

7. PROPOSED CHRISTCHURCH CITY FIRE SAFETY BYLAW 2007



General Manager responsible:	General Manager Strategy and Planning, DDI 941-8177
Officer responsible:	Programme Manager Strong Communities
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PURPOSE OF REPORT

1. To recommend that the Council undertake the Special Consultative Procedure under the Local Government Act 2002 to adopt a new bylaw controlling open air burning and providing for prohibitions during times of potentially serious or extreme fire hazard conditions in the whole or parts of Christchurch City. The new bylaw will also revoke the current Christchurch City Fires Bylaw 2006.

EXECUTIVE SUMMARY

2. There have been issues with the implementation of some of the provisions of the new Fires Bylaw 2006 introduced by the Council last year, because of the total prohibition on burning outdoors in residential areas. Legal advice has been obtained that suggests the bylaw, in part at least, should be reviewed. There has also been concern expressed that the community, at the time the 2006 bylaw was consulted on, was not adequately informed of the impact of the proposed bylaw. The Council, at a seminar on the subject, accepted an officer suggestion that a review of the bylaw should be undertaken under section 155 of the Local Government Act 2002. That Act contains a provision enabling bylaws to be made to prevent the spread of fires involving vegetation. The provisions of the Forest and Rural Fires Act 1977 enable prohibitions to be introduced at times of extreme fire hazard conditions and that covers the majority of rural use areas in the City.
3. From a fire safety point of view, except perhaps in areas on the hill slopes and possibly in areas with considerable vegetation, there is little evidence of significant problems in the majority of residential areas. The majority of concern is often that burning is being undertaken in built up areas and is causing a nuisance rather than being a fire hazard. The Fire Service has concerns about such callouts reducing their capacity to attend major incidents. Staff have further consulted with Environment Canterbury who have advised that the transitional regional plan and Natural Resources Regional Plan deal with the nuisance and health aspects of outdoor burning, and accordingly there is no reason for the Council to use its bylaw to address these effects.
4. There is limited evidence of significant fire hazards from "backyard" fires in residential and urban areas but this may be because there are not only some sensible controls in regard to placement and times of operation but this practice has generally declined over the years. From the information that is available the practice appears to occur largely in areas on the NW fringe and hill slope parts of Christchurch and possibly in the Banks Peninsula ward where other means of green waste disposal are seen to be limited. Despite these factors, however, a bylaw controlling fires in the open and providing for prohibitions at times of potentially serious or extreme fire hazard conditions could be considered as a precautionary measure. This is recommended as a proposal for consultation.
5. The bylaw will apply prohibitions in times of potentially serious or extreme fire hazard conditions in fire districts established under the Fire Services Act 1975 and not areas covered by the provisions of the Forest and Rural Fires Act 1977. It is therefore complementary to the latter provisions applying to largely rural areas under the national legislation. The fire districts under the Fire Services Act are urban areas and contain the major concentrations of residential properties.

FINANCIAL IMPLICATIONS

6. The expectation is that inspection and enforcement action should be significantly lower than required under the current or previous bylaws dealing with the subject. Provision is made to recover costs of providing exemptions should the Council so wish.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

7. The budgets for the Regulatory Services group of activities in the Long-Term Council Community Plan 2006-16 Volume 1 Page 149 make general provision for the enforcement of bylaws. It is not anticipated that the introduction of this bylaw will significantly impact on that, and indeed may be more cost effective as the bylaw reduces the scope of council involvement in burning, by limiting it to the management of burning only in defined periods of extreme fire danger.

LEGAL CONSIDERATIONS

8. Legal considerations in relation to the issues raised by the current Fires Bylaw 2006, are set out in the background section below, and were also discussed with the Council at the seminar on 27 February 2007.
9. Section 145 of the Local Government Act 2002 provides the Council with a general bylaw-making power, and there is also a specific bylaw making power in section 146 for the purposes:

“(c) subject to sections 20 to 22 of the Forest and Rural Fires Act 1977, of preventing the spread of fires involving vegetation.”
10. The Council has the power to review bylaws (section 158) and may revoke bylaws (section 156), but can only do so after considering the matters in section 155, and it must follow the special consultative procedure.
11. The legal considerations in relation to the review and adoption of a new bylaw, largely arise from section 155 of the Local Government Act 2002. This sets out the matters that must be determined to decide whether a bylaw is appropriate, as follows:

*“(1) A local authority must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem.
(2) If a local authority has determined that a bylaw is the most appropriate way of addressing the perceived problem, it must, before making the bylaw, determine whether the proposed bylaw—
(a) is the most appropriate form of bylaw; and
(b) gives rise to any implications under the New Zealand Bill of Rights Act 1990.
(3) No bylaw may be made which is inconsistent with the New Zealand Bill of Rights Act 1990, notwithstanding section 4 of that Act.”*
12. In order to comply with section 155 the Council needs to formally resolve that a bylaw is the most appropriate way to deal with this issue, and if so, that the proposed form of bylaw is the most appropriate form, and that it is not inconsistent with the New Zealand Bill of Rights Act 1990. The conclusion reached in the background section below is that this bylaw is the most appropriate way to deal with the issues covered by the proposed bylaw. The matters to be controlled are not covered by other legislation or Regional Council provisions. The LGA contemplates that bylaws will be used for the purpose of preventing the spread of fires. The legal services unit also considers that the form of the bylaw is the most appropriate form and that the bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990. In fact, by removing the total prohibition this bylaw is less restrictive on rights than the 2006 bylaw.
13. In discussions with the officers of Environment Canterbury it has been made clear that the air quality and nuisance issues associated with burning in the open are covered by the plans made under the Resource Management Act 1991 and they have accepted it is their role to enforce such provisions. The introduction of the proposed bylaw by this Council will clarify the respective roles of the two Councils in regard to the issue of fires in the open and the proposed bylaw in an explanatory note draws attention to the Regional Council's role in this matter.

Have you considered the legal implications of the issue under consideration?

14. Yes, as above, and in the report to Council on the delegation of the dispensing power for the purposes of the Fires Bylaw 2006, considered by the Council on 22 March 2007.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

15. See below in clause 14 and LTCCP Volume 1 Page 126 Parks, open spaces and waterways *Fire hazard to adjoining properties* identifies that fire hazard to adjoining properties may be a potential negative effects of the parks, open space and waterways group of activities.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

16. The proposed bylaw is intended to provide a level of regulation over open fires in periods of defined danger. The bylaw is consistent with the commitment in the LTCCP Volume 1 Page 145 *Legislative requirements are enforced to ensure the safety and health of people.*

ALIGNMENT WITH STRATEGIES

17. No specific strategies are related to this subject

Do the recommendations align with the Council's strategies?

18. Aligns with Strategic direction of reducing the likelihood and impact of hazards and emergencies. See LTCCP 2006-16 Volume 1 Page 64.

CONSULTATION FULFILMENT

19. Through the Bylaw Review Sub-Committee the Community Boards have been given the opportunity to comment on the initial draft and some changes have been included as a result of this initial consultation. Once adopted by the Council and as part of the Special Consultative Procedure all residents groups, and a number of possible stakeholder groups in addition to those individuals who expressed interest in the subject and the persons who applied for dispensations to burn under the previous 2006 bylaw will be sent the bylaw and the SOP. Wider publicity, beyond that legislatively required, will be given to the bylaw once it is adopted as a proposal by the Council including some matters clarifying the distinction between areas covered by the Forest and Rural Fires Act 1977 and the areas covered by the bylaw.

STAFF RECOMMENDATION

It is recommended that:

- (a) The Council resolve that the attached bylaw is the most appropriate way to address possible issues in the wider city area to do with fire hazards and fire safety, is in the most appropriate form, and does not give rise to any implications under the New Zealand Bill of Rights Act 1990.
- (b) The attached bylaw be adopted for consultation.
- (c) The attached statement of proposal and summary of information be adopted and made available for public inspection at all Council Service Centres, Council libraries and on the Councils website.
- (d) Notice of the proposed bylaw be given by mail to the Department of Conservation and the New Zealand Fire Service.
- (e) Notice of the proposed bylaw be given by mail to all the Fire Chiefs in Fire Districts in the Banks Peninsula Ward.
- (f) Public notice of the proposal be given in "The Press" and "Christchurch Star" newspapers and on the Council's website on 18 July 2007. Public notice will be given in the "Akaroa Mail", "Bay Harbour News", "Diamond Harbour Herald" and other community newspapers distributed in the Christchurch area as close as possible to 18 July 2007.
- (g) The period within which written submissions may be made to the Council be between 18 July 2007 and 17 August 2007.
- (h) The Council appoint a Hearings Panel (the members thereof to be named at the present Council meeting) to consider and where necessary hear any submissions.

BACKGROUND (THE ISSUES)

History

20. Following an article in the Press in January 2007 there have been issues raised by some members of the public about the Christchurch City Fires Bylaw 2006, in particular in relation to the total prohibition on open air burning in some areas of the City, including parts of the Banks Peninsula Ward. The City Council has the power to make bylaws in accordance with the Local Government Act 2002 ("LGA02") and other statutes. The general bylaw-making power is contained in section 145 of the LGA02 and covers bylaws for the purposes of protecting the public from nuisance; protecting, promoting, and maintaining public health and safety; and minimising the potential for offensive behaviour in public places. Section 64 (a) of the Health Act 1956 also gives bylaw-making powers to local authority for matters of conserving public health and preventing or abating nuisances. In addition there is the power under section 146 LGA02 to prevent the spread of fires involving vegetation subject to certain provisions of the Forest and Rural Fires Act 1977.
21. Both the Christchurch City and the Banks Peninsula Council bylaws relating to this subject had to be reviewed before the 30 June 2008 under the provisions of the LGA 2002. The recent amalgamation of Christchurch City and Banks Peninsula District enabled these two bylaws to be considered in a combined review. The bylaw approved by the Council in October 2006 effectively prohibits the lighting of open air fires in any residential area or within the Christchurch Clean Air Zone 1 at any time of year unless provided for in the Forest and Rural Fires Act 1977 or by permits obtained from the regional council or the Department of Conservation, with specific exclusions for the lighting of barbeques and traditional cooking fires. In non-residential areas the lighting of fires is prohibited in the months January, February, November and December, with a number of conditions identified in the bylaw. The Council may at any time, where in its opinion special reason exists to prevent the outbreak or spread of fire, prohibit the lighting of fires in the open air for the whole or any specified part of the territorial area.
22. At the time of putting forward a draft bylaw for consultation in June 2006 it was noted that there had been a significant shift in attitudes towards private rubbish and vegetation fires during the past 20 years with a significant decline in outdoor burning in recognition of the negative effects and dangers it creates. It was commonplace for Councils to implement bylaws on fires to protect public health and prevent nuisance. Most complaints received refer to nuisance of pollution from such outdoor burning on residential premises, although with the reduction of persons undertaking such activities the number of complaints had declined over a number of years. The changes to the bylaw also reflected an improved understanding of the impacts on health from discharges to air and growing concern with air quality in Christchurch City.
23. The bylaw approved by the Council in October 2006 was designed to be consistent with the relevant provisions in the proposed Natural Resources Regional Plan (NRRP). Open air fires are subject to the relevant provisions in this plan. The proposed NRRP ("the Plan") controls the discharge of contaminants into air in Canterbury. Under "the Plan", outdoor burning is a discretionary activity in residential areas of Canterbury and in the Christchurch Clean Air Zone 1. Winter burning in these areas is non-complying. Since that time it has become apparent that Environment Canterbury (ECan) are not applying the proposed NRRP rule as first advised to officers of this Council, though the overall intent of both documents is still consistent. It appears there may be some potential duplication in clause 7.1 of the bylaw, in particular, with ECan's rules regarding air quality.
24. The Legal Services Unit has now advised that air quality matters, including nuisances as stated above, would be better dealt with by ECan under their plan and rules, rather than included in the bylaw. It was suggested that a total year round prohibition may not be needed for fire safety reasons and, after further investigation, it is agreed that this is so. Another problem concerns the definition of "residential area", which was adopted from the same definition in the NRRP. This area, to which the prohibition applies relates to "the Plan" requirements, which includes both the Christchurch City and Banks Peninsula District Plans, and the provisions possibly capture areas that are "rural or semi-rural" such as some small settlements in Banks Peninsula, or are included in Clean Air Zone 1.

25. The matter for the Council to consider is whether they wish to remove the perceived duplication of functions and all references to controlling nuisance from outdoor burning and introduce a bylaw only controlling the spread of fires involving vegetation under section 146 of the LGA02. This would mean that all matters to do with complaints about air quality, including nuisances, (eg odour, smoke, ash etc) would be referred to ECan. Any outside fires burning other than vegetation would also be a matter for control by ECan under their rules. The ECan rules permit the burning of vegetation, paper, cardboard and untreated wood **only**, subject to conditions which include not occurring in a residential area or within 100 metres upwind or 50 metres in any other direction from any sensitive activity that is not located on the property. Burning is non-complying during the winter months of May to August in some areas of the City.
26. If the option to only continue a bylaw under section 146 of the LGA02 is selected, a matter that was not raised during the preparation of the current bylaw could be addressed. This is that owing to changing weather patterns it may not be completely appropriate to have fixed non-burning periods included as in the current bylaw. This could be addressed by providing that the Council, with evidence that special reasons exist (for example winds greater than 40kph; relative humidity less than 40%; and ambient temperature greater than 20°C) or fire weather indices to prevent the outbreak or spread of fire involving vegetation or other material, may prohibit the lighting of fires in the open air for a specified period of time within the whole or any specified part of the territorial area. Such prohibition may be varied or cancelled from time to time based on similar advice as was provided in introducing the prohibition. If the Council adopts this position it would also be possible to remove any exemptions as the bylaw would only be implemented in times of potentially serious or extreme fire hazard conditions, which will make administration of the bylaw simpler.

Section 155 considerations

27. Section 155 of the Local Government Act 2002 sets out the matters that must be determined to decide whether a bylaw is appropriate:
 - (1) *A local authority must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem.*
 - (2) *If a local authority has determined that a bylaw is the most appropriate way of addressing the perceived problem, it must, before making the bylaw, determine whether the proposed bylaw—*
 - (a) *is the most appropriate form of bylaw; and*
 - (b) *gives rise to any implications under the New Zealand Bill of Rights Act 1990.*
 - (3) *No bylaw may be made which is inconsistent with the New Zealand Bill of Rights Act 1990, notwithstanding section 4 of that Act.*
28. A useful guide to considering the matters under section 155 above is the *Code of Good Regulatory Practice, 1997* which suggests the following should be considered.
 - *Efficiency by adopting only regulations for which the costs to society are justified by the benefits. To achieve objectives at the lowest cost taking into account alternatives.*
 - *Effectiveness to ensure it can be complied with and enforced at the lowest possible cost.*
 - *Transparency by defining the nature and extent of the problem and evaluating the need for action.*
 - *Clarity in making things as simple as possible, to use plain language where possible, and keeping discretion to a minimum.*
 - *Regulation should be fair and treat those affected equitably. Any obligations or standards should be imposed impartially and consistently.¹*

¹ Ministry of Economic Development, *Code of Good Regulatory Practice*, Quality of Regulation Team, Competition and Enterprise Branch, November 1997

29. In addition guidance provided by Local Government New Zealand states the following matters should be taken into account at this stage: *What is the problem?; Have we got enough information?; Who is affected or interested?; What is our objective?; What is the root cause of the problem – not the symptom?*² In the following paragraphs these issues are addressed in the context of determining a need for any bylaw.
30. In introducing the original fires bylaw in 2006 the information was that, at least in residential areas, a number of complaints received by the City Council were related to nuisance, smoke and odours, caused to neighbours or persons in the vicinity of such fires. The number in a two year period was small however, 81 or 0.06% of the total households at that time. No information was available in regard to the Banks Peninsula ward. On that basis there may not be seen a need for a bylaw covering open fires for the control of nuisance but a bylaw was supported by the need to be consistent with the requirements introduced through the NRRP Chapter 3: Air Quality which restricts outdoor fire burning in the Clean Air Zone 1 in Christchurch City and all residential areas throughout the Canterbury Region. A resource consent is needed to undertake such burning not complying with these rules. In the areas covered by Clean Air Zones 1 and 2 (covering the area of the Christchurch City Council prior to amalgamation with Banks Peninsula District) outdoor burning in the months of May, June, July and August is a non-complying activity. This rule does not apply to the Banks Peninsula ward.
31. Legal advice is that controlling outdoor burning by a total prohibition in the bylaw, for air quality or nuisance purposes, may go further than the Council needs to. It is therefore necessary to examine the objective of a bylaw controlling matters of fire safety alone and what evidence exists to justify such a bylaw. Excluding the numbers directly mentioning nuisance, as referred to above, the remainder (216) could possibly be related to fire safety concerns although a number were merely drawing the attention of the Council to fires operated during periods of fire bans. Overall this is a small percentage of the total households in Christchurch City (0.16%). Information from the NZ Fire Service for the Christchurch Fire District for the 2006 year has been obtained. This reveals that callouts to rubbish fires were 8.3% of all incidents attended during the year but, in the main, it was not considered that they were significant fire hazards. These peak in numbers in autumn and spring and relate to a small percentage of households in the City (0.18%). On residential properties the view is held that there are limited fire hazard issues provided some care is taken in placement and hours of operation. Introducing controls in certain periods when fire hazard risk is high in the area can be helpful in areas with considerable vegetation cover, or close to such areas, or in areas with limited water supplies or difficult access such as the hillside areas in the City.
32. A bylaw dealing only with fires in the open air as considered by section 146 of LGA02 could possibly be supported on fire safety grounds but this would not necessarily have to apply to areas covered by the Forest and Rural Fires Act 1977 and arguably should not duplicate controls under national legislation. The City Plan contains a number of rules relating to fire hazard avoidance in Rural Zones under the Plan. The Plan states that the areas of highest risk are those in which reticulated water supplies are not available for fire fighting; areas more subject to drought; hill slopes; and areas containing flammable vegetation particularly in close proximity to dwellings.³ These areas are generally those covered by the provisions of the Forest and Rural Fires Act 1977.
33. The proposal for the bylaw is that there would only be a prohibition for the urban areas included in a fire district established under the Fire Services Act 1975 and not predominantly rural areas which are covered by the Forest and Rural Fires Act 1977 at a time of "potentially serious or extreme fire hazard conditions" which could apply in different parts of the city and if need be at different times. Some restrictions are included in the proposal for a bylaw based on advice from the NZ Fire Service relating to placement and times of operation for fire safety reasons. Hangis and barbecues are excluded from the open air definition, so they would not be caught by the prohibitions, but type and operations are controlled for fire safety reasons. Provision is made for exemptions in very limited circumstances during times of extreme fire hazard conditions.

² *The Knowhow Guide to the Regulatory and Enforcement Provisions of the Local Government Act 2002*, SOLGM, Local Government New Zealand, Department of Internal Affairs, no date

³ See for example Volume 2 Section Rural 13.4.6 Policy: Fire Risk; and Volume 3: Part 4 Rural Zones: 2.4.6 Fire Hazard Avoidance.

34. General exemptions have not been provided to allow burning during the period such fires involving vegetation are prohibited because of potentially serious or extreme fire hazard conditions. However, a provision for limited exemptions has been included. These would only apply where there is evidence that a fire is **urgently** required to overcome a hazard to life, health or the environment and that the use of such a fire is the most efficient and effective means to reduce the hazard. It may be that specialist fires are needed for such purposes; particularly if high temperatures are needed to destroy organic materials and such temperatures may be difficult to reach with open burning. If the situation is such that the general fire risk in the area has reduced from extreme the issue could be addressed by removing the prohibition for the area and time needed for the activity to take place. Other than that provision there is no provision for any exemptions which fulfils the concept of minimising discretionary action. That is on the basis that if there is a need for a fire ban no fires should occur, as if they were permitted the hazard surely would have gone and the ban could be lifted. This bylaw, it should be noted, would only apply to the areas not covered by the Forest and Rural Fires Act. Therefore, it would largely relate to urbanised areas. These are areas designated under section 25 of the Fire Services Act 1975 and current areas are set out in the maps attached.
35. For the reasons mentioned above, it is considered that a bylaw is the most appropriate way to address the fire safety problems as identified above. The bylaw is limited to restricting fires in the open only when there is a fire hazard situation in the area and at other times minimal and reasonable controls are placed on such burning. Consequently the form of the recommended bylaw is also considered to be in the most appropriate form and there do not appear to be any implications raised by the bylaw in terms of the New Zealand Bill of Rights Act 1990.

THE OBJECTIVES

36. The objective of the bylaw is to attempt to reduce the possibility that deliberately lit fires in the open in urban or residential areas involving vegetation could spread during times of potentially serious or extreme fire hazards conditions in the Christchurch City Council area. The controls recommended for urban or residential areas complement those in place under the provisions of the Forest and Rural Fires Act 1977, which apply to the rural (balance) of the city area. The bylaw is to replace, by revocation, the Christchurch City Fires Bylaw 2006.

THE OPTIONS

37. The “do nothing” option would mean the retention of the current bylaw which, as has been stated, arguably goes further than it should, in dealing with a number of issues related to control of nuisance from air discharges. There are also questions raised regarding its applicability to some areas of the City which may be seen as “rural” rather than residential in nature. It contains specified months in which total prohibitions on burning of vegetation for fire safety reasons exist and with changing weather patterns these may be inappropriate at this time. For these reasons it is not considered this option should be adopted.
38. A second option could be to undertake some amendments to the current bylaw to remove provisions dealing with air quality and nuisance controls and amend some of the other “fire safety” clauses to simplify the bylaw and provide some additional clarity. This option could create a greater degree of confusion amongst members of the public during the consultation process as a large number of amendments would be needed to undertake a satisfactory conclusion. Definitions of areas have already caused problems in determinations of where the bylaw provisions apply.

THE PREFERRED OPTION

39. The preferred option is to put forward a new bylaw dealing only with the control of fires in the open at times when fire hazard situations exist and to revoke the Christchurch City Fires Bylaw 2006. The prohibition would be addressed by the Council, being provided with evidence that special reasons exist to prevent the outbreak or spread of fire involving vegetation, prohibiting the lighting of fires in the open air for a specified period of time within the whole or any specified part of the territorial area. Such prohibition may be varied or cancelled from time to time based on similar advice as was provided in introducing the prohibition. It would also be possible to not include general exemptions as the bylaw would only be implemented in times of potentially serious or extreme fire hazard conditions, which will make administration of the bylaw simpler.

ASSESSMENT OF OPTIONS

The Preferred Option

40. To introduce a new proposed bylaw for the control of fires in the open in accordance with section 146 of the Local Government Act 2003 covering only times when due to significant fire risk exists to introduce prohibitions over the whole or parts of the City. This would not cover any areas covered by the provisions of the Forest and Rural Fires Act 1977.

	Benefits (current and future)	Costs (current and future)
Social	Provides for landowners or occupiers to burn at any time, subject only to times of prohibition for fire safety reasons.	Possible increase of complaints from persons affected by smoke, odours, or ash being referred to ECan through calls to the City Council. Frustration in dealing with two authorities.
Cultural	None specific	None specific
Environmental	Possible prevention of fires in vegetation or likely to damage property.	Reduction in the amount of green waste that would be available for recycling and return to the land. Impacts on localised air quality nuisances.
Economic	Reduced waste disposal costs for some individual land owners.	Possible costs of enforcement procedures and possible increased cleaning costs for some home owners.

Extent to which community outcomes are achieved:

Fails to meet the following community outcomes; *A City of People who value and Protect the Natural Environment* in particular "More rubbish is recycled" and "air pollution is reduced"; and *A Healthy City* in particular "Air pollution levels meet acceptable standards' Could be seen to support *A Safe City* in regard to "Risks from hazards are managed and mitigated" as well as *A City of Inclusive and Diverse Communities* in regard to "We are sensitive to the different views, values and aspirations of people within Christchurch" at least to those who wish to burn material in the open air.

Impact on Council's capacity and responsibilities:

Similar impact as to current capacity but may even reduce having to deal with complaints about nuisance.

Effects on Maori:

No effects noted, provision made for traditional cooking methods to continue.

Consistency with existing Council policies:

Inconsistent with the waste management approaches adopted by the Council on landfill and the Solid Waste Management Plan 2003. A primary focus is to remove organic matter from the waste stream and use it beneficially.

Views and preferences of persons affected or likely to have an interest:

Support from persons wishing to continue burning vegetation in the open air. Areas such as hill zones in the City and those in small settlements with limited access to community green waste disposal methods are included in such support.

Other relevant matters:

Maintain the Status Quo (if not preferred option)

41. The “do nothing” option would mean the retention of the current bylaw which, as has been stated, arguably goes further than it should, in dealing with a number of issues related to control of nuisance from air discharges. There are also questions raised regarding its applicability to some areas of the City which may be seen as “rural” rather than residential in nature. It contains specified months in which total prohibitions on burning of vegetation for fire safety reasons exist and with changing weather patterns these may be inappropriate at this time. For these reasons it is not considered this option should be adopted

	Benefits (current and future)	Costs (current and future)
Social	Possible reduced complaints arising from the nuisance effects of open air fires.	Possible increases in costs of dealing with complaints.
Cultural	None known	None known
Environmental	Improved localised air quality in urban and residential areas. Reduction in the risk of fires in urban and residential areas.	Potential increase in occurrences of dumped green waste from land owners unable, or unwilling, to pay waste disposal costs or lacking composting facilities.
Economic	Reduction in cleaning costs for external and internal surfaces affected by contaminants from fires in the open.	Potential for increase in costs for disposal of green waste from some properties.
<p>Extent to which community outcomes are achieved:</p> <p>Assists in meeting the following community outcomes; <i>A City of People who value and Protect the Natural Environment</i> in particular “More rubbish is recycled” and “air pollution is reduced”; and <i>A Healthy City</i> in particular “Air pollution levels meet acceptable standards’ Could be seen not to support <i>A City of Inclusive and Diverse Communities</i> in regard to “We are sensitive to the different views, values and aspirations of people within Christchurch” at least to those who wish to burn material in the open air.</p> <p>Impact on the Council’s capacity and responsibilities:</p> <p>Possible limited increase in complaints or enquiries about fires in the open</p> <p>Effects on Maori:</p> <p>Traditional cooking methods, including hangis, continue to be permitted. Reduced air pollution possibly assists in reduced respiratory illness among Maori particularly young children.</p> <p>Consistency with existing Council policies:</p> <p>Consistent with the waste management approaches adopted by the Council on landfill and the Solid and Hazardous Waste Management Plan 2003. A primary focus of the Plan is to remove organic matter from the waste stream and use it beneficially.</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <p>Submitters to the Air Quality Chapter of the NRRP have shown interest. Individuals living in hill zones with access problems and those in small settlements on Banks Peninsula have expressed concerns.</p> <p>Other relevant matters:</p> <p>The bylaw is consistent with rules outlined in the NRRP Chapter 3 and the rubbish fire rules in the Transitional Regional Plan.</p>		

At Least one Other Option (or an explanation of why another option has not been considered)

42. An option to undertake some amendments to the current bylaw to remove provisions dealing with air quality and nuisance controls and amend some of the other “fire safety” clauses to simplify the bylaw and provide some additional clarity. This option was not seriously considered as it could create a greater degree of confusion amongst members of the public during the consultation process as a large number of amendments would be needed to undertake a satisfactory conclusion. Definitions of areas have already caused problems in determinations of where the bylaw provisions apply.

	Benefits (current and future)	Costs (current and future)
Social	Only those related to allowing open air fires throughout the year in Christchurch City, except when a fire ban is in place.	May introduce confusion with the restrictions under the NRRP Air Chapter rules once they become enforceable.
Cultural	No specific matters	No specific matters
Environmental	Possible reductions in fire hazard potential in urban and residential areas. Minimal effects due to low numbers of cases.	Reduction in the amount of green waste that would be available for recycling and return to the land. Impacts on localised air quality nuisances.
Economic	Reduced waste disposal costs for some individual land owners.	Possible costs of enforcement procedures and possible increased cleaning costs for some home owners.

Extent to which community outcomes are achieved:

Fails to meet the following community outcomes; *A City of People who value and Protect the Natural Environment* in particular “More rubbish is recycled” and “air pollution is reduced”; and *A Healthy City* in particular “Air pollution levels meet acceptable standards’ Could be seen to support *A Safe City* in regard to “Risks from hazards are managed and mitigated” as well as *A City of Inclusive and Diverse Communities* in regard to “We are sensitive to the different views, values and aspirations of people within Christchurch” at least to those who wish to burn material in the open air.

Impact on Council’s capacity and responsibilities:

Similar impact as to current capacity but may even reduce having to deal with complaints about nuisance.

Effects on Maori:

No effects noted, provision made for traditional cooking methods to continue.

Consistency with existing Council policies:

Inconsistent with the waste management approaches adopted by the Council on landfill and the Solid Waste Management Plan 2003. A primary focus is to remove organic matter from the waste stream and use it beneficially.

Views and preferences of persons affected or likely to have an interest:

Support from persons wishing to continue burning vegetation in the open air. Areas such as hill zones in the City and those in small settlements with limited access to community green waste disposal methods are included in such support.

Other relevant matters:

The bylaw provisions may not be consistent with outdoor burning rules in the NRRP Chapter 3: Air Quality. As opposed to introducing a new bylaw this option could create more confusion with large number of amendments having to be considered.