



Have your
Say!

Open Spaces Bylaw

Consultation document (statement of proposal)

We are reviewing our Open Spaces Bylaw and are proposing some changes. We want to hear what you think about these changes. This document includes information on our proposal and how you can give us feedback.

We are accepting feedback until 5pm Sunday 11 July 2021.

Introduction

We are reviewing our Open Spaces Bylaw and want to hear your feedback on the changes we are proposing to make.

The full draft Open Spaces Bylaw is included in this consultation document.

What is an open space?

An 'open space' means an area of land or water owned or managed by Ashburton District Council for the use of the public for the purpose of the amenity, recreation or enjoyment of people in the district. This includes parks, reserves and public gardens.



***We want
to hear
from YOU!***

**Tell us what you think of
our proposed changes at**

ashburtondc.govt.nz/haveyoursay

The details

Why is a bylaw needed?

The bylaw is necessary to address the potential for problems that may arise from the misuse of Council owned or managed parks and open spaces including:

- Damage, loss or destruction to the land, structures or infrastructure associated with parks and open spaces
- Offensive behaviour and/or nuisance, affecting others' enjoyment of public parks and reserves.

What is our proposal?

We believe that many of the issues addressed by the current bylaw remain current and appropriate for the district today. Because of this, we are proposing to keep our current document but to make some changes to it.

Our bylaw has been updated to ensure consistency with current practice, other Council bylaws and documents, and to ensure that the bylaw is relevant for the district today and in the future.

The key changes we are proposing to make to our Open Spaces Bylaw are:

KEY CHANGE ONE: Additional clauses

Clauses have been added to the bylaw stating that:

- Officers have the authority to request the removal of any structure from an open space at any time.

- Where vehicles are allowed within an open space and no speed limit has been signposted, the speed limit will be 20 km / hr.
- People riding bicycles or scooters are allowed through open spaces, except in areas where signposted as prohibited for such use.
- Erecting or modifying a boundary fence must be approved by Council or a Council Officer, and comply with the Fencing Act 1978.

WHY?

The first clause has been incorporated into our bylaw to avoid the erection of inappropriate structures in Council's Open Spaces.

The second clause has been included to provide consistency with our Cemeteries Bylaw, but also to regulate the speed of vehicles in our Open Spaces to reduce the potential for damage or health and safety incidents.

The third clause has been added to allow bicycles and scooters within our Open Spaces as we believe they are appropriate, except for the areas specifically prohibited for this use.

The fourth clause has been incorporated to provide consistency with the Fencing Act 1978.

The details

KEY CHANGE TWO: Explanatory notes

Explanatory notes have been added to the bylaw to express:

- Where camping is permitted within the district (see page 11), and
- Civil Aviation Rules in regards to the use of a drone or unmanned aircraft (see page 13).

**We are accepting feedback until
Sunday 11 July 2021.**

WHY?

Explanatory notes are often included in policies and bylaws for educational purposes. The camping explanatory note has been included to clearly show where camping is permitted within the district, and the other has been added to express the Civil Aviation Rules that are in place for flying drones.



Options Considered

No change to the bylaw

Advantages

- Issues that are currently regulated continue to be regulated.

Disadvantages

- Improvements identified during officer review are not resolved.

Revoke the bylaw

Advantages

- There are no advantages to this option.

Disadvantages

- May result in increased incidences (damage, litter, nuisance)
- Not in the best interest of the community
- Existing legislation does not cover the same breadth of location or issues
- Alternative non-regulatory measures would be less effective.

Adopt the proposed bylaw

Advantages

- Improvements identified during officer review are resolved.

Disadvantages

- There are no disadvantages to this option.

**PREFERRED
OPTION**

What do you think of our proposed changes?

Have your
Say!

Determinations

Relevant determinations

Council is authorised to make this bylaw under section 145 of the Local Government Act 2002 which states that bylaws may be made for:

- protecting the public from nuisance;
- protecting, promoting and maintaining public health and safety; and
- minimising the potential for offensive behaviour in public places.

Under section 155 of the Local Government Act 2002, Council must determine whether or not a bylaw is the most appropriate way of addressing a perceived problem, and whether the bylaw is the most appropriate form of bylaw, and whether or not the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

REQUIRED DETERMINATION	COUNCIL CONSIDERATION
Whether a bylaw is the most appropriate way of addressing a perceived problem	Council has determined that a bylaw is the most appropriate way of addressing the perceived problem. It is not a legal requirement to have an Open Spaces Bylaw, however there is a need to manage the use of Council's Open Spaces to minimise damage, loss or destruction of our open spaces and to minimise offensive behaviour and/or nuisance affecting other users' enjoyment of public parks.
Whether the bylaw is the most appropriate form of bylaw	Council's draft Open Spaces Bylaw is the most appropriate form of bylaw because it meets the following tests: The bylaw is: <ul style="list-style-type: none"> • authorised by statute under section 146(b)(vi) of the Local Government Act 2002 • not repugnant to the general laws of New Zealand • certain and clear • reasonable • not overly restrictive, onerous on any person, or impractical.
Whether the bylaw is inconsistent with or gives rise to any implications under the New Zealand Bill of Rights Act 1990.	The proposed bylaw is consistent with the New Zealand Bill of Rights Act 1990, and does not impose any restrictions on any of the rights listed in the Act.



Our Draft Open Spaces Bylaw

Draft Open Spaces Bylaw

1. Title

The title of this bylaw is the Ashburton District Council Open Spaces Bylaw 2016.

2. Purpose

The purpose of this bylaw is to protect Council's Open Spaces from damage or misuse and to allow for their effective management for the benefit and enjoyment of all users.

3. Related documents

- Ashburton District Council Dog Control Bylaw 2016
- Ashburton District Council Cemeteries Bylaw 2017
- Ashburton District Council Explanatory Bylaw 2016
- Ashburton District Council Open Spaces Strategy 2016
- Ashburton District Council Public Places Bylaw
- Civil Aviation Authority Rules
- Local Government Act 2002
- Reserve Management Plans
- Reserves Act 1977
- Resource Management Act 1991.

4. Application

- 4.1. This bylaw applies to parks, reserves, public gardens and any other Open Space under the control of the Ashburton District Council.

- 4.2. Council has Reserve Management Plans for reserves owned or managed by Council. These do not form part of this bylaw, but should be referred to by any person interested in the management of Council's reserves.
- 4.3. This bylaw does not specifically cover regulation of dogs in Open Spaces. This is dealt with by the Dog Control Bylaw.

5. Definitions

In this bylaw, unless the context otherwise requires:

Aircraft means any man-made device capable of flight, including, but not limited to aeroplanes, helicopters, gliders, hang-gliders, kites, hot air balloons, and unmanned aircraft such as drones. It does not include balloons that are controlled from the ground via strings.

Animal means stock, poultry and any other animal that is kept in a state of captivity or is dependent upon human beings for its care or sustenance.

Authorised officer means any person appointed by the Council to act on its behalf and with its authority.

Bylaw means the Ashburton District Council Open Spaces Bylaw 2016.

Council means Ashburton District Council.

District means the district of the Ashburton District Council.

Golf includes traditional golf, disc or frisbee golf, and golf-related practice.

Nuisance means to obstruct, annoy or interfere, be it intentionally or unintentionally.

Open Space means an area of land or water

Draft Open Spaces Bylaw

owned or managed by Ashburton District Council for the use of the public for the purpose of the amenity, recreation or enjoyment of people in the district. This commonly includes (but is not limited to): parks, reserves and public gardens; but excludes buildings, swimming pools, and stockwater races. This includes any land which is vested in or under the control of the Council, whether or not that land has been vested as a reserve under the Reserves Act 1977.

Parking means the standing of a vehicle in any place for a period exceeding five (5) minutes and “park” shall have a corresponding meaning.

Remotely Piloted Aircraft means an aircraft without a human pilot on board that is piloted from a remote station. These aircrafts can be controlled by computers or by a pilot on the ground or in another vehicle, by remote. They are referred to by several other names, most commonly as a ‘drone’ or unmanned aircraft (UAV).

Scooters includes foot-powered scooters and electric scooters.

Vehicle has the same meaning as in the Land Transport Act 1998 and generally means a man-made device for land transport, including, but not limited to, cars, trucks, heavy machinery, motorbikes, scooters and bicycles and any other machine with wheels, tracks, rollers or skids; but does not include prams, strollers, wheelchairs or other mobility scooters.

6. Entrances and exits

- 6.1. No person shall wilfully obstruct any of the approaches, entrances, exits, thoroughfares, or walkways of any open space.

7. Damage and interference

- 7.1. Without the prior written permission of Council or an authorised officer, no person, either personally or through any agent under their control or through omission, may:
 - 7.1.1. remove, destroy, damage, deface, obstruct, disturb, or otherwise interfere with any thing, or any part of any thing, in or enclosing any Open Space, including any:
 - (i) structure or fitting;
 - (ii) sign, notice, label, inscription, billboard, or placard;
 - (iii) path, track, step, gravel, sand, soil, or border;
 - (iv) tree, shrub, or plant of any kind, including taking any part of any tree, shrub, or plant of any kind;
 - (v) area prepared for any sport or game;
 - (vi) flora, fish, bird, fauna, or any naturally occurring living thing.
 - 7.1.2. plant any tree, shrub, or plant of any kind, or sow or scatter the seed of any tree, shrub, or plant of any kind, in any Open Space;
 - 7.1.3. deposit offensive or dangerous matter, or cause pollution within any Open Space;
 - 7.1.4. leave any litter within the limits of any Open Space other than in receptacles provided therefor.
 - 7.1.5. pollute or render any open space unfit for purpose or future use, including any stream, dam, pond or fountain in any Open Space;

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- 7.1.6. permit or cause wastage of water or permit any water tap to flow for a longer period than may be reasonably required for the filling of utensils for drinking, cooking, or washing purposes;
- 7.1.7. bathe, wade or swim in any water in any Open Space where bathing, wading or swimming is prohibited by the Council and a sign or signs to that effect are displayed;
- 7.1.8. erect, construct, or place in any Open Space any walking track, cycling track or other cycling facility, dam, tree-house, sign, notice, label, inscription, billboard, or placard without the prior written permission of the Council or an authorised officer;
- 7.1.9. erect, construct or place any fence or structure in any Open Space, except as provided for in 10.1. The erection or modification of any fence on the boundary of an Open Space must be approved by Council or an authorised officer and comply with the Fencing Act 1978.
- 7.2. Any person to whom the Council grants permission under clause 8.1 must comply with any condition imposed by the Council.

8. Animals

- 8.1. No person shall bring any animal, or allow any animal to wander or graze or cause damage, within the limits of any Open Space unless:
 - 8.1.1. a Council bylaw has allowed the animal in the area, such as

through the Dog Control Bylaw and the related Dog Control Policy; or

- 8.1.2. Council has authorised the presence of animals through a Reserve Management Plan, licence or other similar document; or
- 8.1.3. permission has been granted by an authorised officer; or
- 8.1.4. the Open Space has been booked for an event allowing the presence of animals.
- 8.2. In the case of any animal or bird protected by the Wildlife Act 1953, no such permission shall be granted under clause 9.1.3 to bring such animal or bird into any Open Space, unless the provisions of that Act have been complied with.
- 8.3. An authorised officer may seize and confine any loose animal found within any Open Space.

9. Vehicles

- 9.1. No person shall operate, ride or drive, park or utilise any vehicle other than bicycles or scooters on or in any Open Space except:
 - 9.1.1. in areas clearly signposted and notified as being available for such use
 - 9.1.2. where permission has been granted by an authorised officer.
- 9.2. Persons may ride bicycles or scooters within any Open Space, except in areas signposted as being prohibited for such use.
- 9.3. No person shall ride or drive any vehicle in any Open Space at a speed in excess of the speed indicated on the appropriate sign

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displayed in the area where the vehicle is being driven or ridden. Where no speed limit has been signposted, no person will drive or ride in any open space at a speed greater than 20km per hour. These speed restrictions may be imposed and varied by the Council from time to time.

- 9.4. No person may operate, use, park or leave any vehicle in any Open Space without due care and attention or without reasonable consideration for other persons using the Open Space.

10. Erection of tents and booths

- 10.1. No person shall camp, place, put up or erect any stall, tent or structure of any kind within an Open Space except:
- 10.1.1. where permission has been granted by an authorised officer, and then only in accordance with conditions attaching to permission granted; or
 - 10.1.2. in areas where camping is expressly permitted by Council; or
 - 10.1.3. where the temporary structure is intended to assist in protection from weather and sun and will only be in place between 2 hours after sunrise and 2 hours before sunset. The grouping of these structures is permitted so far as they do not create a nuisance, restrict access or impact on the enjoyment of that Open Space by other users.
- 10.2. Authorised officers have the right to request any structure be removed from any open space at any time.

Explanatory note

Areas in Ashburton District where Council allows camping are listed on our website. These include:

- Rangitata River Mouth
- Ashburton Holiday Park
- Rakaia Gorge
- Hakatere
- Lake Clearwater
- Kowhai Flat
- Rakaia Huts Reserve
- Taylor Stream
- Bowyers Stream
- Hinds River (North of Mayfield)

For more information please visit

www.ashburtondc.govt.nz/community-facilities/council-campgrounds

11. Misbehaviour

- 11.1. Within the limits of any Open Space, no person shall act in any way that will cause nuisance to any other person. Such actions can include, but are not limited to: the use of obscene language, being under the influence of drugs or alcohol, playing loud music, disrupting others' use of the Open Space, or misbehaving in any way.
- 11.2. Smoking or vaping is not permitted in some open spaces. These locations are listed in Council's Smokefree Outdoor Areas Policy.

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12. Assemblies

- 12.1. Assemblies, public meetings, gatherings or other attempts to collect an audience or crowd must be peaceful and not cause any disturbance to any other user of that Open Space; or impact on any closure of that Open Space, or any authorised activity taking place within that Open Space.

13. Sports and games and other recreational activities

- 13.1. The Council or an authorised officer may stop or prevent any sport, game, or other recreational activity being undertaken or played on any part of an Open Space where it is liable to cause damage to the Open Space or anything therein.
- 13.2. No person shall play any organised sport in any Open Space (or part thereof) that is not set apart for that purpose.
- 13.3. No person shall play at or engage in or practice sport, game, or other recreational activity on any playing ground or part thereof on any Open Space after being requested by an authorised officer to leave, or when any notice is erected at the main entrance to any Open Space advising that grounds are closed to play.
- 13.4. No person shall play or practice golf in any Open Space except within such part of an Open Space which the Council has by resolution set aside for that purpose and signposted accordingly.

14. Aircraft

- 14.1. No person may take off, fly, or land aircraft, remotely piloted aircraft, or any kind of flying machine or glider within any Open Space except in case of emergency or in accordance with the prior permission of the Council or an authorised officer.
- 14.2. Despite clause 15.1, model aircraft or remotely piloted aircraft may be operated in Council's Open Spaces in compliance with every condition below;
- 14.2.1. No person shall operate a remotely piloted aircraft:
- 14.2.1.1. within 50 meters of any playground or paddling pool;
 - 14.2.1.2. in Council cemeteries;
 - 14.2.1.3. in camp ground areas;
 - 14.2.1.4. over a sports field if it is in use by others;
 - 14.2.1.5. without seeking permission of other users of the Open Space at the time of operation where the operator will capture images;
 - 14.2.1.6. when there is booked use of a public area, except where the booking is the user's own;

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- 14.2.1.7. if required by an authorised officer to cease operation.
- 14.2.2. Unmanned aircraft operators must:
 - 14.2.2.1. comply with the Office of the Privacy Commissioner's guidance on preserving peoples' personal privacy by not flying over other people using the Open Space or over adjoining private property without their consent;
 - 14.2.2.2. Comply with Civil Aviation Authority Rules;
 - 14.2.2.3. Be courteous towards other users who visit the Open Space for quiet enjoyment.

15. Public access to open spaces

- 15.1. Open Spaces will be open to the public at all times except:
 - 15.1.1. during such hours as the Council or authorised officers may from time to time determine; or
 - 15.1.2. as otherwise set out in section 16 of this bylaw.
- 15.2. No member of the public will limit any other member of the public's lawful access to any Open Space or part thereof without the prior written permission of the Council or authorised officer.

Explanatory note

Civil Aviation Authority Rules state that a drone or unmanned aircraft must:

- not exceed 25kg
- only be flown during the day (except for shielded operations)
- fly below 120m above ground level
- give way to all crewed aircraft and land if another aircraft approaches
- be visible (by eye) at all times by the person controlling the aircraft
- stay at least 4kms away from all aerodromes (including helipads at hospitals), unless permission has been granted
- not fly over people or property without consent
- not fly in controlled airspace or special use airspace without permission or clearance.

For more information please visit [**www.aviation.govt.nz/drones/rules-and-regulations-for-drones-in-new-zealand**](http://www.aviation.govt.nz/drones/rules-and-regulations-for-drones-in-new-zealand)

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16. Closures and fees

- 16.1. The Council may close all or any portion of any Open Space, for any period of time it sees fit, for the purposes of limiting public access for a specific purpose or event.
- 16.2. Any such closure by the Council will be notified to the public.
- 16.3. The Council may by resolution, for any Open Space, set or vary the conditions of its use or set any reasonable fee it wishes, either temporarily or permanently. Payment of those fees shall be a condition for access to or use of that Open Space.
- 16.4. Any such variation of conditions or setting of fees by the Council will be notified to the public.
- 16.5. No person other than an authorised officer going about their duties shall enter or remain in any Open Space while it is closed to the public without paying the prescribed fee (where applicable) or without the prior permission of Council or an authorised officer.
- 16.6. Any person who enters an Open Space prior to its closure, and who stays in that place, must either pay the prescribed fee (where applicable) or leave that Open Space for the duration of the closure.

17. Breaches of bylaw

- 17.1. Every person who breaches this bylaw, must on request of an authorised officer immediately stop the activity and leave the Open Space. Any person failing to comply with such a request commits a further offence against this bylaw and may be subject to further proceedings under this bylaw, including infringement notices.

- 17.2. Any person who is suspected by an authorised officer of a breach of the provisions of this part of the bylaw shall immediately supply their full name and residential address upon request by an authorised officer.
- 17.3. Any person who breaches this bylaw may be prohibited from re-entering or returning to the Open Space for such period as the authorised officer shall determine.
- 17.4. Breaches of this bylaw may also result in an application being made to the District Court for an injunction to restrain such from the activity that they have been involved in.
- 17.5. Any person who breaches this bylaw may be prosecuted for any such breach and is liable upon summary conviction to a fine, as provided for under the Local Government Act 2002 (which specifies a fine not exceeding \$20,000), and may also be liable to penalties under other legislation.

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It's
Our
Place

Have your
Say!

**What do you think of our
proposed changes?**

Timeline



We are accepting feedback until Sunday 11 July 2021.

Your views on the proposed Open Spaces Bylaw is important to us, and we encourage you to make a submission. Written submissions can be made to the Council up **until 5pm on 11 July 2021**.

*Have your
Say!*

*We want to hear
from YOU!*


**Tell us what you think of
our proposed changes at**
ashburtondc.govt.nz/haveyoursay


**The easiest way to provide your
feedback is to complete the form online
at ashburtondc.govt.nz**

Alternatively, you can provide feedback
by filling in the attached submission form
and getting it back to us using one of the
following methods:

 **FREEPOST TO**
Ashburton District Council
Freepost 230444
PO Box 94
Ashburton 7740

 **ONLINE AT**
ashburtondc.govt.nz/haveyoursay

 **IN PERSON**
Dropping it off at:
Ashburton District
Council reception –
5 Baring Square West

 **EMAIL TO**
submissions@adc.govt.nz

**Please note all submissions are public documents and will be made available on Council's website.*

Submissions presented in the form of a petition or accompanied by multiple signatures will be treated as a single submission.

Your details

First name: _____ Last name: _____

Organisation (if appropriate): _____

Street number: _____ Street name: _____

Suburb / Town / RD: _____ Postcode: _____

Phone: _____ Email: _____

Do you wish to speak in support of your submission at the hearing?

(If no boxes are ticked, it will be considered that you do not wish to be heard)

☐ **Yes:** The hearing is expected to be held in the Council Chamber on Thursday 29 July 2021. Please note that hearings are live-streamed to our online channels.

☐ **No:** I do not wish to speak in support of my submission and ask that the following written submission be fully considered.

Signature:

Date:

Our Draft Open Spaces Bylaw is available from
ashburtondc.govt.nz/haveyoursay



You can submit on any or all of the questions below. You don't have to complete every question.

1. Do you support the Open Spaces Bylaw as presented?

☐ Yes ☐ No

2. Let us know why:

3. Do you have any further comments?

FOLD HERE



Ashburton District Council
PO Box 94
Ashburton 7740