

Draft Open Spaces Bylaw: Summary of feedback

To support hearings and deliberations 29 July 2021

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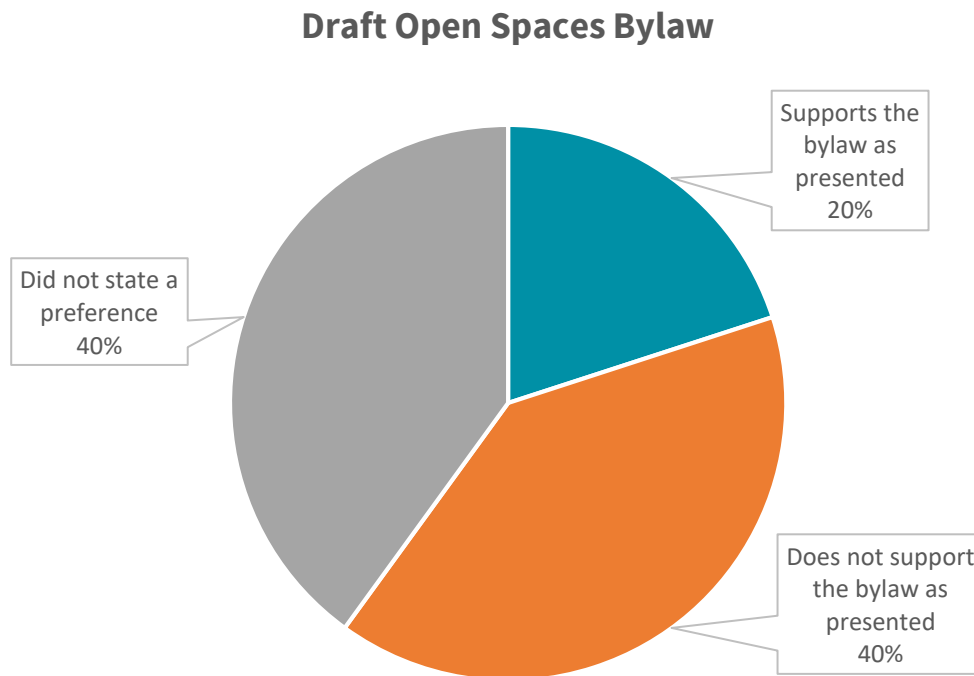
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1.1 Summary of feedback received

Public consultation on the draft Open Spaces Bylaw was undertaken from 11 June to 11 July 2021.

- Five submissions were received on time. There were no late submissions received as at 12 July 2021.
- One submission indicated they wanted to be heard on their submission form (no confirmation of attendance received as at 21 July)
- One submission supported the draft Open Spaces Bylaw as presented, two submissions did not support the draft Open Spaces Bylaw as presented, and two submissions did not state their preference.
- The reasons given by submitters for their preferred option are provided in tables 1.2.1 and 1.2.2

1.2 Summary of submitters



Supports the draft Open Spaces Bylaw as presented		Does not support the draft Open Spaces Bylaw as presented		Did not state a preference	
Submitter name	Page number	Submitter name	Page number	Submitter name	Page number
Ashburton Youth Council	3	Skates, Bev	7	Corbett, Geoff	5
		Watson, Ian & Maxine	8	Gleason, Mark	6

1.2.1 Submitters who support the draft Open Spaces Bylaw as presented

Submitter name	Page number	Summary	Staff comments
Ashburton Youth Council (AYC)	3	<ul style="list-style-type: none"> • Supports all proposed changes. Submitter notes that the changes ensure that open spaces will be respected and as a result, enjoyed by the community. (AYC) • Suggests speed limit signage in appropriate areas. (AYC) • Proposes a regulated community notice board to keep in our open spaces that the council and the community could post things on. (AYC) • Proposes a community art wall where people are given an opportunity to express their individuality, which can be painted over again and again so that it has endless use and minimises vandalism. (AYC) • Suggests a place in open spaces where there is an outdoor stage for meetings and performances. Notes that there is a stage in the domain and suggests a renovation would help the space be more widely used. (AYC) • Notes that there are many times late at night that children under the age of 10 are still roaming around. Suggests a curfew for young unattended children to keep the kids in our community safer. (AYC) • Suggests re-purposing unused open spaces, for example to be used as a community orchard or garden containing native flora. This could help the community be more connected in an eco-friendly way. (AYC) 	<p><i>Open Spaces:</i></p> <p>The budget for the renovation of the building in the domain and stage will be implemented once issues around its ownership are resolved.</p> <p>Open Spaces staff agree in principle to the re-purposing of unused open spaces and will consider this request as part of reviewing Reserve Management Plans.</p>

1.2.2 Submitters who do not support the draft Open Spaces Bylaw as presented

Submitter name	Page number	Summary	Staff comments
<p>Skates, Bev</p> <p>Watson, Ian & Maxine</p>	<p>7</p> <p>8</p>	<p>Freedom Camping (lack of control)</p> <ul style="list-style-type: none"> • Submitter is concerned at the lack of control of freedom campers and wants to see a complete ban on freedom camping. Expresses concern over campgrounds losing business. (Skates) • Objects to Council providing extra facilities to freedom campers who don't contribute in any way to the community. (Skates) • Notes an issue with freedom campers on Park St next to Ashburton Domain. (Skates) <p>Freedom camping (too much control)</p> <ul style="list-style-type: none"> • Submitters concerned about any further restrictions on freedom camping within the district. (Watson) 	<p><i>Open Spaces:</i></p> <p>Freedom campers contribute to the local economy through the purchase of food and other supplies and undertaking tourism activities.</p> <p><i>Strategy & Policy:</i></p> <p>Section 12 of the Freedom Camping Act 2011 prohibits Councils from having a complete ban on freedom camping throughout the district.</p>
<p>Watson, Ian & Maxine</p>	<p>8</p>	<ul style="list-style-type: none"> • States that it is unclear whether the new bylaw will have adverse effects on the present values they have for getting through open spaces to enjoy the many outdoor pursuits they do in the district. (Watson) • Concerned about any ownership of water in the district that the Council lays claim to – states that this needs to be identified. Questions if Council has the right to deny or restrict access to this water. (Watson) • Questions if Council complies with ECan's consent requirements to allow it to own or use natural water. (Watson) 	<p><i>Strategy & Policy</i></p> <p>The draft bylaw is based on the current bylaw. Changes made aim to make our Open Spaces more enjoyable for all.</p> <p>In regard to ownership of water, the draft bylaw definition of Open Space refers to "an area of land or water owned or managed by"...Council. This appears to have inspired the submitters' concern about water ownership. There is political and legal uncertainty over the ownership of water and Council would not claim to own the water. Bodies of water in, and flowing through, open spaces are managed by council in accordance with resource</p>

Submitter name	Page number	Summary	Staff comments
			<p>consents, regional plans and the law of the land.</p> <p>As a bylaw is a regulatory document, greater clarity is desirable. If Council supports this change, the definition could be reworded as follows:</p> <p>“Open Space means an area of land owned or managed by Ashburton District Council, including associated bodies of water, for the use of the public....district.”</p> <p><i>Property:</i></p> <p>If submitter is referring to rivers, then there are numerous unformed roads where access is allowed by right. Unfortunately with our system of braided rivers there may be parcels of land between the end of the road and the water, which may prevent this. Where we can Council does try and get access to waterways on a more formal basis. – this can be via land exchanges, esplanades, easements etc.</p> <p><i>Assets:</i></p> <p>Council has resource consents for the use of water, specifically drinking water, stockwater and stormwater. Our drinking water and stockwater are managed by their respective bylaws, a stormwater bylaw will be drafted soon. Ecan monitor our compliance with these consents.</p>

1.3 Other comments

Submitter name	Page number	Summary	Staff comments
Gleason, Mark	6	<ul style="list-style-type: none"> • Requests maps for open spaces in the district, notes that there is no clear indication in the bylaw of where these are. (Gleason) • Questions why the clause regarding boundary fencing has been incorporated and notes that the Fencing Act 1978 will overrule a bylaw. Notes that this provision may require inspections and fees and suggests it is dollar driven. (Gleason) 	<p><i>Open Spaces:</i></p> <p>They are mapped in the District Plan (shown as Open Space A and B).</p> <p>The primary reason for controlling fences on the boundary of an Open Space is to protect the amenity and safety of the reserve.</p>
Gleason, Mark	6	<p>Legal comments / enforcement of bylaw</p> <ul style="list-style-type: none"> • Notes that Councils should be careful when making bylaws not to infringe on people's rights – there is potential for litigation and considerable associated expenses. (Gleason) • Questions why Council doesn't leave some of the complex areas of law to the police who have the resources and experience to deal with them. Notes that he does not want to pay for Bill of Rights damages for the actions of ADC employees or contractors. (Gleason) • Questions if some areas of infringement such as obscene language would be selectively used against groups that Council did not approve of. Notes that this has happened in the past. (Gleason) 	<p><i>Strategy & Policy: (Richard Mabon)</i></p> <p>Council agrees that bylaws should be made in a manner that does not infringe legal rights. Council has assessed the impacts of the bylaw in terms of the NZ Bill of Rights Act 1990 and the bylaw is not considered to raise any implications in terms of the Act.</p> <p>Council has limited tools in the toolkit for enforcement of bylaws and aims to educate and persuade people to comply in the first instance. Prosecution through the district court is a last resort for dealing with the most egregious behaviour. Where there are other enforcement strategies that can be applied by working with NZ Police, these are likely to be preferred to a costly prosecution. Council shares the</p>

Submitter name	Page number	Summary	Staff comments
			<p>submitter's reluctance to engage in complex and costly litigation.</p> <p><i>Property:</i> Queens Chain is a misnomer. There is no such right of access along waterways unless there is an easement or reserve or road – whether formed or unformed.</p>
Gleason, Mark	6	<p>Consultation</p> <ul style="list-style-type: none"> • Questions if Council has undergone genuine consultation with Ngai Tahu. (Gleason) 	<p><i>Strategy & Policy: (Richard Mabon)</i> Te Rūnanga O Ngāi Tahu is comprised of 18 papatipu rūnanga as set out in the Te Rūnanga o Ngāi Tahu Act 1996. The takiwā of Te Rūnanga o Arowhenua (TRoA) centres on Arowhenua and extends from Rakaia to Waitaki.</p> <p>Aoraki Environmental Consultancy (AEC) Ltd is an environmental company owned by TRoA, which acts to support TRoA in engagement with local government processes.</p> <p>Council meets with representatives of AEC on a six-weekly basis and more often when required. The scope and nature of the bylaw consultation have been raised with AEC who have not raised any specific concerns. For these reasons, Council believes it has genuinely consulted with Ngai Tahu on this matter.</p>

Submitter name	Page number	Summary	Staff comments
Corbett, Geoff	5	<p>Aircraft noise</p> <ul style="list-style-type: none"> • Submitter has complained about regular aircraft noise from 2018-2020. The noise is sometimes every 20-30 minutes early morning to late evening every day of the week and in the weekends. (Corbett) • Notes that the Council owns the airport and needs to take responsibility for its tenants. (Corbett) • Submitter indicates that the noise was coming from Skydiving Kiwi and they have since moved from the airport. (Corbett) • Suggests Council need to enact a bylaw for particularly noisy planes. (Corbett) 	<p><i>Open Spaces:</i></p> <p>The District Plan includes mechanisms for controlling the adverse effects of various activities including noise (section 11).</p> <p><i>Property:</i></p> <p>Council controls the activities on the ground at the airport so if noise relates to aircraft on ground we can do something. The Sky Diving Kiwis plane was a problem and this has been dealt with.</p>