was used for church purposes for at least 34 years and that the residential area has developed around it and grown with it. The Consent Authority therefore considers that the continued use of the building for church purposes, albeit on a smaller scale, is an appropriate use of an existing building resource. The Authority acknowledges that

because of the buildings scale and shape it will always play a dominant role in the existing streetscape/ residential environment. It also notes the intention of the applicant to upgrade and refurbish the building and to landscape the site to soften the bulk of the building and to integrate the development into the streetscape. The Consent Authority therefore considers that these works will ensure that the proposal will not reduce the residential character of the area and that it will give rise to no additional adverse effects over and above that which previous activities on the site have done. Therefore, the actual and potential effects of the proposal on the environment will be less than minor.

5. The Consent Authority notes the policies and objectives of the Nelson Resource Management Plan relating to non residential activities within the residential zones, acknowledging that non residential activities and community facilities can be accepted within residential areas provided they do not give rise to significant adverse effects. It also acknowledges that the character of residential areas can be determined by the presence of non residential activities and community facilities operating from purpose built buildings. There can be certain community benefits which arise from non residential activity which in this case is reflected by the fact that the applicant has specifically sought consent for a limited community use of the building. The Consent Authority noted as an aside that had the applicant sought to use the building for somewhat more frequent use, particularly during the daytime, this would have potentially provided additional community benefit.

The Authority also notes that the meeting hall at 5 Towai Street is not available for community use and that the applicant's proposal can therefore be regarded as filling a need particularly in respect of the groups which might make use of the applicant's existing facility.

The Authority is satisfied that having regard to the fact this is an existing building and that the applicant is proposing to upgrade and enhance the overall appearance of the building, that it's use is likely to be able to satisfy the standards relating to noise within residential zones, and it will provide for some community use, that the proposal is entirely consistent with the relative objectives and policies of the Nelson Resource Management Plan.

6. The Consent Authority notes the concerns expressed by the Reporting Officer and the submitters regarding the possible cumulative effects in relation to the two neighbouring churches being that of the applicant and the existing Brethren Meeting Hall on the adjacent property. The Consent Authority notes that the two churches operate in an entirely different manner and on different days of the week. Bearing this in mind the Consent Authority is satisfied that it is highly unlikely that activities on the two properties will coincide and that, therefore, the cumulative effects attributable to the proposed activity will be no more than minor.
7. In considering the provisions of section 104D Resource Management Act 1991 the Consent Authority noted that the likely effects of traffic arising from the use of the Church for weddings and funerals would be

more than minor and therefore the application would not satisfy the provisions of section 104D (1) (a) of the Act.

Notwithstanding this the Authority is satisfied that the proposed activity is not contrary to the policies or objectives of the Nelson Resource Management Plan and therefore meets the provisions of section 104D (1) (b) of the said Act and consent can be granted to the application.

6. The Provisions of the Relevant Statements/Plans Considered by the Consent Authority were:

- i. Objective DO 10.1 - Land Transport – A land transport system that is safe, efficient and sustainable, and which avoids, remedies or mitigates adverse environment effects.
- ii. Policy DO1.1.1.1 - Adverse environmental effects of vehicles – The environmental effects of vehicles should be avoided or mitigated by minimising the number and length of vehicle trips.
- iii. Policy DO 10.1.4 – traffic effects of activities - Activities should be located and designed to avoid, remedy or mitigate effects of traffic generation on the road network.
- iv. Policy DO10.1.5 – Access to sites – Every site should have access that provides safe entry and exit for vehicles from the site to a road, without compromising the safety and the efficiency of the road network.
- v. Policy DO 10.1.6 – parking, loading, and turning - Site Should provide onsite parking, loading, turning for vehicles, or have access to those facilities sufficient to avoid any adverse effects on the safe and efficient operation of the roading network. Any use of off site facilities shall not compromise pedestrian and vehicle safety, or the safe and efficient operation of the road network.
- vi. Objective DO 16.1 – Management of resources by location-Management of the natural and physical resources of Nelson in a way that responds to the varying resource management issues and the varying actual and potential effects of use, subdivision, development, and protection arising in different parts of the district.
- vii. Policy DO16.1.1(1) – Zones and areas – A quality residential environment that provides a choice of living styles, a high level of amenity and minimal occurrence of nuisances.
- viii. Policy REd.5. The character of residential areas is also determined by the presence of non residential activities and community facilities that usually operate from purpose built buildings. These activities tend to provide essential community services, including convenient shops, churches..... Non residential activities and community facilities can be accepted within residential areas provided they do not give rise to significant adverse effects.

- ix. Policy RE3 – Streetscape, landscape and natural features - Attractive streetscapes and the maintenance and enhancement of those significant public views, natural features and landscapes that contribute to Nelsons character and setting.
- x. Policy RE3.5 – streetscape – Sites fronting onto roads should present an appearance which enhances the overall streetscape, and buildings should not dominate the road or compromise pedestrian or vehicle safety.
- xi. Policy RE3.6 – signs and advertising – Signs and other advertising devices in residential areas should not adversely affect the residential amenity of the neighbourhood or traffic safety.
- xii. Objective RE2 – residential character – An environment that is principally residential in character.
- xiii. Policy RE2.1 – noise – Noise levels received at adjacent site boundaries should be consistent with a predominantly residential environment.
- xiv. Policy RE2.2 – nuisances – The present qualities of residential areas should not be adversely affected by glare, lights, dust, vibration, or odour.
- xv. Policy RE2.3 – daylight and sunlight – Buildings and structures should be designed and sited so that adjoining sites are not unduly shaded, and there is reasonable access to daylight.
- xvi. Policy RE2.4 – privacy and outlook – Location and design of building should not unduly compromise outlook and privacy during development having regard to the character of the area and the expectation for development.
- xvii. Policy RE 2.5 – scale – The size and scale of buildings, structures and activities should be compatible with the character and amenity of the residential areas.
- xviii. Policy RE2.6 – non residential activities – No activity should have effects significantly greater than the normal residential use of any property, unless they can be adequately avoided, remedied or mitigated.
- xix. Policy RE2.7 – community usage with dislocation – Activities should avoid breaking up community and neighbourhood coherence having particular regard to the communicative effects of activities.
- xx. Policy RE2.8 – community benefit – It is recognised;
 - a) that certain non-residential activities need to relocate in the residential zone

- b) that some existing non residential activities may need to be explicitly provided for in the zone
- c) that some non residential activities may enhance the amenity and sense of community in residential areas.

7. The principle issues that were in contention were:

- 1 The proposed activity on the site would generate traffic on Towai Street which would have a significant effect on the residential character of the area and the neighbours enjoyment of their properties.
- 2 The number of people provided for within the proposed facility would generate a parking demand which would not be able to be catered for within the site with the consequence that vehicles would need to park on the street and this would cause inconvenience for residents, inhibit the free movement of emergency vehicles and pose dangers to pedestrians.
- 3 The establishment of a second church in Towai Street immediately adjacent to the existing Brethren Meeting Hall will compromise the residential character of the area and give rise to cumulative effects which would be more than minor.
- 4 The use of the building for church services with amplified music will give rise to noise nuisance for nearby residents.
- 5 The extension of the use of the site to 9.30pm is not compatible with a quiet residential neighbourhood.

8. The main findings for fact by the Consent Authority were:

- 1 The building to be occupied by the church was constructed in 1964 and used as a Brethren Meeting Hall until around 1998.
- 2 The building has a gross floor area of 1250 square metres which will be reduced to 945 square metres through work proposed by the applicant.
- 3 The property adjacent to the southwest is occupied by a Brethren Meeting Hall to which consent was granted in 2007 to provide for 134 people.
- 4 The building on the site in question was occupied by the International Middle School pursuant to a resource Consent which allowed it to cater for up to 100 pupils and 8 teachers and that school has now closed and the building is vacant. However, the consent has not been cancelled.
- 5 Towai Street has a carriageway width of approximately 6.9 metres which is sufficient width to cater for vehicles parked on each side of the road adjacent to the kerb while leaving sufficient space for one lane of traffic and would be sufficient width for emergency vehicles.

- 6 The Seventh Day Adventist Church presently occupies the site on the corner of Collingwood and Grove Street and it is the church's intention to relocate its complete operation to the subject building.

Commissioner I Barker
(Chairperson)
Nelson City Council
Hearings Panel

Date _____