

AMENDED



Christchurch City Council

GENERAL/MARINE & RIVER FACILITIES/PARKS & RESERVES BYLAWS REVIEW HEARINGS PANEL AGENDA

WEDNESDAY 4 JUNE 2008

AT 10.30AM

IN THE COUNCIL CHAMBER, CIVIC OFFICES

Panel: Councillors Sally Buck, Barry Corbett, Sue Wells and Chrissie Williams.

Acting Committee Adviser

Graham Sutherland
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1. ELECTION OF CHAIRPERSON

2. APOLOGIES

3. HEARING OF SUBMISSIONS

Attached (separately circulated document) is a volume containing copies of the submissions from those submitters who wish to be heard in respect to the General, Marine & River Facilities, and Parks & Reserves Bylaw.

Also attached is a timetable showing the times allotted to submitters.

4. PRESENTATIONS BY STAFF

Brief verbal updates will be provided by staff, as per the timetable.

5. CONSIDERATION OF WRITTEN SUBMISSIONS

A volume of those submitters who did not wish to be heard is attached (separately circulated document).

6. CONSIDERATION OF REPORTS

6.1 Report for the Hearings Panel on the Proposed General Bylaw 2008

6.2 Summary of Submissions - Proposed Marine and River Facilities Bylaw 2008

6.3 Report for the Hearings Panel on the Proposed Parks and Reserves Bylaw 2008

7. DELIBERATIONS

**TIMETABLE FOR HEARING OF SUBMISSIONS ON
GENERAL/MARINE FACILITIES/PARKS & RESERVES BYLAWS
2008**

Wednesday 4 June 2008

Time	Submission No	Submitter	Page No.	Bylaw
10:30 am		Staff Presentation on General Bylaw		
10:45 am	6519	Robin McCarthy	1	General
11:00 am		Staff Presentation on Marine Facilities		
11:15 am	6540	Rod Stuart, Cauty Hang Gliding & Paragliding Club		Parks & Reserves
11:30 am	6526	Ray Shoebridge	5	Marine Facilities
11:45 am	6529	John Milligan, Akaroa Cruising Club inc	9	Marine Facilities
12:00 pm	6537	Alex Drysdale, Avon-Heathcote Estuary Ihutai Trust	11	Marine Facilities
12:15 pm	6536	Alex Drysdale, Avon-Heathcote Estuary Ihutai Trust	13	Parks & Reserves
12:30 pm		Lunch		
12:45 pm				
1:00 pm		Staff Presentation on Parks & Reserves		
1:15 pm	6516	Bertram Rush, Friends of The Park at 125-129 Packer Street (Packer Street Park/Community Garden)	17	Parks & Reserves
1:30 pm	6531	WP Wright, Ferrymead Residents Group	25	Parks & Reserves
1:45 pm	6532	Pam Richardson, Federated Farmers	27	Parks & Reserves
2:00 pm	6533	Michael Davies, Lyttelton Sea Scout Group	31	Parks & Reserves
2:15 pm	6535	John Leenen	33	Parks & Reserves
2:30 pm	6534	Stewart Miller, Akaroa/Wairewa Community Board	35	Parks & Reserves
2:45 pm				
3:00 pm		Afternoon Tea		
3:15 pm		Panel Deliberations		
3:30 pm				
3:45 pm				
4:00 pm				
4:15 pm				
4:30 pm				
4:45 pm				
5:00 pm				

6.1 REPORT FOR THE HEARINGS PANEL ON THE PROPOSED GENERAL BYLAW 2008

Name and title of author	Date
Judith Cheyne, Solicitor, Legal Services Unit	29 May 2008

PURPOSE OF REPORT

1. The purpose of this report is to summarise the proposed *Christchurch City Council General Bylaw 2008* and submissions received on the proposed Bylaw.

SUMMARY OF PROPOSED BYLAW

2. The purpose of a general bylaw is to have, in one place, a set of provisions which are common to all bylaws. Such provisions will apply to all present and future Council bylaws except to the extent that those other bylaws or any Act may provide otherwise. This avoids the unnecessary duplication of such provisions in every bylaw and enables the Council to keep its various bylaws succinct. The Council currently has two bylaws dealing with general matters.
3. Apart from the statutory requirement in the Local Government Act 2002 (LGA) to review the current two general bylaws, the recent inclusion of the Banks Peninsula District in the Christchurch City Council's district, means it was also timely to consolidate the two different bylaws into one bylaw.
4. Both general bylaws were made prior to the coming into force of the LGA 2002. There are number of provisions in this Act which render redundant a number of provisions in the two general bylaws. A clause by clause analysis of the current existing clauses of the two general bylaws was undertaken in order to determine what clauses should be retained and what should be revoked.
5. The matters which remain relevant and are the subject of the general bylaw include:
 - The manner in which notices under any bylaw may be served
 - Who may sign notices which are issued under a bylaw
 - The appointment of enforcement officers for bylaw enforcement
 - The manner in which a licence under a bylaw is issued
 - The grounds and procedure for suspending or revoking a licence issued under a bylaw
 - Offence provisions which are common to all bylaws
 - The removal of works which exist in contravention of a bylaw
 - Authorising the Council to dispense with compliance with a bylaw in certain circumstances.
 - Requiring names and addresses to be supplied to an enforcement officer.
6. In essence these provisions relate to the general administration of the Council's bylaws. They provide the mechanism for the administration of those bylaws in an efficient, effective, consistent, fair and transparent manner.

SUMMARY OF SUBMISSIONS

7. The Council received three submissions on the proposed general bylaw, and these are attached to this report.

Submission from Robin McCarthy

8. Robin McCarthy wishes to be heard in relation to his submission, which suggests adding an additional paragraph to clause 13 stating that "where a dispensation is declined, reasons for that decision shall be provided to the applicant". Good practice by the Council would be that it has reasons for any decision that it makes, particularly when it is declining or refusing something (this is a requirement in many statutes). This information would be available to anyone if they made a request for information under the Local Government Official Information and Meetings Act 1987.

The dispensation power in the current General Bylaw is not something that is used very often, so it would not be an onerous task for the Council to provide reasons in relation to any refusal to grant a dispensation from any bylaw provision. It is recommended the Hearings Panel recommend to Council that it add a new clause 13(5), as follows:

“(5) If the Council refuses an application for a dispensation it will provide written reasons for the refusal to the applicant.”

Submission from Burwood/Pegasus Community Board

9. The Burwood/Pegasus Community Board supports the Council's intention to replace the current bylaws with a consolidated rationalised and modernised general bylaw. It does not wish to be heard in support of its submission.

Submission from Otto Snoep

10. The final submission is from Otto Snoep who also raises an issue in relation to clause 13. he does not indicate in his submission whether or not he would like to be heard in support of his submission.
11. In his view clause 13(1) (which provides that the Council may grant a dispensation from full compliance with any provision of a bylaw in a case where the Council considers that full compliance would needlessly and injuriously affect any person or business, without a corresponding benefit to the public), “is contrary to sections 150(3)(b) of the Local Government Act 2002 – consultation”. In his view, if passed in its current form clause 13(1) would allow the Council or a delegated officer to alter the bylaw as it sees fit without further public consultation procedures, but he says the council must comply with the requirements of section 156 to create or amend a bylaw.
12. Mr Snoep is correct that a bylaw can only be amended by way of using the special consultative procedure as specified in section 156. The Council or a delegate could not use clause 13(1) of the general bylaw to amend another bylaw. All that the council can do under clause 13(1) is grant a dispensation from the need to comply with a particular provision of another bylaw in a particular instance, after considering the specific circumstances of a person or business. The Council cannot change a bylaw provision or make it inapplicable on a general basis to the whole of the district by using clause 13(1) - if it attempted to do so then that would be a defacto, and ultra vires, amendment of a bylaw.
13. The dispensing power clause in the current Christchurch City General bylaw (clause 16) has usefully been applied in the past, most recently in relation to a provision in the now revoked Christchurch City Fires Bylaw 2006. That Bylaw provided for a year round prohibition on outdoor burning in some areas of Christchurch. This was causing some Christchurch residents difficulty, and they considered that it would needlessly affect them (at that time ECan was not enforcing its NRRP rule), and they sought dispensations from the Council. The Council delegated the power to grant dispensations in relation to that bylaw to an officer subcommittee. The Council could not use the dispensing power to amend or revoke completely the Fires Bylaw clause for which the dispensations were granted – it did so by proposing a new bylaw, consulting on that by way of the special consultative procedure, hearing submissions and then adopting the new Christchurch City Urban Fire Safety Bylaw 2007.
14. The recommendation to the Hearings Panel is that clause 13(1) is clarified to make it clear that a dispensation will be granted to a person or business but that otherwise this clause is retained in its proposed form. Suggested additional wording to insert is in bold as follows:

“(1) The Council may grant a dispensation to **any person or business** from full compliance with any provision of a Bylaw in **any** case where the Council is of the opinion that full compliance would needlessly and injuriously affect **that** person or business, without a corresponding benefit to the public or any section of it.”

OTHER MATTERS

15. The proposed bylaw attached to the consultation documents was not in the final form as approved by the Council on 27 March 2008. The version approved by the Council made some minor changes suggested by the Regulatory and Planning Committee. These did not carry over to the consultation version. The changes made were as follows:
 - Deletion of the definitions “city” and “empowering statute” in clause 3, and the addition of the bolded words in the definition of licence: “means a licence, **permit, consent or approval** issued under any Bylaw”
 - The addition of the words “or other document” after the word “notice” in several places in clause 5 (service of notices)
 - The deletion of “or order” from clause 6 (signing of notices)
 - The deletion of “or approval” after the word licence in clause 10(1) (offences and breaches)
 - The correct date of the Banks Peninsula bylaw (changed from 1972 to 1996) in clause 16
 - The replacement of “approvals, permits and” with the words “licences or” in clause 16(2).
16. Making these changes now, in accordance with the original resolution, does not affect any of the submissions made on the bylaw, and is not something that would be likely to affect anyone to the extent they would want to make submissions now, when they did not do so before. Therefore, it is the author’s view that these amendments can be recommended by the Hearings Panel to be included in the Bylaw, together with the other changes suggested.
17. It is also suggested that the Hearings Panel recommends to Council minor changes to the bylaw (as shown in the attached suggested revised bylaw) in relation to modernising the language (largely amending the word “shall”, which is an old fashioned term no longer used in modern legislative drafting). The Council has stated in its consultation material that the bylaw is to be a “consolidated, rationalised and modernised general bylaw”, but with old fashioned language still appearing in the draft bylaw, it is not as “modernised” as it could be.
18. Attached to this report is an updated draft bylaw, including all of the changes suggested above for consideration by the Hearings Panel. The new matters are shown as track changes, but the deletions from the original resolution matters referred to in paragraph 15 above have been removed, while the additions are highlighted.

Attachment 1 – Recommended Amendments to the Proposed General Bylaw 2008

THE CHRISTCHURCH CITY COUNCIL GENERAL BYLAW 2008

1. Short title and commencement
2. Object of Bylaw
3. Interpretation
4. Prescribed Forms
5. Service of Notices
6. Signing of Notices
7. Appointment of Enforcement Officers
8. Granting of Licences
9. Suspension and Revocation of Licences
10. Offences and Breaches
11. Removal of works executed contrary to Bylaw
12. Penalties
13. Dispensing Power
14. Names and Addresses to be Supplied
15. Amendments Included
16. Revocations and Savings

THE CHRISTCHURCH CITY COUNCIL GENERAL BYLAW 2008

Pursuant to the powers vested in it by the Local Government Act 2002 and all other powers thereunder enabling the Christchurch City Council makes this bylaw.

1. SHORT TITLE AND COMMENCEMENT

(1) This Bylaw ~~is~~ the Christchurch City Council General Bylaw 2008.

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(2) This Bylaw ~~comes~~ into force on the ~~1st~~ day of July 2008.

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2. OBJECT OF BYLAW

The object of this Bylaw is to make provisions which ~~are~~ common to and form part of all other bylaws of the Council which are in force on or after the ~~1st~~ day of July 2008 except as may otherwise be expressly provided.

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3. INTERPRETATION

(1) In this Bylaw, unless the context otherwise requires

Act	has the same meaning as in the Interpretation Act 1999.
Bylaw	means a Bylaw of the Council for the time being in force, made under the provisions of any Act or authority enabling the Council to make Bylaws and includes this Bylaw.
Council	means the Christchurch City Council.
Chief Executive	means the Chief Executive, as defined in the Local Government Act 2002 of the Council.
Enforcement Officer	means a person appointed by the Council to exercise the power of an enforcement officer in relation to offences against, and infringement offences under, the Local Government Act 2002 and any Bylaw.
Licence	means a licence, permit, consent or approval issued under any Bylaw.
Person	includes a corporation sole, and also a body of persons, whether corporate or unincorporated.

- (2) In any Bylaw, unless the context otherwise requires:
- (i) Words importing the masculine gender include the feminine.
 - (ii) Words importing the singular number include the plural number, and words importing the plural number include the singular number.
 - (iii) Every Schedule or Appendix to a Bylaw ~~is~~ deemed to be part of ~~that~~ Bylaw.

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4. PRESCRIBED FORMS

A form is not invalid just because it contains minor differences from a form prescribed by a Bylaw as long as the form still has the same effect and is not misleading.

5. SERVICE OF NOTICES

- (1) Except as otherwise expressly provided for in any Act or Bylaw, where any notice or other document is required to be served on any person for the purposes of a Bylaw service may be effected by:
- (a) Delivering it personally; or
 - (b) Sending it by courier; or
 - (c) Sending it by registered post to the person's last known place of residence or business, or in the case of a company to its registered office.
- (2) If the person being served is absent from New Zealand, the notice, **or other document** may be served on his or her agent instead of on that person.
- (3) If the person being served has no known name or address, or is absent from New Zealand and has no known agent in New Zealand, and the notice, **or other document** relates to any premises, then the notice, **or other document** may be served on the occupier of the premises, or, if there is no occupier, may be put up on some conspicuous part of the premises. It ~~is not necessary in any such notice, **or other document** to name the occupier or the owner of the premises.~~
- (4) If the person being served is deceased, the notice, **or other document** may be served on that person's personal or legal representative or executor.
- (5) Notices **or other documents** sent by post ~~are~~ deemed to have been served at the time when a letter would have been delivered in the ordinary course of post.

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6. SIGNING OF NOTICES

Every notice or other document required to be sent by the Council ~~will~~ except as otherwise provided by any Act or Bylaw, be signed by the Chief Executive or any other person authorised by the Council to act on its behalf in that respect, and need not be under seal.

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7. APPOINTMENT OF ENFORCEMENT OFFICERS

- (1) The Council may from time to time appoint Enforcement Officers to ensure that the provisions of any Bylaws are observed.

(2) Every Enforcement Officer will be issued with a warrant of appointment which must state the statutory authority empowering the Enforcement Officer to enter upon any land, building or premises in order to carry out his or her duties.

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(3) Every person who obstructs or hinders an Enforcement Officer in the execution of his or her duties under a particular Bylaw will be deemed to have committed an offence against that Bylaw.

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8. GRANTING OF LICENCES

(1) An application for a licence must:

- (a) be made in writing on the appropriate form provided by the Council (if any); and
- (b) contain all the required information; and
- (c) be lodged with the appropriate application fee (if any).

(2) An application for a licence does not confer any right, authority or immunity on the person making the application until the application for the licence has been processed and the licence has been granted.

(3) A licence may contain such terms and conditions as the Council sees fit.

(4) The granting of a licence will not render the Council or any officer of the Council liable in respect of any damage caused by or arising out of any act done or omitted in pursuant of or in connection with such licence.

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9. SUSPENSION AND REVOCATION OF LICENCES

(1) Except as may be otherwise provided in any particular Act or Bylaw:

(a) If a licensee under a particular Bylaw:

- (i) acts in a manner contrary to that Bylaw; or
- (ii) fails to comply with any of the terms or conditions of the licence; or
- (iii) acts in a manner which, in the opinion of the Council, renders the licensee unfit to hold such licence; or

(b) If any premises licensed under a particular Bylaw:

- (i) are no longer being used for the purpose stated in the licence; or
- (ii) have fallen into a state of disrepair or are not being kept and maintained in the condition required by the licence; or
- (iii) are in any other manner failing to meet the requirements of the Bylaw or applicable regulations

then the Council may, by notice served upon the licensee, require that person to appear before the Council or a committee of the Council, at a time and place stated in the notice, to show cause why the notice should not be revoked or suspended. If the Council or committee considers the acts or failures of the licensee or the circumstances of the licensed premises, so warrant or if there is no appearance by the licensee then the Council or committee may revoke the licence or suspend the licence for as long as it may think fit.

- (2) If a licensee is convicted of an offence constituting a breach of the terms or conditions of the licence, or of an offence concerning his or her character as a licensee, then the Council or a committee of the Council may revoke the licence or suspend it for as long as it may think fit.
- (3) A person whose licence has been suspended under Clauses 9 (1) or 9 (2) and any premises in respect of which the licence has been suspended shall, during the period of such suspension, be deemed to be unlicensed.

10. OFFENCES AND BREACHES

- (1) No person may do anything or cause any condition to exist for which a licence from the Council is required under any Bylaw without first obtaining that licence and the failure to do so constitutes a breach of that particular Bylaw requiring the licence. Deleted: shall Deleted: shall
- (2) Every person commits a breach of a particular Bylaw who –
 - (a) Does, or causes to be done, or permits or allows to be done or be concerned in doing, anything whatsoever contrary to or otherwise than as provided by that particular Bylaw; or Deleted: suffers
 - (b) Omits or neglects to do, or permits or allows to remain undone, anything which according to the true intent and meaning of that particular Bylaw, ought to be done by that person at the time and in the manner provided in that Bylaw; or Deleted: suffers Deleted: therein
 - (c) Does not refrain from doing anything which under that particular Bylaw that person is required to abstain from doing; or
 - (d) Permits or allows any condition of things to exist contrary to any provision contained in that particular Bylaw; or Deleted: suffers
 - (e) Refuses or neglects to comply with any notice given to that person under that particular Bylaw; or Deleted: duly
 - (f) Obstructs or hinders any officer of the Council or other person duly appointed or authorised by the Council in the performance of any duty to be discharged by that officer or person under or in the exercise of any power conferred by a particular Bylaw; or
 - (g) Fails to comply with any notice or direction given under that particular Bylaw; or
 - (h) Omits, neglects or fails to pay any licence fee fixed by the Council in respect of a licence or approval granted to such person; or Deleted: duly
 - (i) Fails to comply with any conditions contained in any licence granted by the Council.
- (3) Every person commits a breach of a particular Bylaw who –
 - (a) Having constructed, erected, affixed, provided, or removed, or caused to be constructed, erected, affixed, provided or removed, any building or any part of a building, or any work, appliance, or material of any description whatsoever, contrary to, or otherwise than in accordance with the provision of that particular Bylaw; or
 - (b) Having omitted to construct, erect, affix, provide or remove any work, appliance or materials as required thereby, -

and who does not within a reasonable time after notice in writing has been given to him or her by the Council or any officer of the Council carry out the remedial action specified in that notice.

- (4) Every such notice must state the time within which the remedial action is to be carried out, and may be extended from time to time.

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11. REMOVAL OF WORKS EXECUTED CONTRARY TO BYLAW

- (1) Pursuant to Section 163 of the Local Government Act 2002, where any work or thing is, or has been, constructed in breach of any Bylaw the Council may:
- (a) Remove or alter the work or thing; and
 - (b) Recover the costs of removal or alteration from the person who committed the breach.

- (2) The exercise of this authority by the Council does not relieve any person responsible for a breach of any Bylaw from liability for any other penalty for committing a breach of that Bylaw.

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12. PENALTIES

Subject to any provision to the contrary, any person convicted of an offence against a Bylaw is liable to the penalties specified in the Act under which the Bylaw was made.

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13. DISPENSING POWER

- (1) The Council may grant a dispensation to any person or business from full compliance with any provision of a Bylaw in any case where the Council is of the opinion that full compliance would needlessly and injuriously affect that person or business, without a corresponding benefit to the public or any section of it.
- (2) Written application for a dispensation shall be made to the Council, giving full details of the relief sought and the reasons for the application. The Council shall consider the application and may either refuse it or grant it subject to such conditions as it considers appropriate.
- (3) The applicant for a dispensation may elect to appear in person or by a representative when the application is being considered.
- (4) If the Council grants a dispensation then a breach by the applicant of any condition imposed by the Council shall be a breach of the provision of that Bylaw.

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- (5) If the Council refuses an application for a dispensation it will provide written reasons for the refusal to the applicant.

14. NAMES AND ADDRESSES TO BE SUPPLIED

- (1) If an Enforcement Officer believes on reasonable grounds that a person is committing or has committed an offence under any Bylaw, the officer may direct the person to give his or her name and address.
- (2) Any person who fails to provide his or her name and address commits a separate offence against that particular Bylaw.

15. AMENDMENTS INCLUDED

The reference in any Bylaw to any Act or Bylaw, unless the context otherwise requires, includes reference to all subsequent Acts or Bylaws that are in force and were made in amendment or substitution for the Act or Bylaw referred to.

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16. REVOCATIONS AND SAVINGS

- (1) The following Bylaws are revoked:
 - Banks Peninsula District Council Introductory Bylaw 1996
 - Christchurch City General Bylaw 1990
- (2) All licences or other acts of authority which originated under any of the Bylaws revoked by subclause (1), and all applications, and other acts of parties and generally all documents, matters, acts, and things which so originated and are continuing at the commencement of this Bylaw, continue for the purposes of this Bylaw to have full force and effect.
- (3) The revocation of any of the Bylaws under subclause (1) does not prevent any legal proceedings, criminal or civil, being taken to enforce those Bylaws and such proceedings continue to be dealt with and completed as if the Bylaws had not been revoked.

The initial resolution to make this Bylaw was passed by the Christchurch City Council at a Meeting of the Council held on [insert date] and was confirmed following consideration of submissions received during the special consultative procedure, by a resolution of the Council at a subsequent Meeting of the Council held on [insert date].

6.2 SUMMARY OF SUBMISSIONS – PROPOSED MARINE AND RIVER FACILITIES BYLAW

Name and title of author	Date
John Allen, Policy & Leasing Administrator – City Environment Group	29 May 2008

PURPOSE OF REPORT

1. To summarise the proposed Marine and River Facilities Bylaw 2008 and submissions received on the proposed Bylaw.

SUMMARY OF THE PROPOSED BYLAW

2. The purpose of the proposed bylaw is to provide for the orderly management and control of marine and river facilities that are owned or under the control of the Council for the benefit and enjoyment of all users of those facilities.
3. The proposed bylaw provides for reasonable controls for the protection of public safety, the avoidance of nuisance in public places, and to control the use of structures under the Council's control. The power to make a bylaw for these purposes is provided for in sections 145(a), 145(b) and 146(b)(vi) of the Local Government Act 2002.
4. The proposed Marine and River Facilities Bylaw will cover:
 - **Use of marine and river facilities by commercial and charter operators**
 - **Use of wharves**, including:
 - requiring permission for vehicles (other than service or emergency vehicles) to drive or park on wharves and jetties
 - the maximum weight of vehicles allowable on the Akaroa and Wainui wharves
 - the maximum allowable time that vessels can lie alongside Akaroa Wharf
 - restrictions on certain vessels berthing at wharves and jetties and exemptions
 - the removal of vessels from wharves under certain weather conditions
 - vessels not to be left unattended at wharves overnight
 - **Obstruction of marine and river facilities**
 - Provision for **fees and charges** relating to the proposed new bylaw
 - Provision for **offences and penalties** relating to the proposed new bylaw
5. The range of issues that have been identified as needing to be regulated through a bylaw for the orderly management and control of marine and river facilities include:
 - chartered or commercial operations using Council controlled marine or river facilities without permission to the detriment of recreational users
 - heavy vehicles being driven onto wharves and damaging the wharves' structure and potentially endangering the public's safety
 - boats lying alongside Akaroa Wharf for long periods thereby restricting access for other users
 - vessels in bad weather conditions being left at wharves and damaging the wharves structure
 - the issue of unattended vessels at wharves overnight
 - vehicles, vessels and any other thing obstructing marine and river facilities and thereby causing inconvenience to other people.
6. All clauses in the proposed bylaw have come from the Banks Peninsula District Marine Facilities Control Bylaw 2002. The proposed new bylaw will revoke and replace the Banks Peninsula Bylaw.
7. The proposed bylaw will cover marine facilities¹, and extend to river and estuary facilities, in the Christchurch City area which are areas that are open to or used by the public but are managed or owned by the Council. It will not cover privately owned wharves, jetties, or other related facilities. Some examples of Council-owned marine and river facilities include wharves and jetties, slipways, launching ramps, boat and punt landings.
8. There are a number of elements to consider in establishing the Council's jurisdiction for this bylaw, the interaction between the Council's district boundaries and the jurisdiction of Environment Canterbury, and the impact of the Foreshore and Seabed Act.

¹ structures used or associated with marine activities

9. The City Council can make bylaws over land within its district boundaries, which, in the Banks Peninsula area, cross harbour mouths, and therefore include waters within Akaroa and Lyttelton Harbours.
10. The coverage of the proposed bylaw does not extend to activities on the water, other than in relation to the mooring of boats at Council-owned or controlled wharves, jetties, etc. Environment Canterbury has responsibility under the Resource Management Act 1991 and the Local Government Act 1974 for managing activities that occur on the water, specifically those in the navigable inland waters and coastal marine area. Additionally, Maritime New Zealand's regulations cover boat safety etc.
11. The Foreshore and Seabed Act vested ownership of the public foreshore and seabed in the Crown. However, even though the foreshore is now owned by the Crown, the Council still retains the power to make bylaws in relation to the area inland of the line of mean low water springs because that area is located within the City boundaries.

SUMMARY OF SUBMISSIONS

12. The Council received 6 submissions on the proposed Marine and River Facilities Bylaw. These comprised submissions from two individuals, three organisations and one Community Board.
13. The submissions were focussed on:
 - Interpretation (2)
 - Use of marine and river facilities by commercial and charter operators (2)
 - Maximum gross laden weight of service vehicles (2)
 - Prohibition of vessels over a certain length from berthing on wharves and exemptions (3)
 - Obstruction of Marine and River Facilities (1)
 - Role of an "Officer" to carry out or exercise duties under this Bylaw (2)
 - Role of other agencies (1)
 - Safety of Wharves (1)
 - Use of the Akaroa Main Wharf by non-commercial persons (1)
 - Previous clauses in Christchurch City Council Bylaw 120 (1982)² (1)

INTERPRETATION

14. The Akaroa Cruising Club argues that the Proposed Bylaw uses three expressions –"lie alongside" clause 5(4), "berthing" clause 5(5) and "tying up ... to" clause 5(6). The Club argues it is unclear whether they create one, two or three categories or whether there is some sort of overlap. The Club requests that these definitions are clarified – otherwise, the Club argues, clauses 5(4) and 5(5) may be in conflict.
15. The Club argues that it is conceivable that clause 5(4) is intended as a special provision for the Akaroa wharf, operating to the exclusion of clause 5(5). If so, the Club requests that clause 5(5) be amended so that it applies to all wharves *except* the Akaroa Wharf. The Club argues that such a provision would be more consistent with present uses of the Akaroa wharf, which, the Club argues, is commonly used by both recreational and commercial vessels for the loading and unloading of materials and for the embarkation and disembarkation of people.
16. Barry Dacombe is concerned that clause 5(4) (which seeks to limit the time allowed for a Vessel to lie alongside Akaroa Wharf, unless undertaking maintenance, or with Officer approval) conflicts with clause 5(5) (which seeks to limit vessels in excess of 10 metres in length from berthing at **any** wharf). The submitter argues that this leaves the interpretation of the bylaw open to conflicting views and that such uncertainty, particularly where fines of up to \$20,000 are possible is not acceptable. The submitter requests that clause 5(4) and 5(5) be rewritten to establish certainty.
17. *Officer comments: the Hearing Panel could amend clause 5(4), clause 5(5), clause 5(5)(a), and 5(6) so as to avoid any issues with interpretation to make it clear what the perceived problems are which are being addressed, and use consistent terms to ensure the clauses are not in conflict. If the Panel want to pursue this idea, the officers have recommended some re-wording which the Panel may wish to adopt.*

² relating to control of Council-owned structures in the Avon and Heathcote Rivers, the Estuary thereof, and certain Foreshore and adjacent areas and waters.

18. *It is recommended that Akaroa Wharf not be exempt from clause 5(5). It was always intended that clause 5(5) would apply to all Council-owned and controlled wharves, including the Akaroa Wharf, as heavy vessels being tied up at this wharf could cause considerable damage to the Wharf, particularly during storm events. The officer recommendation to amend clauses 5(4) and 5(5) will clarify the connection of both clauses.*

USE OF MARINE AND RIVER FACILITIES BY COMMERCIAL AND CHARTER OPERATORS

19. Sea-Right Investments Ltd argues that there have been no problems between commercial and recreational users at Akaroa and Wainui wharves. The company argues that the Council's interest with chartered or commercial operations has more to do with the potential for revenue generation.
20. *Officer comments: the use of marine and river facilities by commercial and charter operators does have the opportunity to produce revenue generation. However, this revenue is used to assist the Council with marine and river facilities' maintenance, potential wharf replacement, or depreciation, and is charged on user pays principles for commercial and charter operators.*
21. *The Panel could amend clause 7(1) so as to avoid any issues with interpretation. Officers recommend that an amendment to clause 7(1) be made by removing the words "and in accordance with section 150 of the Local Government Act 2002". The Council will still be required to prescribe fees in accordance with section 150 of the Local Government Act if the fee relates to a "certificate, authority, approval, permit, or consent from, or inspection by" the Council in respect of a matter provided for in this bylaw. Section 150 applies whether or not the Council refers to that section in the bylaw or not. However, the Council may also rely on its power to prescribe fees exercising its power of general competence under section 12 of the Local Government Act 2002 . In this respect, for those other fees and charges, it is not required to comply with section 150. The current wording of the clauses indicates the Council could be required to comply with section 150 in every case and this was not the intention of the bylaw.*
22. Ray Shoebridge is concerned that the Council does not provide sufficient facilities for use by commercial operators, like the Black Cat Group ferries, the vessel Fox 2, (which operates from Daly's wharf), and the Akaroa Dolphin. The submitter argues that these vessels currently discharge raw, untreated human sewage directly into the harbour. The submitter requests that as part of the bylaw the Council prohibit the discharge of untreated human waste into the harbour and construct a sanitary human waste pump-out facility in the vicinity of the fuel point on Akaroa wharf. The submitter also requests that signage be erected warning harbour users to use the pump out facilities or face prosecution under this bylaw.
23. *Officer comments: The Resource Management (Marine Pollution) Regulations 1998 provide as follows: 'Within the 12 nautical mile limit, vessels without a treatment system are not permitted to discharge sewage: closer than 500 metres from shore, from a marine farm, or from a gazetted mataitai reserve; and closer than 200 metres to a marine reserve; and if the depth of the water is less than 5 metres.' Vessels with a treatment system producing A Grade effluent can discharge anywhere except within 100 metres of a marine farm. Vessels with a treatment system producing B Grade effluent can discharge anywhere except within 500 metres of a marine farm or a gazetted mataitai reserve. However, the regulations also provide that a regional council (i.e. Environment Canterbury) is able to increase the distance and depth for discharging untreated and Grade B sewerage under a rule in the regional coastal plan.*
24. *The request that the Council prohibit the discharge of untreated human waste into the harbour is a matter for Environment Canterbury to consider as this issue deals with activities on the water – not coming within the City Council's jurisdiction.*
25. *The request for Council to construct a sanitary human waste pump-out facility in the vicinity of the fuel point on Akaroa wharf, and construct signage **are operational matters** and do not have anything to do with the bylaw. These issues will be referred onto the appropriate section of Council to investigate.*
26. *A new clause covering a matter that has not been consulted on cannot be added to the Bylaw without further analysis and consultation. As with the clauses in the proposed Bylaw, a section 155 analysis would have to be undertaken to establish whether there was a "significant problem", and if so, that a bylaw is the most appropriate way of addressing any identified problems.*

27. *The Bylaw cannot achieve what is suggested.*

MAXIMUM GROSS LADEN WEIGHT OF SERVICE VEHICLES

28. Lyttelton-Mt. Herbert Community Board requests that a maximum gross laden weight of service vehicles also be included in the bylaw for the Diamond Harbour and Port Levy wharves. The Board argues that both the Diamond Harbour and Port Levy wharves also have vehicle access and should be afforded the same protection from heavy vehicles as Akaroa and Waiuni wharves.
29. *Officer comments: Under section 5(1) motor vehicles, other than service vehicles or emergency vehicles, unless permitted in writing by an Officer, may not be driven or parked on any wharf or jetty.*
30. *The Diamond Harbour and Port Levy wharves and the issue of service vehicles are **not** covered in a similar clause in the existing Banks Peninsula Bylaw.*
31. *Clauses 5(2) and 5(3), including the references with Akaroa and Wanui wharves, exist in the current Banks Peninsula District Marine Facilities Control Bylaw 2002.*
32. *The Community Board's submission has drawn the officers' attention to the necessity to protect other wharves from damage caused by heavy service vehicles or heavy vessels lying on Council-owned or controlled wharves. The Council has in its possession a number of important wharves from a safety issue point of view. These are Akaroa, Wainui, Little Akaloa, Pigeon Bay, Port Levy, Diamond Harbour, Rapaki, Church Bay, and Governors Bay wharves.*
33. *The issue of heavy service vehicles and vessels on Council-owned or controlled wharves can be more appropriately addressed under the Trespass Act and suitably-placed signage. As the owners of the wharves Council can set the conditions of use which Council can enforce through the Trespass Act. The Council have a mechanism under section 175 of the Local Government Act 2002 to recover money for damage caused to Council's wharves.*
34. *The Panel may also wish staff to facilitate a further non-regulatory approach, eg officers contacting the identified service operators and outlining the concerns raised by the Community Board.*
35. Sea-Right Investments Ltd argue that should the proposed Marine and River Facilities Bylaw be adopted by the Christchurch City Council - the Council should forward to Sea-Right Investments Ltd written permission for the company's vehicles or those of its contractors or agents with maximum gross laden weight of 5 tonnes to drive on the Wainui wharf and written permission for the company's vehicles or those of its contractors and agents with a maximum gross laden weight of 12 tonnes to drive on the Akaroa wharf.
36. *Officer comments: By amending clause 10 of the Bylaw to include a savings provision, the Council can continue as a matter of course any permissions already granted to Sea-Right Investments to use the marine facilities. However, in respect of any new vessels or new heavier service vehicles, Sea-Right Investments will need to apply for additional permissions under the Bylaw just like any other commercial operator.*

PROHIBITION OF VESSELS OVER A CERTAIN LENGTH FROM BERTHING ON WHARVES AND EXEMPTIONS

37. Ray Shoebridge requests an explanation of "safety reasons" in regard to clause 5(5).
38. *Officer comments: Council has inherited a number of wharves from the Banks Peninsula District Council which need upgrading and are prone to structural damage because of their current state of disrepair. There is the possibility that wharves will not sustain the strain from vessels of a certain length and/or heavy loads. It is expensive to maintain/repair/replace Council-owned or managed wharves, a program of wharf repair and replacement is currently underway.*
39. *Officers recommend that clause 5(5) be amended so that it is clear what the perceived problems are which are being addressed. If the Panel want to pursue this idea, the officers have recommended some re-wording which the Panel may wish to adopt. An altered version of this clause aligns with the officers recommended changes in the section labelled "interpretation" in this report.*
40. *The Panel could recommend, for clarification, that an explanation of the safety reasons behind clause 5(5) be printed in the bylaw as part of the explanatory notes.*

41. The Akaroa Cruising Club argues that a 10m length limitation would exclude many recreational vessels of a kind that would more likely receive rather than inflict damage – that is, vessels of a relatively light displacement and construction. The Club argues that if “berthing” means something like ‘tie alongside for an extended period’ then it would probably be better to express the limitation in terms of tonnes displacement.
42. Barry Dacombe requests that the displacement of the vessel be the basis of special approval to berth in clause 5(5)(a). The submitter cites the different examples of his sailing vessel (keeler) which has an overall length of 10.6 metres and a draught of 2.5 metres (not "shallow draught") and has a displacement of 3.9 tons, versus many commercial fishing boats which are shorter and of less draught, but would displace up to 10 tons.
43. *Officer comments: Clause 5(5) comes from the existing Banks Peninsula District Council Bylaw.*
44. *The clause does not ban vessels from berthing at wharves completely. There are two exemptions to clause 5(5).*
45. *Environment Canterbury Harbour Master’s advice is that the proposed clause is appropriate for the safety of the wharves and enforcement.*
46. *The Panel could amend clause 5(5) allowing for the use of displacement and/or length to define berthing prohibitions. However, while it may be easy to define “displacement” in a bylaw, in practice, it will be difficult to measure. Officers recommend that the clause only refers to a length in excess of 10 metres and this is easier to enforce. An engineer with expertise in this area will be present at the beginning of deliberations on this bylaw to assist the panel with the decision on this matter.*
47. Ray Shoebridge argues that it is not inherently unsafe to allow vessels over 10 meters to use the wharf without permission or prior consent especially if those vessels are within Safe Ship Management regulations.
48. *Officer comments: The reference to Safe Ship Management Regulations is a reference to Maritime Rules Part 21 Safe Ship Management Systems. The Safe Ship Management System is concerned with the safe management and operation of ships as well as pollution prevention. It is not concerned with the safe operation of wharves, jetties and other marine facilities. The submitter has interpreted the reference to safety reasons in clause 5(6) of the proposed bylaw as referring to safety of ships as opposed to the safety of the Council owned or controlled facilities.*
49. Sea-Right Investments Ltd argue that should the proposed Marine and River Facilities Bylaw be adopted by the Council – written permission should be given to Sea-Right Investments Ltd for the company’s 12 metre marine farming vessel “Bruno” and the company’s 16.5 metre vessel “Untouchable” to berth at the Wainui wharf for loading or unloading and for berthing at the Akaroa wharf for servicing or taking on fuel.
50. *Officer comments: By amending clause 10 of the Bylaw to include a savings provision, the Council can continue as a matter of course any permissions already granted to Sea-Right Investments to use the marine facilities. However, with respect of any new vessels or service vehicles of a length or weight in excess of that allowed, Sea-Right Investments will need to apply for additional permissions under the Bylaw just like any other commercial operator.*

OBSTRUCTION OF MARINE AND RIVER FACILITIES

51. Ray Shoebridge requests that clause 6, the obstruction of Marine and River facilities, be extended to prohibit the depositing of rubbish, trade waste, fishing waste, and engineering equipment on the wharf. The submitter argues that these items cause a tripping hazard to pedestrian wharf users. The submitter requests that there be suitable rubbish facilities or a ‘green wheelie bin’ installed and maintained on the wharf or in the main street of Akaroa, which is visible to wharf users. The submitter also requests that there should also be signage instructing the public to not deposit incidental litter into these bins.
52. *Officer comments: Leaving engineering equipment on a wharf is already prohibited under the proposed bylaw: “No person may leave on or near any marine or river facility any vessel, trailer, motor vehicle **or any other thing** so as to obstruct the reasonable use of the facility”. The other items of rubbish referred to by the submitter are covered by other legislation, including the Litter Act 1979. Under section 15 of the Litter Act 1979 every person commits an offence and is liable, in the case of an individual, to a fine not exceeding \$5,000 or, in the case of a body corporate, to a fine not*

exceeding \$20,000, who deposits any litter or, having deposited any litter, leaves it in or on a public place. The request for suitable rubbish facilities and signage are **operational matters** and do not have anything to do with the bylaw.

ROLE OF AN 'OFFICER' TO CARRY OUT OR EXERCISE DUTIES UNDER THIS BYLAW

53. Barry Dacombe is concerned that the introduction of the role of an "Officer" (means an Officer appointed by the Council to carry out or exercise duties under this Bylaw) will have unnecessarily complex and expensive administrative processes associated.
54. *Officer comments: When the Council makes a bylaw there will always be enforcement and administration issues. The Bylaw provides that certain decisions will be made by an Officer. However, this role is largely no different than the current role of Council staff in administering and enforcing the current Banks Peninsula Marine Facilities Control Bylaw 2002.*
55. Ray Shoebridge requests that there be a permanent 'Wharf Officer' appointed to administer and control this bylaw.
56. *Officer comments: This issue relates to the administration and enforcement of the bylaw, rather than the bylaw itself. The appointment of officers is a management issue and resourcing of officers is a management responsibility.*
57. *The Council has twenty-six park rangers operating in the Council district. As the park rangers (who enforce the existing Parks and Reserves Bylaw) are located in the area covered by the proposed bylaw, they are well placed to enforce the proposed bylaw provided they are appointed as enforcement officers for the purposes of this Bylaw.*
58. *Funding for an increase in the ranger presence in the Banks Peninsula area will be pursued in relation to both this proposed bylaw and the proposed Parks and Reserves Bylaw 2008 through the LTCCP process.*

ROLE OF OTHER AGENCIES

57. Barry Dacombe is concerned that there is the potential for conflict with other authorities who have jurisdiction in harbour areas including the Regional Harbour Master and Maritime Safety officers. The submitter requests that the Regional Harbour Master (Environment Canterbury) and Maritime Safety officers (Maritime New Zealand) be directly consulted on this bylaw.
58. *Officer comments: Environment Canterbury were sent a special consultative procedure pack. However, they have not made a formal or informal submission. However, officers have had verbal discussions with a Regional Harbour Master over aspects of the proposed bylaw.*
59. *The City Council can make bylaws over land within its district boundaries, which, in the Banks Peninsula area, cross harbour mouths, so include waters within Akaroa and Lyttelton Harbours. The coverage of the proposed bylaw does not extend to activities on the water, other than in relation to the mooring of boats at Council-owned or controlled wharves, jetties, etc. Environment Canterbury has responsibility, under the Resource Management Act 1991 and the Local Government Act 1974 for managing activities that occur on the water, specifically those in the navigable inland waters and coastal marine area. Environment Canterbury has its Coastal Management Plan and Navigation Safety Bylaws 2005. Additionally, Maritime New Zealand's regulations cover boat safety etc. The coverage of the proposed bylaw does not extend to activities on the water, other than mooring boats at Council-owned or controlled wharves, jetties, etc.*

A NEW CLAUSE PROPOSAL - SAFETY OF WHARVES

60. Ray Shoebridge requests that tripping hazards on wharves be secured. The submitter argues that part way down Akaroa Wharf the wharf deck surface rises 75mm from one level to another. The submitter argues that this change in deck levels and nails working loose from decking need to be visibly evident by the application of paint to the timbers and the erection of a sign warning users of tripping hazards.

61. The submitter requests that the following needs to be done and regulated before the wharf becomes safe enough to permit unrestricted public foot traffic access:
- 1- Build a safety rail around the entire wharf structure, painted white
 - 2- Install and maintain life-rings at strategic positions about the wharf in case a member of the public falls in
 - 3- Restrict swimming and fishing from the main wharf
 - 4- Install an electrically operated barrier arm at the street to prevent two-wheeled vehicles from entering the wharf, yet allowing 4 wheeled vehicles "keypad" entry by a Council Supplied pin number.
62. *Officer comments: The request for tripping hazards on wharves to be secured and for certain tasks to be undertaken to ensure safe public access are **operational matters** and do not have anything to do with the bylaw.*

A NEW CLAUSE PROPOSAL - USE OF THE AKAROA MAIN WHARF BY NON-COMMERCIAL PERSONS

63. Ray Shoebridge argues that often members of the public act irresponsibly on the wharf, littering, driving dangerously, riding mopeds and motorcycles at speed, or simply 'horsing about' where no safety rails or life saving flotation devices are available. The submitter argues that this behaviour, including the careless use of large fishing rods and knives is in evidence commonly. The submitter requests that these users should also be regulated in the bylaw.
64. *Officer comments: These are not significant issues that require regulation, especially considering that there is a maximum of \$20,000 fine and prosecution associated with an offence against the proposed bylaw.*
65. *The behavioural issues that are mentioned are adequately covered by legislation such as the Summary Offences Act 1981 (for example, the offences of offensive behaviour or language, disorderly behaviour, things endangering safety), the Land Transport Act 1998 (for example, the offences of reckless or dangerous driving or careless or inconsiderate driving), the Litter Act 1979 and the Trespass Act 1980.*
66. *Behavioural-type issues were considered in the section 155 assessment of the existing bylaw as required by the Local Government Act 2002, it being noted that these issues are already legislated against by other bylaws and laws of Parliament and therefore were not included in this proposed bylaw..*
66. *Rangers have been successful in obtaining compliance with the existing bylaw through education and believe that this educational approach should be continued in the future. Any issues that cannot be dealt with through education, or through enforcement of the proposed bylaw, can be dealt with by the Police.*
67. *A new clause covering a matter that has not been consulted on cannot be added to the Bylaw without further analysis and consultation. As with the clauses in the proposed Bylaw, a section 155 analysis would have to be undertaken to establish whether there was a "significant problem", and if so, that a bylaw is the most appropriate way of addressing any identified problems.*

NEW CLAUSES PROPOSED - PREVIOUS CLAUSES IN BYLAW 120

68. Avon-Heathcote Estuary Ihutai Trust wishes to be assured that certain issues which were previously covered by Bylaw 120³ (under clause 25), have been picked up in other existing legislation or proposed new bylaws.
69. *Officer comments: Bylaw 120 is currently being reviewed with the proposed Parks and Reserves Bylaw.*

³ relating to control of parts of the Avon and Heathcote Rivers, the Estuary thereof, and certain Foreshore and adjacent areas and waters.

70. *The issues identified by the submitter, previously present in Bylaw 120, are covered by other existing legislation, including the Litter Act 1979, the Summary Offences Act 1980, the Crimes Act 1961, Environment Canterbury's Coastal Marine Plan, the Health Act, the Reserves Act 1977 (section 94(1)(f)) and proposed new bylaws, including the Christchurch City Council Fire Safety Bylaw 2007 and the proposed Christchurch City Council Parks and Reserves Bylaw 2008.*
71. *A new clause covering a matter that has not been consulted on cannot be added to the Bylaw without further analysis and consultation. As with the clauses in the proposed Bylaw, a section 155 analysis would have to be undertaken to establish whether there was a "significant problem", and if so, that a bylaw is the most appropriate way of addressing any identified problems.*

Attachment One: Summary of Submissions on the Proposed Marine and River Facilities 2008

Section One: Submissions from those being heard (in order of appearance)

- Lyttelton-Mt. Herbert Community Board - Paula Smith (Board Chairperson)⁴ (submission no. 6538)
- Ray Shoebridge⁵ (submission no. 6526)
- Akaroa Cruising Club⁶ - John Milligan (submission no. 6529)
- Avon Heathcote Estuary Ihutai Trust⁷ - Alex Drysdale (Chairman) (submission no. 6537)

Section Two: Submissions from those not being heard

- Barry Dacombe⁸ (submission no. 6320)
- Sea-Right Investments Ltd⁹ (submission no. 6330)

Section One: Submissions from those being heard (in order of appearance)

Ray Shoebridge

Comments relate to

- **Clause 5(5) and (a) and (b): Prohibition of vessels over a certain length from berthing on wharves and exemptions**
 - **Clause 6: Obstruction of Marine and River Facilities**
 - **Use of a 'Wharf Officer'**
 - **Safety of Wharves**
 - **Use of the Akaroa Main Wharf by commercial and non-commercial persons**
- The submitter requests an explanation of "safety reasons" in regard to clause 5(5) as this clause pertains to vessels over 10 metres as opposed to all vessels.
 - The submitter argues that clause 5(5)(a) and (b) infer that if 'permission' or 'consent' is granted, these vessels are deemed by this bylaw to be 'safe' to use the wharf. The submitter argues that it is not inherently unsafe to allow vessels over 10 metres to use the wharf without permission or prior consent especially if those vessels are within Safe Ship Management regulations¹⁰.
 - The submitter requests that the bylaw be more specific about exactly why only vessels in excess of 10 metres are deemed to be unsafe, and to give the owners of these vessels the options of mitigating the 'unsafeness' with remedial action.
 - The submitter requests that clause 6, the obstruction of Marine and River facilities, be extended to prohibit the depositing of rubbish, trade waste, fishing waste, and engineering equipment on the wharf. The submitter argues that these obstacles present a tripping hazard to pedestrian wharf users.
 - The submitter requests that there be suitable rubbish facilities or a 'green wheelie bin' installed and maintained on the wharf or in the main street of Akaroa, visible on the wharf to wharf users. The submitter argues that there are issues with litter on wharves including bottles, glass and plastic, fish hooks, fishing line, general paper rubbish wedged into cracks in the tops of wharf piles, pieces of old rope, pieces of rusting wire, and other detritus hazardous to health. The submitter requests that there be signage instructing the public to not deposit incidental litter into these bins.
 - The submitter requests that there be a permanent 'Wharf Officer' appointed to administer and control this bylaw. The submitter argues that the Council can not rely on the users themselves to voluntarily

⁴ Paula Smith, Board Chairperson, Lyttelton-Mt. Herbert Community Board, contact: Liz Carter, Community Board Adviser, c/- Akaroa Service Centre, 78 Rue Lavaud, Akaroa, 941-5682, 027-281-4835, liz.carter@ccc.govt.nz.

⁵ Mr Ray Shoebridge, PO BOX 175, Akaroa, Christchurch, 0212531993, ray.shoebridge@hotmail.com.

⁶ Mr John Milligan, Akaroa Cruising Club, 1/70 Champion St, Christchurch, 033746922, i-bmilligan@xtra.co.nz.

⁷ Mr Alex Drysdale, Chairman, Avon Heathcote Estuary Ihutai Trust, c/o Linda Rutland, 3 McCormacks Bay Road, Christchurch 8081, 033842160, 021 239 8947, lin.fin@xtra.co.nz,

⁸ Mr Barry Dacombe, 5 Conifer Place, 8022, Christchurch, bjdarchitect@xtra.co.nz, 0-3-332 1922.

⁹ Mr Roger Beattie, Managing Director, Sea-Rights Investments Ltd, PO Box 1790, Christchurch 8140, 03 3770365, info@searight.co.nz.

¹⁰ These regulations are Maritime New Zealand's regulations and deal with activities on the water "in shore" and in "enclosed water limits".

abide by a bylaw they are unaware of, without notifying them of the bylaw, the restrictions imposed, the hazards on the wharves and facilities, and the penalties for breaching the bylaw.

- The submitter requests that tripping hazards on wharfs need to be secured. The submitter notes that part way down Akaroa Wharf the wharf deck surface rises 75mm from one level to another. The submitter argues that this change in deck levels needs to be visibly evident by the application of paint to the timbers and the erection of a sign warning users of the change in deck level and alerting them to the tripping hazard.
- The submitter requests that the following needs to be done and regulated before the wharf becomes safe enough to permit unrestricted public foot traffic access:
 - 1- Build a safety rail around the entire wharf structure, painted white
 - 2- Install and maintain life-rings at strategic positions about the wharf
 - 3- Restrict swimming and fishing from the main wharf
 - 4- Install an electrically operated barrier arm at the street to prevent two-wheeled vehicles from entering the wharf, yet allowing 4 wheeled vehicles “keypad” entry by a Council Supplied pin number.
- The submitter is concerned that in no place in the bylaw is the use of the wharves by members of the public mentioned. The submitter argues that often these users act irresponsibly on the wharf, littering, driving dangerously, riding mopeds and motorcycles at speed, or simply ‘horsing about’ where no safety rails or life saving flotation devices are available. The submitter argues that this behaviour, including the careless use of large fishing rods and knives is in evidence commonly, and also at the same time as families with small children, sometimes in prams or pushchairs are using the wharf for sightseeing purposes. The submitter requests that these users also be regulated in the bylaw.
- The submitter is concerned that the Council does not provide sufficient facilities for use by commercial operators. The submitter argues that larger more active boats like the Black Cat Group ferries, the vessel Fox 2, (which operates from Daly’s wharf), and the Akaroa Dolphin have no option but to discharge raw, untreated human sewage directly into the harbour. The submitter argues that the Council’s own water quality testing will show human faecal coliform counts in the harbour above acceptable guideline levels. The submitter requests that as part of the bylaw the Council prohibit the discharge of untreated human waste into the harbour and construct a sanitary human waste pump-out facility in the vicinity of the fuel point on Akaroa wharf.
- The submitter requests that signage be erected warning harbour users to use the pump out facilities or face prosecution under this bylaw.

Akaroa Cruising Club - John Milligan

Comments relate to

- **Interpretation**
- **Clause 5(5): Prohibition of vessels over a certain length from berthing on wharves**
- **Clause 5(6): Tying up of a vessel to the wharf under present or anticipated sea or weather conditions**
- The Proposed Bylaw uses three expressions –“lie alongside” 5(4), “berthing” 5(5) and “tying up ... to” 5(6). The Akaroa Cruising Club (the Club) argues that no definitions are provided of these terms it and is unclear whether they create one, two or three categories or whether there is some sort of overlap.
- The Club requests that these definitions be clarified – otherwise, the Club argues, clauses 5(4) and 5(5) may be in conflict.
- The Club argues that it is conceivable that clause 5(4) is intended as a special provision for the Akaroa wharf, operating in that respect to the exclusion of clause 5(5). If so, the Club requests that clause 5(5) be amended so that it applies to all wharves *except* the Akaroa wharf. Such a provision, the Club argues, would be more consistent with present uses of the Akaroa wharf, which is commonly used by both recreational and commercial vessel for the loading and unloading of materials and for the embarkation and disembarkation of people. The Club notes that when the Council circulated proposals for the construction of ‘floaters’ alongside the wharf, these were said to be for both recreational and commercial use.

- The Club is concerned that clause 5(5), for safety reasons, controls 'berthing' at wharves on the basis of the length of the vessel berthed. The Club argues that a 10m length limitation would exclude many recreational vessels of a kind that would more likely receive rather than inflict damage – that is, vessels of a relatively light displacement and construction. If "berthing" here means something like 'tie alongside for an extended period' then the Club argues that it would be better to express the limitation in terms of tonnes displacement.
- The Club believes that it is difficult to see what it is that the Proposed Bylaw is intended to achieve with regards to Akaroa Wharf.

Avon Heathcote Estuary Ihutai Trust - Alex Drysdale (Chairman)

Comments relate to

- **General comments**
 - **Previous clauses in Bylaw 120 – relating to control of parts of the Avon Heathcote Rivers and Estuary, and certain Foreshore and adjacent areas and waters.**
- Avon Heathcote Estuary Ihutai Trust (the Trust) is, in general, supportive of the new slimmed down bylaw which makes for easier understanding and enforcement.
- The Trust wishes to be assured that the following issues, which were previously covered by Bylaw 120, have been picked up in other existing legislation or proposed new bylaws:
- **Clause 25 (c)** *On any portion of any sea groyne or sea wall or of the beach, scale, clean or gut any fish or throw or case or leave or deposit any fish or portion of a fish likely to cause nuisance, injury or danger to public health or safety.*
- While this is not a current problem for around the Estuary the Trust is aware that it is in other marine environments. The Trust requests to be assured that rules will still exist to prevent this type of behaviour should it arise in the vicinity of the Estuary.
- **Clause 25 (e)** *Light any fire, take, carry or use any fire-arms or any fire-works or substance or any weapons or other instruments of a dangerous character or bows and arrows or catapults or shanghais on or across the estuary or any river or beach except with the permission of the council.*
- The Trust requests that CCC have the ability to prevent people attacking wildlife by any method involving the above or similar and that the Trust be notified when the Council issues permission for these activities.
- **Clause 25 (J)** *Without written approval of Council bring or drive any horse or other animal on to any part of any sea groyne or sea wall or of the beach or permit the same to wander or stray thereon, or therein. Should any such horse or other animal be found thereon the owner or the person in charge shall upon request from any ranger or warden or beach patrol man immediately remove the same.*
- The Trust requests restrictions on the riding of horses around the foreshore and estuary to remain.
- **Clause 25 (o)** *Remove or deposit any sand, shell, shingle, gravel, rock mud or other material from any part of the beach or riverbanks except with the consent of the council.*
- The Trust requests that this protection remain in some form.
- The Trust wishes to know where in the bylaws is the prevention of over-harvesting of shellfish or other marine life dealt with. The Trust is aware some of the estuary sediments are contaminated. The Trust would like to know 'Is this exclusion meant to address disturbance of these?'
- **Clause 25 (T)** *Do any act prejudicial to the preservation of natural or artificial amenities, protective works of the beach or unlawfully interfere with any notices, signs, markers, flags, buoys or other indicators duly used in connection with bathing, aquatic or other activities upon the estuary, rivers or beach.*
- The Trust requests to be assured such protection remains in other legislation.

Lyttelton-Mt. Herbert Community Board - Paula Smith (Board Chairperson)

Comments relate to

- **Comments relate to suggested new clauses**
 - **Clause 5(2): A maximum gross laden of service vehicles permitted on Akaroa Wharf**
 - **Clause 5(3): A maximum gross laden of service vehicles permitted on Wainui Wharf**
- The Board requests that a maximum gross laden weight of service vehicles be included in the bylaw for the Diamond Harbour and Port Levy wharves. Both these wharves have vehicle access on to wharf and should be afforded the same protection from heavy vehicles as the Akaroa and Wainui wharves.

Section Two: Submissions from those not being heard

Barry Dacombe

Comments relate to

- **Interpretation**
 - **Clause 5(5)(a) and (b): exemptions to Clause 5(5)**
 - **Role of an "Officer" to carry out or exercise duties under this Bylaw**
 - **Role of other agencies**
-
- Barry Dacombe is concerned that clause 5(4) (which seeks to limit the time allowed for a Vessel to lie alongside Akaroa Wharf, unless undertaking maintenance, or with Officer approval) conflicts with clause 5(5) (which seeks to limit vessels in excess of 10 metres in length from berthing at any wharf). The submitter argues that this leaves the interpretation of the bylaw open to conflicting views and that such uncertainty, particularly where fines and penalties of the order of \$20,000 are at stake is not acceptable. The submitter requests that clause 5(4) and 5(5) be rewritten to establish certainty.
 - The submitter is concerned that clause 5(5)(a) states that shallow draught vessels are accepted without any definition of what constitutes "shallow draught". The submitter notes that many recreational vessels including keel boats which exceed 10 metres in length could be regarded as not being shallow draught and accordingly prohibited from berthing at a wharf for whatever reason. The submitter argues that the safety issue has more to do with displacement than length and draught. The submitter requests that the displacement of the vessel be the basis of special approval to berth in clause 5(5)(a).
 - The submitter requests that clause 5(5)(a) and (b) be rewritten with these considerations in mind.
 - The submitter is concerned that the introduction of the role of an "Officer" (means an Officer appointed by the Council to carry out or exercise duties under this Bylaw) will have unnecessarily complex and expensive administrative processes associated.
 - The submitter is concerned that there is the potential for conflict with other authorities who have jurisdiction in harbour areas including the Regional Harbour Master and Maritime Safety officers. The submitter requests that the Regional Harbour Master (Environment Canterbury) and Maritime Safety officers (Maritime New Zealand) be directly consulted on this bylaw.

Sea-Right Investments Ltd – Mr Roger Beattie (Managing Director)¹¹

Comments relate to

- **Clause 4: Use of marine and river facilities by commercial and charter operators**
 - **Clause 5(2): A maximum gross laden of service vehicles permitted on Akaroa Wharf**
 - **Clause 5(3): A maximum gross laden of service vehicles permitted on Wainui Wharf**
 - **Clause 5(5): Prohibition of vessels over a certain length from berthing on wharves**
 - **Request for Officer written permission for use of wharves and jetties**
-
- Sea-Right Investments Ltd (the company) makes extensive use of the Wainui wharf for servicing their marine farming operations in the harbour using their shallow-draft 12 metre marine farming vessel "Bruno." The company intends to bring their new 16.5 metre service vessel "Untouchable" to Akaroa from time to time for specific projects. They also make occasional use of the Akaroa wharf for fuel and servicing their vessels.
 - The company argues that most of the Council's conditions for the use of wharves and jetties (clause 5) amounts to what is common sense. The company notes that nothing in their operations is inconsistent with the Council's intentions with the exception of the requirement for prior written permission.
 - The company argues that the discussion document points the finger (clause 4) at chartered or commercial operations for "using Council controlled marine or river facilities without permission to the detriment of other users, such as recreational users."
 - The company argues that their experience at both Akaroa and Wainui is that there have been no problems between commercial and recreational users and that recourse to a bylaw is a poor substitute for encouraging politeness and good manners on the part of all users of marine and river facilities. The company argues that commercial operations are not as inimical to recreational use as the Council document might suggest.

¹¹ Sea-Right Investments Ltd is a marine farming and aquaculture company undertaking blue pearl culture, seaweed harvesting and mussel farming developments in Akaroa Harbour.

- The company suspects that the Council's interest with chartered or commercial operations is more to do with the potential for revenue generation.
 - The company expects to be able to continue its existing operations using the Wainui and Akaroa wharves as authorized by the Banks Peninsula District Council.
 - Should the Proposed Marine and River Facilities Bylaw be adopted by the Christchurch City Council - request that the Council forward to Sea-Right Investments Ltd:
 - Written permission for the company's vehicles or those of its contractors or agents with maximum gross laden weight of 5 tonnes to drive on the Wainui wharf and written permission for the company's vehicles or those of its contractors and agents with a maximum gross laden weight of 12 tonnes to drive on the Akaroa wharf.
 - Written permission for the company's 12 metre marine farming vessel "Bruno" and the company's 16.5 metre vessel "Untouchable" to berth at the Wainui wharf for loading or unloading and for berthing at the Akaroa wharf for servicing or taking on fuel.
-

Attachment 2 - Staff Submission – Proposed Christchurch City Council Marine and River Facilities Bylaw 2008

Staff submission on the proposed Marine and River Facilities Bylaw

Proposed changes:

1. Wording change/addition to Interpretation.

Definition of charter operator – substitute the word "mean " for "means". Therefore the definition will now read as follows:

Charter Operator **means** a person who uses marine facilities principally for charter and related activities such as carrying fare-paying passengers including, but not limited to, any person carrying out tourist activities for profit or reward.

Definition of foreshore – add the word "level" to the end of the definition. Therefore the definition will now read as follows:

Foreshore means the land edging the sea, estuaries and rivers that is regularly submerged and exposed by the sea's tidal ebb and flow, that is, the area between the line of mean high water springs level and the mean low water springs **level**.

Definition of marine facility – add the word means at the beginning of the definition. Therefore the definition will now read as follows:

Marine facility **means** any Council owned or controlled wharf, jetty, slipway, launching ramp, pontoon, storage park, landing, steps, ladders, fuelling facilities and any other Council owned or controlled structure used or associated with marine activities.

Definition of motor vehicle – add the word "means" at the beginning of the definition. Therefore the definition will now read as follows:

Motor vehicle **means** a man-made device for land transport, including but not limited to cars, vans, trucks, buses and heavy machinery.

Rationale: Making these small changes to the various definitions can be categorised as “technical tidy-ups” so that all definitions use the same style.

Definition of wharf – add a new definition

Wharf means any Council owned or controlled wharf.

Rationale: Staff recommend adding a new definition of wharf as the term is used in clause 5 and it needs to be clear that the Bylaw is only dealing with Council owned or controlled wharves.

2. Explanatory Note

The explanatory note below was approved by Council on 27 March 2008. Unfortunately this note was left out of the consultation pack and has not been seen by the public. The explanatory note is not part of the Bylaw, but is intended to explain its general effect. Consequently, the Council does not need to send out this note for consultation. However, this does assist the public's understanding of Council's jurisdiction to make bylaws on Council-owned or controlled marine and river facilities.

EXPLANATORY NOTE

This explanatory note is not part of the Bylaw, but is intended to explain its general effect.

Christchurch City's District

The district boundaries of Christchurch City (including the former Banks Peninsula District) extend outward from the land to the line of mean low water springs. The boundaries were extended from the line of mean high water springs to the line of mean low water springs by two Local Government Boundary Alteration Notices, in 1996 and 1997. The boundaries cross the mouths of all harbours, bays, streams, inlets and estuaries, including Lyttelton and Akaroa Harbours.

Activities occurring on the water

Environment Canterbury has responsibility for managing activities that occur on the water, specifically those in the navigable inland waters and coastal marine area. Activities on the water are covered by the Environment Canterbury Navigation Safety Bylaws and Environment Canterbury's Coastal Management Plan.

Attachment 3 - Recommended Amendments to the Proposed Marine and River Facilities Bylaw 2008 -

**PROPOSED CHRISTCHURCH CITY COUNCIL
MARINE AND RIVER FACILITIES BYLAW 2008**

Pursuant to the powers vested in it under section 145 and section 146 of the Local Government Act 2002, the Christchurch City Council makes this bylaw.

1 SHORT TITLE AND COMMENCEMENT

This Bylaw is the Christchurch City Council Marine and River Facilities Bylaw 2008. This bylaw comes into force on 14 July 2008.

2 OBJECT

The object of this bylaw is to provide for the orderly management and control of marine and river facilities that are owned or under the control of the Council for the benefit and enjoyment of all users of those facilities.

3 INTERPRETATION

In this Bylaw, unless the context requires otherwise-

‘Charter Operator’	means a person who uses marine facilities principally for charter and related activities such as carrying fare-paying passengers including, but not limited to, any person carrying out tourist activities for profit or reward.
‘Christchurch City’	means the district of Christchurch City Council.
‘Commercial Operator’	means a person who uses marine facilities principally for commercial and related activities including, but not limited to, any person carrying out fishing and related activities for profit or reward.
‘Council’	means the Christchurch City Council.
‘Foreshore’	means the land edging the sea, estuaries and rivers that is regularly submerged and exposed by the sea’s tidal ebb and flow, that is, the area between the line of mean high water springs level and the mean low water springs <u>level</u> .
‘Marine facility’	<u>means</u> any Council owned or controlled wharf, jetty, slipway, launching ramp, pontoon, storage park, landing, steps, ladders, fuelling facilities and any other Council owned or controlled structure used or associated with marine activities.
‘Motor Vehicle’	<u>means</u> a man-made device for land transport, including, but not limited to, cars, vans, trucks, buses and heavy machinery.
‘Officer’	means an Officer appointed by the Council to carry out or exercise duties under this Bylaw.

‘River facility’	means any Council owned or controlled launching ramp, punting point, boat landing, jetty and any other Council owned or controlled structure used or associated with river activities.
‘Service Vehicle’	means a vehicle designed exclusively and used for the carriage of equipment or goods.
‘Vessel’	<i>means any boat, ship, barge, launch, yacht or other watercraft, and includes any other vessel used or designed to be used in the sea or in rivers, whether motorised or not.</i>
<u>‘Wharf’</u>	<u>means any Council owned or controlled wharf.</u>

4 USE OF MARINE AND RIVER FACILITIES BY COMMERCIAL AND CHARTER OPERATORS

No charter or commercial operator may use a marine or river facility without the prior written permission of an Officer.

5 USE OF WHARVES AND JETTIES

- (1) Motor vehicles, other than service or emergency vehicles, unless permitted in writing by an Officer, may not be driven or parked on any wharf or jetty.
- (2) The maximum gross laden weight of service vehicles permitted on the Akaroa Wharf is 12 tonnes.
- (3) The maximum gross laden weight of service vehicles permitted on the Wainui Wharf is 5 tonnes.
- (4) ~~Vessels are only permitted to lie alongside Akaroa Wharf for a maximum of one hour, unless undertaking maintenance, or with the permission of an Officer.~~ **With respect to Akaroa Wharf, -**
 - (a) **in order to facilitate fair access to that Wharf, a vessel is only permitted to be tied up or lie alongside the Akaroa Wharf for a maximum period of one hour, unless maintenance is being undertaken on that vessel, or with the permission of an officer; and**
 - (b) **clause 5(5) applies and therefore a vessel in excess of 10 metres in length is prohibited from being tied up to or lying alongside the Akaroa Wharf unless any of clauses 5(5)(a) or (b) apply.**
- (5) ~~Vessels in excess of 10 metres in length, for safety reasons, are prohibited from berthing at any wharf unless –~~ **In order to protect the wharf from any undue strain or damage, any vessel [in excess of 10 metres in length] is prohibited from being tied up to or lie alongside any wharf unless, -**
 - (a) *the vessel is of shallow draught and has been given prior written permission by an Officer to berth at **be tied up or lie alongside** the wharf for the purpose only of loading and unloading, or taking on fuel; or*
 - (b) *an Officer gives prior written permission for a specific vessel to do so and the owner or operator of the vessel abides by all conditions contained in the permission for the use of the wharf.*
- (6) Where in the opinion of an Officer there is a possibility that the tying up of a vessel **on and alongside** ~~to~~ the wharf under present or anticipated sea or

weather conditions may impose undue strain or **cause** damage to the wharf, then the owner or operator of the vessel must remove the vessel as requested by the Officer.

- (7) No vessel shall be left unattended at a wharf overnight, unless prior written consent is obtained from an Officer.

6 OBSTRUCTION OF MARINE AND RIVER FACILITIES

No person may leave on or near any marine or river facility any vessel, trailer motor vehicle or any other thing so as to obstruct the reasonable use of that facility.

7 FEES AND CHARGES

- (1) The Council may from time to time, ~~and in accordance with section 150 of the Local Government Act 2002,~~ prescribe fees payable for the use of marine and river facilities.
- (2) Every person who enters or makes use of any marine or river facilities is liable to pay any applicable fees and charges.

8 OFFENCE AND PENALTY

Every person who breaches this bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

9 CHRISTCHURCH CITY COUNCIL GENERAL BYLAW

The provisions of the current version of the Christchurch City Council General Bylaw are implied into and form part of this bylaw.

10 REVOCATIONS AND SAVINGS

(1) The Banks Peninsula District Marine Facilities Bylaw 2002 is revoked.

(2) All approvals, permits, and other acts of authority which originated under the Banks Peninsula District Marine Facilities Bylaw 2002, and all applications, and other acts of parties and generally all documents, matters, acts and things which so originated and are continuing at the commencement of this Bylaw continue to have full force and effect.

(3) The revocation of the Banks Peninsula District Marine Facilities Bylaw 2002 does not prevent any legal proceedings, criminal or civil, being taken to enforce that Bylaw and such proceedings continue to be dealt with and completed as if that Bylaw had not been revoked.

The initial resolution to make this Bylaw was passed by the Christchurch City Council at a meeting of the Council held on 27 March 2008. and was confirmed following consideration of submissions received during the special consultative procedure, by a resolution of the Council at a subsequent meeting of the Council held on [date month 2008].

EXPLANATORY NOTE

This explanatory note is not part of the Bylaw, but is intended to explain its general effect.

Christchurch City's District

The district boundaries of Christchurch City (including the former Banks Peninsula District) extend outward from the land to the line of mean low water springs. The boundaries were extended from the line of mean high water springs to the line of mean low water springs by two Local Government Boundary Alteration Notices, in 1996 and 1997. The boundaries cross the mouths of all harbours, bays, streams, inlets and estuaries, including Lyttelton and Akaroa Harbours.

Activities occurring on the water

Environment Canterbury has responsibility for managing activities that occur on the water, specifically those in the navigable inland waters and coastal marine area. Activities on the water are covered by the Environment Canterbury Navigation Safety Bylaws and Environment Canterbury's Coastal Management Plan.

6.3 REPORT FOR THE PANEL ON THE PROPOSED PARKS AND RESERVES BYLAW

Name and title of author	Date
John Allen, Policy & Leasing Administrator – City Environment Group	30 May 2008

PURPOSE OF REPORT

1. To summarise the Proposed Parks and Reserves Bylaw 2008 and submissions received on the Proposed Bylaw.

SUMMARY OF THE PROPOSED POLICY AND BYLAW

2. The objective of the bylaw is to provide for reasonable controls for the health and safety, and the avoidance of nuisance to the public using Parks and Reserves, to the extent that the controls fulfil the provisions of the Local Government 2002 and appropriate community outcomes. The purpose of the proposed bylaw will be to manage parks and reserves in such a way as to balance the various different, and sometimes competing, lawful uses for which parks and reserves may be used.
3. The proposed bylaw brings together and reviews the seven bylaws or parts of bylaws that are still operative in relation to Parks and Reserves. These bylaws having not been reviewed since the earlier amalgamation of local authority areas in Christchurch in 1989. The bylaws are:
 - Christchurch City Council Bylaw 118 – Parks and Reserves 1981
 - Christchurch City Council Bylaw 120 – Avon Heathcote Estuary and Rivers 1982
 - Banks Peninsula District Council Bylaw – Parks and Reserves 2003
 - Heathcote County Council Bylaw – Reserves 1933 (No.1)
 - Riccarton Borough Council Bylaw (No.1) part 8 Parks and Reserves
 - Waimairi County Council Bylaw (No.1) – 1966 part vii Reserves and Domains
 - Paparoa County Council General Bylaw – 1981 section 15 Reserves.
4. The bylaws currently comprise a collection of relatively diverse matters that may occur in parks and reserves, including: the use of parks and reserves; nuisance in parks and reserves, damage to parks and reserves; and miscellaneous provisions.
5. The clauses from these were assessed to see whether:
 - the issues they were designed to address still exist
 - the issues are significant, either by frequency or seriousness
 - the issues need to be controlled by regulatory means or can be dealt with by other means – that is, whether or not a bylaw is an effective tool
 - the issues are covered by new or amended legislation
 - the clauses are reasonably able to be enforced, and the clauses are consistent with the Bill of Rights.
6. The clauses are addressed in the context of determining a need for a bylaw. The proposed bylaw comprises the clauses that were assessed as necessary within the bylaw context.
7. The proposed Parks and Reserves Bylaw covers the regulation of:
 - appointment of park guardians
 - closing of parks and reserves to the public
 - behaviour in reserves
 - control of protected areas
 - control of animals
 - control of the use of water
 - control of vehicles, other traffic, mechanical devices and vessels
 - prohibition of fires
 - prohibition of camping
 - control of aircraft
 - control of sports and games
 - provisions for special areas:
 - Botanic Gardens
 - Rawhiti Golf Course

8. The proposed Christchurch Parks and Reserves Bylaw 2008 was adopted at the 27th March Council meeting and went out for public consultation for the period 12 April to 14 May 2008.

SUMMARY OF SUBMISSIONS

9. The Council received 9 submissions on the proposed Parks and Reserves Bylaw. These comprised submissions from:
- Individuals (1)
 - Organisations (6)
 - Community boards (2)
10. Submissions on the Bylaw were focussed on:
- Clause 4 – Definitions of the terms Camp and Officer (3)
 - Clause 5 – Reserves open to the public (2)
 - Clause 6 – Behaviour in reserves (2)
 - Clause 7 – Animals (2)
 - Clause 8 – Water (2)
 - Clause 9 – vehicles, other traffic, mechanical devices and vessels (3)
 - Clause 11 – Camping (2)
 - Clause 12 – Tents and booths (2)
 - Clause 13 – Aircraft (1)
 - Clause 14 – Sports and games (1)
 - Special areas (2)
 - Alignment of bylaw clauses to better accommodate areas such as Banks Peninsula Reserves and leased areas (2).

CLAUSE 5 (1)(B) – RESERVES OPEN TO THE PUBLIC

11. The submitter seeks clarification the clause 5(1)(b) provides for exclusive rights of a group who have rights under clause 14 (Sports and Games). The submitter notes that there may be other bylaws that clarify this position but would like to see Clause 5 more explicit in its wording to make specific reference to Clause 14 for avoidance of doubt.

CLAUSE 4 - DEFINITIONS

12. The submissions on the definitions under Interpretation focused on “Camp” and “Officer” and general definitions. In relation to “Camp” concern was raised about the clarity of the definition and the fact it does not take into account the long standing association of camp with habitation, rather than the act of erecting a structure or tent; and that the current definition would mean groups such as Scouts teaching the skills of erecting a tent would need to get written permission to do this.

In relation to “Officer” the submitter called for clarification as to whether it is only the Banks Peninsula Community Boards who appoint reserve committee members and if this is so they request clarification in the clause. In addition one submitter calls for consistency of definitions across all of the different bylaws to avoid confusion.

CLAUSE 6 – BEHAVIOUR IN RESERVES

13. Under this clause one submitter requested that trees not be permitted to be planted in a fire break zone and that any planted should be removed to reduce fire hazard to adjacent residential dwelling(s).

CLAUSE 7 – ANIMALS

14. Two submitters raised concerns about the lack of provisions in the proposed bylaw for activities such as the A&P show and Pony Club to continue without getting regular, specific permission when these activities have a long standing history in the Banks Peninsula area on some reserves. Questions were also raised about the timeline for granted permits. One submitter requests that provision be made under clause 7 for existing events which involve animals to be held.

CLAUSE 8 – WATER

15. Two submitters raised concerns over the Councils intention to prohibit bathing or wading in a reserve where it is not authorised by Council. One submitter felt this was unduly excessive and would be very difficult to enforce. While another submitter noted that bathing and wading would go hand-in-hand with other community activities utilising a reserve.

CLAUSE 9 – VEHICLES, OTHER TRAFFIC, MECHANICAL DEVICES AND VESSELS

16. Submitters on this clause focused on three different areas. The first requesting an extension of the clause to allow goods and service access to the boundary of an adjacent residential dwelling (suggested wording and conditions submitted). The second submitter noted the prescriptive nature of clause 9(4) and suggests that anything outside the prescribed machines could be used without restriction. It was suggested that a definition of mechanical device could be included in the interpretation as an alternative to the list in the clause. The third submitter suggested the use of specific time periods instead of the terms 'wintering' and 'laying up' to aid general public understanding.

CLAUSE 11 – CAMPING

17. The submitter expressed concern that the bylaw is stating that written permission be obtained but there is no information on the timeframes required for application and processing and there is no indication of the grounds on which permission will or will not be granted.

CLAUSE 12 – TENTS AND BOOTHS

18. Concern is raised by submitters at two levels. The first concern being the apparent requirement for groups such as Scouts to need to get permission / pay a fee to participate in regular skill sessions such as erecting tents (as part of their aims and objectives). They request clarification as to the intent of this clause and also a clear definition of structure. The second concern raised focuses on the requirement for any person to apply for separate written permission to erect a stall, booth or tent on a reserve when that person has already made arrangements to hire the ground from the Council eg. local organisation hiring the ground for a carnival. They request that a sub-clause be added to allow for people who hire a reserve to also be permitted to erect tents etc as part of the conditions of hire. They also suggest that if this is the intention of sub-clause (b) then the wording of the sub-clause be clarified.

CLAUSE 13 – AIRCRAFT

19. The submitter is concerned that the Bylaw Aircraft interpretation may preclude them from continuing to take-off and land in certain parks and reserves around Christchurch, as they have done for many years.

CLAUSE 14 – SPORTS AND GAMES

20. This submitter noted that there is no definition of 'sports and games' and expressed concern that the restriction of organised sports games to designated sports fields will unnecessarily impinge on the ability to enjoy physical exercise, play a spontaneous game of sport or participate in organised Scouting games.

SPECIAL AREAS - RAWHITI GOLF COURSE

21. The submitter noted an error under clause 16(2) and suggests the reference should read sub clause (1) rather than sub clause (2).

SPECIAL AREAS – LEASED AREAS WITHIN RESERVES

22. One submitter notes with concern that the terms of the proposed bylaw do not take into account areas in reserves subject to lease agreements, and highlights instances where the terms of the lease agreement and the proposed bylaw may be in conflict. They request this be clarified in the bylaw.

SPECIAL AREAS – COMMUNITY GARDENS

23. One submitter raises the issue that agreements currently in place, such as the Packer Street Community Garden (a community garden on Council Reserve), are not identified and acknowledged in the bylaw and need to be along with any other agreements under the Adopt-a-Park programme.

Attachment one: - Summary of submissions on the proposed Parks and Reserves Bylaw 2008

Section one: submissions from those being heard

- John Leenen (submission no. 6535)
- Lyttelton Sea Scout Group – Michael Davies (submission no. 6533)
- Akaroa-Wairewa Community Board – Stewart Miller (submission no. 6534)
- The Friends of the Park at 125-129 Packe Street Inc – Mrs Kelly Peggy (submission no. 6516)
- Federated Farmers – Pam Richardson (submission no. 6532)
- Canterbury Hang Gliding and Paragliding Club – Rod Stuart (submission no. 6540)

Section two: submissions from those not being heard

- Burwood Pegasus Community Board – David East, Chair (submission no. 6527)
 - Hagley Tennis Club – L V North (submission no. 6539)
 - Canterbury Netball Inc – Penny Devine (submission no. 6295)
-

Section one: submissions from those being heard

- John Leenen (submission no. 6535)
 - Lyttelton Sea Scout Group – Michael Davies (submission no. 6533)
 - Akaroa-Wairewa Community Board – Stewart Miller (submission no. 6534)
 - The Friends of the Park at 125-129 Packe Street Inc – Mrs Kelly Peggy (submission no. 6516)
 - Federated Farmers – Pam Richardson (submission no. 6532)
 - Canterbury Hang Gliding and Paragliding Club – Rod Stuart (submission no. 6540)
-

John Leenen

Comment relates to clause 6 (1)(c): Behaviour in reserves

- Requests that trees not be allowed to be planted in a fire break zone and any that are should be removed immediately as they may be a fire hazard to adjacent residential dwelling(s).

Comment relates to clause 9 (1)(a): Vehicles, other traffic, mechanical devices and vessels

- Requests an extension of the clause to include “or when a necessity of goods and services are required to a boundary of an adjacent residential dwelling provided that an existing sealed road is no more than one hundred metres from that boundary and that accessibility to that boundary is existing and used in the past”.
-

Lyttelton Sea Scout Group (submitted by Michael Davies)

Comments relate to clause 4: Definition of Camp

- Concerned that the definition of camp lacks clarity and does not take into consideration the long standing association if the word camp with habitation rather than the act of erecting a structure or tent.

- Notes that under the present definition the Scouts could not put up a tent on a close or convenient reserve, for the purpose of teaching scouts how to put up a tent, without “written permission”. This would place undue restrictions on the operation of Scout Groups.

Comment relates to clause 11(b): Camping

- Concerned that the bylaw provides no information about the process by which written permission can be obtained, especially in a timeframe required for the applications to be submitted and processed. There is also no indication of the grounds for permission or refusal.

Comments relate to clause 12: Tents and Booths

- Concerned that this section of the bylaw would require Scout Groups to seek permission and possibly pay a fee to carry out weekly activities in support of the aims and objects of the Scout Assoc; and want clarification as to whether this is the intent of the bylaw.
- They note there is no clear definition of a ‘structure’
- They note that one of the rationales for the placement of scout halls has been in close proximity to council reserves so they can offer, amongst other skills, those associated with camping and the outdoors without needing to own large areas of land to provide the space needed

Comments relate to clause 14: Sports and games

- They note the bylaw provides no definition of ‘organised sports games’
- The submitters are concerned that the restriction of organised sports games to designated sports fields preclude Scouting games, or a spontaneous game of soccer or the use of reserves to enable scouts to enjoy physical activity on a regular basis.

Akaroa-Wairewa Community Board – Stewart Miller

Comments relate to clause 7: Animals

- Notes there is no provision in the bylaw for events such as the A&P Show or a Ewe Fair, or any event involving animals on a reserve, without permission being granted by an officer.
- Concern over the impact this will have on regular events such as Pony Club or annual events such as the A&P Show.
- Concern over the lack of information on the length of time permission could be granted for or the frequency a group may have to apply to Council.
- Request that provision under Clause 7 be made for existing events which involve animals to be held.

Comment relates to clause 9(5): Vehicles, other traffic, mechanical devices and vessels

- The Community Board submits that a specific time period should be quoted in the sub-clause, rather than indefinite terms “wintering” and “laying up”. This inclusion would make it easier for the general public to understand the bylaw

Comment relates to clause 4: Definition of Camp / Clause 11: Camping

- The Board submits that the references and definitions eg. camping, caravans, motor homes, should be consistent across the different bylaws to avoid confusion

Comments relate to clause 12: Tents and Booths

- Community Board questions why a person would need to apply for separate written permission to erect a stall, booth or tent on a reserve when that person had already made arrangements to hire the ground from the Council e.g. If a local organisation has hired the reserve for a carnival, why would they then need all the stall holders to also apply?

- The Board submits that an extra sub-clause should be added to Clause 12 to allow for people who hire a reserve to be able to erect such temporary structures as part of the conditions of hire.
 - They also note that if the intent of sub-clause (b) is to cover such occasions, then the wording should be clarified in that sub-clause.
-

The Friends of the Park at 125-129 Packe Street Inc – Mrs Kelly Peggy

Comments relate to: Special Areas

- Concerned that the community garden status of Packe Street and the associated 1998 agreement about this arrangement with CCC Parks Unit is not identified and acknowledged in the bylaw
 - Suggest a new section under special areas be inserted to read “Community Gardens in CCC parks and reserves may be established under the Adopt-a-park scheme with regular formal review of the individual agreement
-

Federated Farmers – Pam Richardson

Comments relate to clause 7: Animals; Clause 8: Water

- General support for the provisions in the bylaw
 - Concern that the objectives of the bylaw do not easily relate to reserves on Banks Peninsula. For example the use of reserves for animal based activities e.g. Pony Club, A&P Show; the multi-use of reserves e.g. animals grazing, people swimming in the creek and vehicles present for events on the show grounds
 - Request further clarification as the rules in the bylaw do not fit comfortably with these types of reserves.
-

Canterbury Hang Gliding and Paragliding Club – Rod Stuart

Comments relate to clause 13: Aircraft

- The submitter is concerned that the Bylaw Aircraft interpretation may preclude them from continuing to take-off and land in certain parks and reserves around Christchurch, as they have done for many years.
-

Section two: submissions from those not being heard

- Burwood Pegasus Community Board – David East, Chair (submission no. 6527)
 - Hagley Tennis Club – L V North (submission no. 6539)
 - Canterbury Netball Inc – Penny Devine (submission no. 6295)
-

Burwood Pegasus Community Board – David East, Chair

Comments relate to clause 4: Definition of Officer

- Clause 4, ‘Officer’, (c) refers to ‘reserve committee members appointed by community boards.’ The Board understands that it is only the two Banks Peninsula community boards that have the Council’s delegated authority to appoint local reserve management committees as subcommittees of each Board. If so, the Board would submit that the wording of this clause should be altered to reflect this circumstance, otherwise it could be assumed that the Council’s intent is to make this applicable to all the community boards.

Comments relate to clause 8(2): Water

- In Clause 8 (2), page 9, the Board notes the intention to prohibit bathing and wading in any water unless authorised by the Council. The Board submits that such a restriction is unduly excessive. If it were to remain it would, in the Board's view, be extremely difficult for the Council to enforce.

Comments relate to clause 9(4): Vehicles, other traffic, mechanical devices and vessels

- Clause 9 (4), page 9 describes a range of mechanical devices that are not to be used in reserves. By being so prescriptive, the Board submits that scope must exist for machines not mentioned, to be used without restriction because they fall outside of what is described in the bylaw. Therefore, a suggested alternative could be to include in the Interpretation section (clause 4) a definition of a mechanical device that could, for example say 'any motorised equipment and portable mechanical plant'.

Comments relate to clause 16: Rawhiti Golf Course

- With regard to Clause 16 on page 11 and the Rawhiti Golf Course, there is a part (2) clause referring to sub clause (2). The Board submits that this is a misprint and should read 'sub clause (1)'.

Hagley Tennis Club – L V North

General Comments:

- Concern that the terms of the proposed bylaw do not take into account areas in reserves subject to leases e.g. Hagley Tennis Club
- The definition of Reserve does not make this clear although it may be its intention
- The Club requests that the Bylaw be amended to make it clear that the general provisions of the Bylaw are to be subject to the provisions of any leases of any reserve areas.

Comments relate to clause 5(1)(b): Reserves open to the public

- Concern that the terms of the proposed bylaw do not take into account areas in reserves subject to leases e.g. Hagley Tennis Club
- Reserve areas subject to leases should not necessarily be constrained by the terms of the bylaw. For example: Clause 5 provides for the Council to exclude public from reserves. The submitter notes that as the area is leased this is a function of the lessee not the Council.

Comment relates to clause 6 (1)(c): Behaviour in reserves

- Concern that the terms of the proposed bylaw do not take into account areas in reserves subject to leases e.g. Hagley Tennis Club
- Clause 6(1)(c) prohibits the scattering of seed of any plant and this would appear to prevent the club from the annual top-dressing of its courts and re-seeding worn areas on the lawn courts.

Comments relate to clause 9(4): Vehicles, other traffic, mechanical devices and vessels

- Concern that the terms of the proposed bylaw do not take into account areas in reserves subject to leases e.g. Hagley Tennis Club
- Many of the Clause 9 provisions relating to vehicles and other mechanical devices are considered not appropriate in relation to area that is leased

Canterbury Netball Inc – Penny Devine

Comments relate to clause 5(1)(b): Reserves open to the public

- The submitter seeks clarification the clause 5(1)(b) provides for exclusive rights of a group who have rights under clause 14 (Sports and Games). The submitter notes that there may be other bylaws that clarify this position but would like to see Clause 5 more explicit in its wording to make specific reference to Clause 14 for avoidance of doubt.
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Attachment 2 - Staff Report on submissions on the proposed Parks and Reserves Bylaw 2008 – for consideration during deliberations

Submission Points	Staff comment / analysis	Suggested amendments to the Bylaw
<p><u>Burwood Pegasus Community Board – David East, Chair</u></p> <p>Comments relate to clause 4: Definition of Officer</p> <ul style="list-style-type: none"> Clause 4, 'Officer', (c) refers to 'reserve committee members appointed by community boards.' The Board understands that it is only the two Banks Peninsula community boards that have the Council's delegated authority to appoint local reserve management committees as subcommittees of each Board. If so, the Board would submit that the wording of this clause should be altered to reflect this circumstance, otherwise it could be assumed that the Council's intent is to make this applicable to all the community boards. 	<p>Suggest this not be limited named community boards as it keeps options open for the future Council administration of reserves. Other boards may appoint reserve committees if at some time in the future Councils decides it wishes to proceed to manage further parks and reserves in this way.</p> <p>Furthermore, if the names of the community boards were to subsequently change, the Bylaw would become out of date.</p> <p>However, officers recommend a small technical amendment to the definition of "officer".</p>	<p>Clause 4</p> <p>Definition of officer - to insert the word "and at the end of paragraph (b) so that definition now reads:</p> <p><i>Officer (a) means an officer appointed by the Council to carry out or exercise the duties of an officer under this Bylaw; and</i></p> <p><i>(b) includes any rangers appointed by the Council under the Reserves Act 1977; and</i></p> <p><i>(c) includes reserve committee members appointed by Community Boards.</i></p>
<p><u>Lyttelton Sea Scout Group (submitted by Michael Davies)</u></p> <p>Comments relate to clause 4: Definition of Camp</p> <ul style="list-style-type: none"> Concerned that the definition of camp lacks clarity and does not take into consideration the long standing association of the word camp with habitation rather than the act of erecting a structure or tent. Notes that under the present definition the Scouts could not put up a tent on a close or convenient reserve, for the purpose of teaching scouts how to put up a tent, without "written permission". This would place undue restrictions on the operation of Scout Groups. 	<p>There are some areas where Council infrastructure (for example, pop-up irrigation) needs to be protected. The Council needs to be able to retain some control over where camping and the erecting of tents takes place.</p> <p>In order to address the submitter's concerns about the application of clause 11 which deals with camping, officers recommend inserting an explanatory note as to the Council's approach to granting permission to groups for education purposes under new clause 18.</p> <p>Officers envisage that the Council will grant "generic permissions" so that a scout group or other like organisations in the city can apply for one permission to cover all of their camping activities on Council parks and reserves for the foreseeable future.</p> <p>However, officers suggest excluding casual shade tents in the definition.</p>	<p>Clause 4</p> <p>Definition of Camp – exclude casual shade tents from definition so that definition now reads:</p> <p><i>"Camp" means to set up a structure, tent (excluding a casual shade tent), caravan, or campervan</i></p>

<p><u>Akaroa-Wairewa Community Board – Stewart Miller</u></p> <p>Comment relates to clause 4: Definition of Camp / Clause 11: Camping</p> <ul style="list-style-type: none"> The Board submits that the references and definitions e.g. camping, caravans, motor homes, should be consistent across the different bylaws to avoid confusion 	<p>For the purposes of this Bylaw, it is considered that the definition of camp is clear and that further definitions of caravan and campervan are not required.</p>	<p>No amendment suggested as a result of this submission.</p>
<p><u>Canterbury Netball Inc – Penny Devine</u></p> <p>Comments relate to clause 5(1)(b): Reserves open to the public</p> <ul style="list-style-type: none"> The submitter seeks clarification of clause 5(1)(b) to provide for exclusive rights of a group who have rights under clause 14 (Sports and Games). The submitter notes that there may be other bylaws that clarify this position but would like to see Clause 5 more explicit in its wording to make specific reference to Clause 14 for avoidance of doubt. 	<p>The rights of leaseholders and licensees of Council parks and reserves should be clarified.</p> <p>If the definition of “reserve” in clause 4 is amended to exclude those parts of reserves that are the subject of a lease then the restrictions in the Bylaw will not apply to those parts of reserves that are not leased. Any leaseholder will be able to govern access to the reserve to which they have specific rights under their lease or licence and this will not be a matter for the Bylaw.</p>	<p>Clause 4</p> <p>Definition of reserve – split the definition into two parts so that reserves which are subject to a lease or licence are excluded from the operation of the bylaw.</p> <p>“Reserve”</p> <p>(a) <i>means any land which is vested in or under the control of the Council and which is set aside for public enjoyment as a reserve, park, garden, or greenspace area, whether or not that land has been vested as a reserve under the Reserves Act 1977;</i></p> <p>but</p> <p><u>(b) does not include any reserve or part of a reserve which is subject to a lease that has been granted by the Council under the Local Government Act 2002 or the Reserves Act 1977.</u></p>
<p><u>Hagley Tennis Club – L V North</u></p> <p>Comments relate to clause 5(1)(b): Reserves open to the public</p> <ul style="list-style-type: none"> Concern that the terms of the proposed bylaw do not take into account areas in reserves subject to leases e.g. Hagley Tennis Club Reserve areas subject to leases should not necessarily be constrained by the terms of the bylaw. For example: Clause 5 provides for the Council to exclude public from reserves. The submitter notes that as a leased area this is a function of the lessee not the Council. 	<p>See comment above.</p>	

<p><u>Hagley Tennis Club – L V North</u></p> <p>Comment relates to clause 6 (1)(c): Behaviour in reserves</p> <ul style="list-style-type: none"> ▪ Concern that the terms of the proposed bylaw do not take into account areas in reserves subject to leases e.g. Hagley Tennis Club ▪ Clause 6(1)(c) prohibits the scattering of seed of any plant and this would appear to prevent the club from the annual top-dressing of its courts and re-seeding worn areas on the lawn courts. 	<p>See comment above.</p>	<ul style="list-style-type: none"> ▪
<p><u>John Leenen</u></p> <p>Comment relates to clause 6 (1)(c): Behaviour in reserves</p> <ul style="list-style-type: none"> ▪ Requests that trees not be allowed to be planted in a fire break zone and any that are should be removed immediately as they may be a fire hazard to adjacent residential dwelling(s) 	<p>This is an operational matter and is not related to this bylaw.</p>	
<p><u>Akaroa-Wairewa Community Board – Stewart Miller</u></p> <p>Comments relate to clause 7: Animals</p> <ul style="list-style-type: none"> ▪ Notes there is no provision in the bylaw for events such as the A&P Show or a Ewe Fair, or any event involving animals on a reserve, without permission being granted by an officer. ▪ Concern over the impact this will have on regular events such as Pony Club or annual events such as the A&P Show. ▪ Concern over the lack of information on the length of time permission could be granted for or the frequency a group may have to apply to Council. ▪ Request that provision under Clause 7 be made for existing events which involve animals to be held. 	<p>It was not the intention to burden community or other groups with excessive numbers of applications in order for events to take place on Council parks and reserves.</p> <p>The concept of “permission” was intended to be broad so as to allow for Council officers to exercise their discretion as to what sort of permission and the duration of the permission may be appropriate in each particular case.</p> <p>Officers envisage that the Council will grant “generic permissions” so that one permission in the bylaw will address the various clauses in the bylaw requiring permission and could authorise a series of regular activities or events. For example, permission to hold an A&P Show in a Council reserve could constitute permission under clause 7, (to bring animals on to the reserve), clause 9 (vehicles on a reserve [other than parking areas etc]), clause 12 (tents, booths etc), and the permission could last for a number of years.</p> <p>To clarify these matters, a new clause could be inserted to set out in more detail what permission may relate to, what must be stated in the permission, and whether it may be reviewed.</p>	<p><u>Clause 7 – Animals</u></p> <p>Add a new subclause (1)(c) so that it is clear that reserves booked for events involving animals will not be caught by the prohibition.</p> <p>Clause 7(1)(b) and (c) to now read as follows:</p> <p>(b) <i>permission has been granted by an officer;</i> <u>or</u> (c) <u>the reserve has been booked for an event allowing the presence of animals.</u></p> <p>New clause – Permissions under this Bylaw</p> <p>Insert a new clause after clause 17 to clarify the content and type of permissions granted under this bylaw.</p> <p>New clause 18 to read as follows:</p>

	<p>Clause 7 could also be amended to provide that animals are allowed on reserves for booked events such as the A&P Show or a Ewe Fair.</p>	<p>18 <u>Permissions under this Bylaw</u> (1) <u>A permission given under this Bylaw may relate to –</u> (a) <u>an activity or event or a series of activities or events, as the case may be;</u> (b) <u>one or more clauses under this Bylaw as are appropriate in the circumstances.</u> (2) <u>Any permission given under this Bylaw may be subject to such terms and conditions as the officer giving the permission thinks fit.</u> (3) <u>The permission must set out –</u> (a) <u>the activity or event which is permitted; and</u> (b) <u>the duration of the permission; and</u> (c) <u>the reserve to which the permission relates.</u> (4) <u>The Council may review any permission given under this Bylaw or carried forward under clause 20(2).</u></p> <p><u>(This is an explanatory note and does not form part of this bylaw. The Council will consider giving generic permissions to groups to enable them to carry out educational activities on Council reserves where those reserves are not dedicated areas for the playing of sport.</u></p> <p><u>If you have an existing permission, authority etc given under a previous bylaw in Christchurch or Banks Peninsula, these existing permissions, authorities, etc have been carried forward under clause 20(2).)</u></p>
<p><u>Federated Farmers – Pam Richardson</u></p> <p>Comments relate to clause 7: Animals; Clause 8: Water</p> <ul style="list-style-type: none"> ▪ General support for the provisions in the bylaw ▪ Concern that the objectives of the bylaw do not easily relate to reserves on Banks Peninsula. For example the use of reserves for animal based activities e.g. Pony Club, A&P Show; the multi-use of reserves e.g. animals grazing, people swimming in the creek and vehicles present for events on the show grounds ▪ Request further clarification as the rules in the bylaw do not fit comfortably with these types of reserves. 	<p>Same comment as above. Also refer to comment below in relation to swimming in creeks, waterways etc.</p>	
<p><u>Burwood Pegasus Community Board – David</u></p>	<p>The intent of this clause was to protect the public from potential health</p>	<p><u>Clause 8 – Water</u></p>

<p><u>East, Chair</u></p> <p>Comments relate to clause 8(2): Water</p> <ul style="list-style-type: none"> In Clause 8 (2), page 9, the Board notes the intention to prohibit bathing and wading in any water unless authorised by the Council. The Board submits that such a restriction is unduly excessive. If it were to remain it would, in the Board's view, be extremely difficult for the Council to enforce. 	<p>issues associated with the Council's waterways in its reserves. Some waterways have been identified as unsafe for skin contact.</p> <p>However, the submitter is correct. It would be very difficult to enforce and probably does not give the Council any added protection in a situation where a person became ill because that person bathed or waded in a waterway in contravention of this provision</p> <p>Officers suggest clause 8(2) be removed.</p>	<p>Delete subclause (2).</p>
<p><u>John Leenen</u></p> <p>Comment relates to clause 9 (1)(a): Vehicles, other traffic, mechanical devices and vessels</p> <ul style="list-style-type: none"> Requests an extension of the clause to include "or when a necessity of goods and services are required to a boundary of an adjacent residential dwelling provided that an existing sealed road is no more than one hundred metres from that boundary and that accessibility to that boundary is existing and used in the past". 	<p>This is not a matter for the bylaw. The Council has Temporary Access Licence Procedures (covers third party access to Council parks and reserves which provides for this eventuality).</p>	
<p><u>Burwood Pegasus Community Board – David East, Chair</u></p> <p>Comments relate to clause 9(4): Vehicles, other traffic, mechanical devices and vessels</p> <ul style="list-style-type: none"> Clause 9 (4), page 9 describes a range of mechanical devices that are not to be used in reserves. By being so prescriptive, the Board submits that scope must exist for machines not mentioned, to be used without restriction because they fall outside of what is described in the bylaw. Therefore, a suggested alternative could be to include in the Interpretation section (clause 4) a definition of a mechanical device that could, for example say 'any motorised equipment and portable mechanical plant'. 	<p>The last part of the sentence refers to "... or any other type of portable mechanical plant or equipment..."</p> <p>Officers consider that the issue from the submitter is already covered in the clause. There is no added advantage in defining the phrase "any motorised equipment and portable mechanical plant" in clause 4 because the phrase is only used in clause 9(4) in any case.</p>	
<p><u>Hagley Tennis Club – L V North</u></p> <p>Comments relate to clause 9(4): Vehicles, other traffic, mechanical devices and vessels</p> <ul style="list-style-type: none"> Concern that the terms of the proposed bylaw 	<p>See the comment above in relation to leased/licensed areas and the suggested amendment to remove these areas from the coverage of the Bylaw.</p>	

<p>do not take into account areas in reserves subject to leases e.g. Hagley Tennis Club</p> <ul style="list-style-type: none"> Many of the Clause 9 provisions relating to vehicles and other mechanical devices are considered not appropriate in relation to area that is leased 		
<p><u>Akaroa-Wairewa Community Board – Stewart Miller</u></p> <p>Comment relates to clause 9(5): Vehicles, other traffic, mechanical devices and vessels</p> <ul style="list-style-type: none"> The Community Board submits that a specific time period should be quoted in the sub-clause, rather than indefinite terms “wintering” and “laying up”. This inclusion would make it easier for the general public to understand the bylaw 	<p>On reading the clause there is an argument that it only relates to the hauling out site and not the actual wintering up or laying up area. The intention was to restrict areas used for the wintering or laying up of vessels to those specially set aside for that purpose or those allowed by prior written permission.</p> <p>Officers suggest an amendment to clause 9(6) to clarify the wording used. However, it is not considered necessary to place a time limit on “wintering up”.</p>	<p><u>Clause 9 - Vehicles, other traffic, mechanical devices and vessels</u></p> <p>Amend subclause (5) so that it no longer refers to the hauling our site. Subclause to now reads as follows:</p> <p>(5) No person may without the prior written permission of an officer use a reserve or the foreshore as a hauling out site for the wintering <u>or laying up</u> of any vessel <u>unless it is in an area specially set aside for this purpose.</u></p>
<ul style="list-style-type: none"> 		
<p><u>Lyttelton Sea Scout Group (submitted by Michael Davies)</u></p> <p>Comment relates to clause 11(b): Camping</p> <ul style="list-style-type: none"> Concerned that the bylaw provides no information about the process by which written permission can be obtained, especially in a timeframe required for the applications to be submitted and processed. There is also no indication of the grounds for permission or refusal. 	<p>This is largely an operational concern but the process for the granting of permissions does need to be put in place and this process needs to be transparent and publicly available.</p>	

<p><u>Lyttelton Sea Scout Group</u> (submitted by Michael Davies)</p> <p>Comments relate to clause 12: Tents and Booths</p> <ul style="list-style-type: none"> Concerned that this section of the bylaw would require Scout Groups to seek permission and possibly pay a fee to carry out weekly activities in support of the aims and objects of the Scout Assoc; and want clarification as to whether this is the intent of the bylaw. They note there is no clear definition of a 'structure' They note that one of the rationales for the placement of scout halls has been in close proximity to council reserves so they can offer, amongst other skills, those associated with camping and the outdoors without needing to own large areas to land to provide the space needed 	<p>See comments above in relation to operational concerns. Also see comments above as to how the permissions regime will work and the suggested new clause 18.</p> <p>However, given that clause 12 deals with tents, booths, structures etc, it should be clarified that if a person obtains permission under clause 11 (camping), permission under clause 12 is not required in relation to the erection of tents.</p> <p>Officers suggest that it may also be helpful to add an explanatory note to the effect that clause 12 is intended to deal with corporate hospitality tents, circus tents and that type of thing.</p>	<p><u>Clause 12 – Tents, Booths</u></p> <p>Add a new subclause (2) to clarify relationship between clauses 11 and 12. New clause 12(2) to read as follows:</p> <p><u>(2) To avoid any doubt, if a person complies with clause 11, that person is not required to comply with this clause.</u></p> <p>Add an explanatory note to this clause which will read as follows:</p> <p><u>(This note is explanatory and does not form part of the Bylaw. This clause is intended to apply to stalls, booths, tents, or structures such as circus or carnival tents and associated structures, and corporate hospitality tents.)</u></p>
<p><u>Akaroa-Wairewa Community Board – Stewart Miller</u></p> <p>Comments relate to clause 12: Tents and Booths</p> <ul style="list-style-type: none"> Community Board questions why a person would need to apply for separate written permission to erect a stall, booth or tent on a reserve when that person had already made arrangements to hire the ground from the Council e.g. If a local organisation has hired the reserve for a carnival, why would they then need all the stall holders to also apply? The Board submits that an extra sub-clause should be added to Clause 12 to allow for people who hire a reserve to be able to erect such temporary structures as part of the conditions of hire. They also note that if the intent of sub-clause (b) is to cover such occasions, then the wording should be clarified in that sub-clause. 	<p>See comments above and also comments in relation to proposed new clause 18.</p>	

<p><u>Canterbury Hang Gliding and Paragliding Club – Rod Stuart</u></p> <p>Comments relate to clause 13: Aircraft</p> <ul style="list-style-type: none"> The submitter is concerned that the Bylaw Aircraft interpretation may preclude them from continuing to take-off and land in certain parks and reserves around Christchurch, as they have done for many years. 	<p>It was never the intention to remove existing permissions or authorities given under prior corresponding provisions in the old bylaws. Therefore, officers suggest inserting a “savings” provision to recognize any permissions/decisions/actions given under the previous bylaws and to preserve the Council’s position in respect of any possible proceedings under the former bylaws.</p>	<p><u>Clause 19 (now 20) – Revocations and savings</u></p> <p>Rename this clause to “revocations and savings”. Add two new subclauses (2) and (3) to read as follows:</p> <p><u>(2) All approvals, permits, and other acts of authority which originated under any of the Bylaws revoked under subclause (1), and all applications, and other acts of parties and generally all documents, matters, acts and things which so originated and are continuing at the commencement of this Bylaw, continue for the purposes of this Bylaw to have full force and effect.</u></p> <p><u>(3) The revocation of any of the Bylaws under subclause (1) does not prevent any legal proceedings, criminal or civil, being taken to enforce those bylaws and such proceedings continue to be dealt with and completed as if the bylaws had not been revoked.</u></p>
<p><u>Lyttelton Sea Scout Group (submitted by Michael Davies)</u></p> <p>Comments relate to clause 14: Sports and games</p> <ul style="list-style-type: none"> They note the bylaw provides no definition of ‘organised sports games’ The submitters are concerned that the restriction of organised sports games to designated sports fields precludes Scouting games, or a spontaneous game of soccer or the use of reserves to enable scouts to enjoy physical activity on a regular basis. 	<p>The clause was not intended to prohibit the impromptu and informal playing of games in Council parks and reserves. However, once games become “organised”, the Council does need to have some control as these should be played on areas where there is the correct surface and where they will not impinge on the rights of others to enjoy the Council’s parks and reserves.</p> <p>Officers suggest adding an explanatory note to the clause which states that this clause does not stop impromptu playing of games on city parks by groups like scouts, guides, youth groups etc.</p>	<p><u>Clause 14 – Sports and Games</u></p> <p>Add an explanatory note to this clause which will read as follows:</p> <p><u>(This note is explanatory and does not form part of the Bylaw. This clause is not intended to prohibit the playing of impromptu games on reserves by groups such as scouts, guides, youth groups, or other recreational or family groups.)</u></p>

<p><u>Burwood Pegasus Community Board – David East, Chair</u></p> <p>Comments relate to clause 16: Rawhiti Golf Course</p> <ul style="list-style-type: none"> With regard to Clause 16 on page 11 and the Rawhiti Golf Course, there is a part (2) clause referring to sub clause (2). The Board submits that this is a misprint and should read 'sub clause (1)'. 	<p>Edit needs to be corrected.</p>	<p><u>Clause 16 – Rawhiti Golf Course</u></p> <p>Amend subclause (2) to correct an incorrect subclause reference.</p> <p>Clause 16(2) to now read as follows:</p> <p>Subclause (2)(1) does not apply ...</p>
<p><u>The Friends of the Park at 125-129 Packe Street Inc – Mrs Kelly Peggy</u></p> <p>Comments relate to: Special Areas</p> <ul style="list-style-type: none"> Concerned that the community garden status of Packe Street and the associated 1998 agreement about this arrangement with CCC Parks Unit is not identified and acknowledged in the bylaw Suggest a new section under special areas be inserted to read "Community Gardens in CCC parks and reserves may be established under the Adopt-a-park scheme with regular formal review of the individual agreement 	<p>These agreements/arrangements should be recognised by the Bylaw and the activities of these groups should not be covered by the bylaw. In a sense these agreements/arrangements constitute a contracting out of clause 6. As it currently stands, clause 6 could also potentially affect the activities of groups like the Summit Road Society and Coast Care.</p> <p>Officers suggest adding a new clause 6(2) to provide that the activities of these groups are not caught by clause 6.</p>	<p><u>Clause 6</u></p> <p>Add the following subclause:</p> <p><u>(2) Subclause (1) does not apply to any volunteer activities in a reserve if the Council has entered into an agreement with any person or body in relation to those activities and those activities are bound by the conditions of the agreement.</u></p>
<p><u>Hagley Tennis Club – L V North</u></p> <p>General Comments:</p> <ul style="list-style-type: none"> Concern that the terms of the proposed bylaw do not take into account areas in reserves subject to leases e.g. Hagley Tennis Club The definition of Reserve does not make this clear although it may be its intention The Club requests that the Bylaw be amended to make it clear that the general provisions of the Bylaw are to be subject to the provisions of any leases of any reserve areas. 	<p>See comments above in relation to the definition of "reserve" and the exclusion of leaseholders and licensees.</p>	

Technical Tidy-ups

Officers have identified the following technical tidy-ups which should be made to the proposed bylaw.

Clause 4 – Interpretation

- Definition of Christchurch City - omit the definition of Christchurch City and insert the following definition:

“Christchurch City” ***means the district of Christchurch City Council***

- Definition of enforcement officer - add the word “this” in the definition of “enforcement officer”. Therefore the definition will now read as follows:

“Enforcement Officer” (a) *means an officer appointed by the Council to enforce the provisions contained in **this** Bylaw; and*

(b) *includes any rangers appointed by the Council under the Reserves Act 1977.*

- Definition of foreshore – add the word "level" to the end of the definition. Therefore the definition will now read as follows:

“Foreshore” *means the land edging the sea, estuaries and rivers that is regularly submerged and exposed by the sea's tidal ebb and flow, that is, the area between the line of mean high water springs level and the mean low water springs **level.***

Clause 5 – Reserves Open To The Public

Amend Clause 5(1)(b) to align the Bylaw to the current Council practice for making fees etc, by deleting the word “advertise”, replacing it with the word “adopted”.

Clause 5 (1)(b) to now read as follows:

- (b) *When the Council has determined that the public are not entitled to enter the reserve or part of it without payment of a fee, the amount for which has been previously **adopted** by the Council or agreed by the person or persons to whom the Council has granted exclusive use of the reserve or part of it; or*

Clause 10 – Fires

Amend clause 10(2) so that it is clear that no person may light a fire in a reserve if there is a fire ban in place.

Clause 10(2) to now read as follows:

- (2) *No person may light a fire **in a reserve** if there is a fire ban in place.*

Clause 13 - Aircraft

Amend clause 13(3) so that it is clear it applies to reserves.

Clause 13(3) to now read as follows:

(3) *Despite subclause (1), a person may operate a power driven model **aircraft in a reserve** if - ...*

Clause 15 – Botanic Gardens

Amend clauses 15(2) and 15(3) so that it is clear that they only apply to the Botanic Gardens.

Clauses 15(2) and 15(3) to now read as follows:

(2) *No person may climb any tree **within the Botanic Gardens**.*

(3) *No person may climb any structure **within the Botanic Gardens**, unless the structure is purposely built for climbing, such as in a playground area.*

Attachment 3 – Proposed Parks & Reserves Bylaw with suggested alterations

CHRISTCHURCH CITY COUNCIL

PARKS AND RESERVES BYLAW 2008

Pursuant to the Local Government Act 2002 and the Reserves Act 1977, the Christchurch City Council makes this Bylaw.

1 SHORT TITLE

This Bylaw is the Christchurch City Council Parks and Reserves Bylaw 2008.

2 COMMENCEMENT

This bylaw comes into force on 1 July 2008.

3 OBJECT

The object of this Bylaw is to provide for the orderly management and control of parks and reserves vested in or under the control of the Council for the benefit and enjoyment of all users of those parks and reserves.

4 INTERPRETATION

In this Bylaw, unless the context requires otherwise-

- | | |
|---------------------|---|
| 'Aircraft' | (a) means any man-made device capable of flight, including, but not limited to aeroplanes, helicopters, gliders, hang-gliders, hot air balloons and radio-controlled model aircraft; but

(b) does not include kites and balloons which are controlled from the ground via strings. |
| 'Animal' | means any mammal, bird, reptile, amphibian, fish or related organism, insect, crustacean or organism of every kind, but does not include a human being. |
| 'Camp' | means to set up a structure, tent (excluding a casual shade tent), caravan, or campervan. |
| 'Christchurch City' | means the district area of Christchurch City Council as defined in the Local Government (Canterbury Region) Reorganisation Order 1989 and any subsequent amendments. |
| 'Council' | means the Christchurch City Council. |

- 'Enforcement Officer' (a) means an officer appointed by the Council to enforce the provisions contained in **this** Bylaw; and
- (b) includes any rangers appointed by the Council under the Reserves Act 1977.
- 'Foreshore' means the land edging the sea, estuaries and rivers that is regularly submerged and exposed by the sea's tidal ebb and flow, that is, the area between the line of mean high water springs level and the mean low water springs **level**.
- ' Officer' (a) means an officer appointed by the Council to carry out or exercise the duties of an officer under this Bylaw; and
- (b) includes any rangers appointed by the Council under the Reserves Act 1977; **and**
- (c) includes reserve committee members appointed by Community Boards
- Park see definition of Reserve.
- 'Reserve' (a) means any land which is vested in or under the control of the Council and which is set aside for public enjoyment as a reserve, park, garden, or greenspace area, whether or not that land has been vested as a reserve under the Reserves Act 1977; **but**
- (b) **does not include any reserve or part of a reserve which is subject to a lease that has been granted buy the Council under the Local Government Act 2002 or the Reserves Act 1977.**
- 'Vehicle' (a) means a man-made device for land transport, including, but not limited to cars, trucks, heavy machinery, motorbikes, bicycles; but
- (b) does not include prams, strollers or wheelchairs.
- 'Vessel' includes, but is not limited to, a ship, boat, hovercraft or any other description of vessel used or designed to be used in the sea or river

5 RESERVES OPEN TO THE PUBLIC

- (1) A reserve will be open to the public at all times, except –
- (a) during such hours as the Council may from time to time otherwise determine; or
- (b) when the Council has determined that the public are not entitled to enter the reserve or part of it without payment of a fee, the amount for which has been previously advertised **adopted** by the Council or

agreed by the person or persons to whom the Council has granted exclusive use of the reserve or part of it; or

- (c) when the Council has determined that it is necessary to temporarily close the reserve or part of it, and has provided appropriate signage to inform the public of such closure.
- (2) No person may enter any reserve or enclosure or place identified as such, which is set apart for the cultivation or protection of plants or other special purposes, and to which the public is not normally admitted, unless he or she has obtained the prior permission of an officer.
- (3) A person must not enter or remain in a reserve while it is closed to the public.

6 BEHAVIOUR IN RESERVES

- (1) No person may, without the prior permission of an officer –
 - (a) bury or disturb any thing in a reserve; or
 - (b) walk on any grass plot or other place within the reserve where walking is prohibited by a notice to that effect; or
 - (c) within any reserve, plant any tree, shrub or plant, or sow or scatter the seed of any tree, shrub, or plant of any kind, or introduce any substance that may be injurious to animal or plant life on the reserve; or
 - (d) bolt, drill, or place any fixture, plaque or sign in a reserve.

(This note is explanatory and does not form part of the Bylaw. This clause should be read in conjunction with the Summary Offences Act 1981, the Crimes Act 1961, the Animal Welfare Act 1999, the Trespass Act 1980 and any statute that generally regulates behaviour that may occur in reserves.)

- (2) **Subclause (1) does not apply to any volunteer activities in a reserve if the Council has entered into an agreement with any person or body in relation to those activities and those activities are bound by the conditions of these agreements.**

7 ANIMALS

- (1) No person may bring any animal into a reserve or allow any animal in his or her custody, charge or control to be within a reserve, unless:
 - (a) a Council bylaw has allowed the animal in the reserve, such as through a dog control bylaw; or
 - (b) permission has been granted by an officer; **or**
 - (c) **the reserve has been booked for an event allowing the presence of animals.**

- (2) The Council (either generally or in any particular case), may seize and confine any loose animal found within any reserve.

(This note is explanatory and does not form part of the Bylaw. For control of dogs upon reserves in Christchurch City see the current version of the Christchurch City Council Dog Control Bylaw.

The Council has the power under the Reserves Act 1977 to make bylaws in respect of reserves located outside Christchurch City where the Council is the administering body of the reserve, eg Kennedy's Bush, Cass Peak, Otahuna Reserve, Coopers Knob, Ahuriri Scenic Reserve, and Orongamai Reserve . Section 94(1)(b) of the Act however makes it an offence to allow an animal to trespass onto a reserve, and therefore a bylaw is not required to control dogs on these reserves.)

8 WATER

- (1) No person may in any manner pollute or otherwise render unfit for use for any purpose (whether for human consumption or not), any water source within any reserve, including, but not limited to rivers, lakes, streams or pools.
- ~~(2) No person may bathe or wade in any water in any reserve except where such bathing or wading is authorised by the Council.~~

9 VEHICLES, OTHER TRAFFIC, MECHANICAL DEVICES AND VESSELS

- (1) No person may take, ride or drive any vehicle into or on any reserve –
- (a) except in areas where vehicles are allowed, such as driveways, parking areas or cycle tracks; or
 - (b) unless permission has been granted by an officer.
- (2) No person may drive or ride a vehicle within any reserve area where vehicles are allowed in a manner, which having regard to all the circumstances of the case, is or might be dangerous to the public or to any person.
- (3) No person may park any vehicle in any reserve except in a place set aside by the Council for the parking of vehicles, or with the permission of an officer.
- (4) No person may in a reserve use or attempt to use any motorised model boat, portable generator, stationary motor, compressor, chainsaw, post hole borer or any other type of portable mechanical plant or equipment except-
- (a) in an emergency; or
 - (b) with the prior permission of an officer.
- (5) No person may without the prior written permission of an officer use a reserve or the foreshore ~~as a hauling out site~~ for the wintering of any vessel, or the laying up of that water-craft.

10 FIRES

- (1) No person may light a fire in a reserve except –
 - (a) in a fireplace specially provided for that purpose; or
 - (b) with the prior written permission of an officer.
- (2) No person may light a fire **in a reserve** if there is a fire ban in place.
- (3) Nothing in this clause applies to any gas fired barbeque or other similar gas cooking device.

(This is an explanatory note and does not form part of this bylaw: This clause above should be read in conjunction with the Forest and Rural Fires Act 1977, which can institute fire bans, and the current version of the Christchurch City Urban Fire Safety Bylaw).

11 CAMPING

No person may camp in a reserve unless –

- (a) it is in an area specifically set aside by the Council for camping, and the person has paid any camping fees set by the Council from time to time; or
- (b) that person has obtained the prior written permission of an officer to do so.

12 TENTS, BOOTHS ETC.

- (1) No person may put up or erect any stall, booth, tent, or structure of any kind in a reserve unless that person has–
 - (a) obtained the prior written permission of an officer to do so; and
 - (b) paid any applicable fees set by the Council from time to time.
- (2) **To avoid any doubt, if a person complies with clause 11, that person is not required to comply with this clause.**

(This note is explanatory and does not form part of the Bylaw. This clause is intended to apply to stalls, booths, tents, or structures such as circus or carnival tents and associated structures, and corporate hospitality tents.)

13 AIRCRAFT

- (1) No person may, without the written permission of an officer, and having paid any applicable fees set by the Council from time to time-
 - (a) land an aircraft in a reserve, or take off in an aircraft from a reserve; or
 - (b) use an aircraft to set down, pick up, or recover anything in a reserve; or
 - (c) parachute into a reserve.
- (2) Nothing in subclause (1) prevents an aircraft from being used in or over a reserve in an emergency situation.
- (3) Despite subclause (1), a person may operate a power driven model aircraft **in a reserve** if-
 - (a) the Council has set aside an area for that purpose, and then only in accordance with such conditions that are set by Council; or
 - (b) with the prior written permission of an officer.

14 SPORTS AND GAMES

- (1) Organised sports games may only be played in areas of reserves set aside as sports ground areas.
- (2) No person may enter or remain on a marked sports ground area in a reserve when an organised sports game is in progress, unless he or she is a player or is administering the game in some capacity (for example, refereeing or providing first aid assistance).

(This note is explanatory and does not form part of the Bylaw. This clause is not intended to prohibit the playing of impromptu games or reserves by groups such as scouts, guides, youth groups, or other recreational or family groups.)

SPECIAL AREAS

Additional provisions dealing with specific parks and reserves or facilities.

15 BOTANIC GARDENS

A plan of the Botanic Gardens is contained in Schedule 1.

- (1) Except with the permission of an officer, no person may within the Botanic Gardens –
 - (a) play any organised sports game; or
 - (b) ride a bicycle.
- (2) No person may climb any tree **within the Botanic Gardens**.
- (3) No person may climb any structure **within the Botanic Gardens**, unless

the structure is purposely built for climbing, such as in a playground area.

(This is an explanatory note and does not form part of this bylaw. Christchurch's Botanic Gardens were established in 1863 and possess a collection of exotic and indigenous plants, many of which are rare, and, as such, require a higher degree of protection than other reserve areas.)

16 RAWHITI GOLF COURSE

A plan of the Rawhiti Golf Course is contained in Schedule 2.

- (1) No person may walk across or remain on any part of the Rawhiti Golf Course unless that person is engaged in a game of golf or is accompanying a person playing golf, or unless they are on a designated public walkway through the golf course.
- (2) Subclause ~~(2)~~ **(1)** does not apply if the Council has waived this clause, in the public interest, for the purposes of a tournament, competition, or any other occasion.

17 BREACHES OF BYLAW

- (1) Every person who breaches this bylaw, must on request by an enforcement officer immediately stop the activity, and leave the reserve if so requested by the enforcement officer to do so.
- (2) Any person failing with all reasonable speed to comply with a request under subclause (1) commits a further offence against this Bylaw.

18 PERMISSION UNDER THIS BYLAW

- (1) **A permission given under this Bylaw may relate to –**
 - (a) an activity or event or a series of activities or events, as the case may be;**
 - (b) one or more clauses under this Bylaw as is appropriate in the circumstances.**
- (2) **Any permission given under this Bylaw may be subject to such terms and conditions as the officer giving the permission thinks fit.**
- (3) **The permission must set out –**
 - (a) the activity or event which is permitted; and**
 - (b) the duration of the permission; and**
 - (c) the reserve to which the permission relates.**
- (4) **The Council may review any permission given under this Bylaw or carried forward under clause 20(2).**

(This is an explanatory note and does not form part of this bylaw. The Council will consider giving generic permissions to groups to enable them to carry out educational activities on Council reserves where those reserves are not dedicated areas for the playing of sport.

If you have an existing permission, authority etc given under a previous bylaw in Christchurch or Banks Peninsula, these existing permissions, authorities, etc have been carried forward under clause 20(2).)

19 CHRISTCHURCH CITY COUNCIL GENERAL BYLAW 2008

The provisions of the current version of the Christchurch City Council General Bylaw are implied into and form part of this bylaw.

20 REVOCATIONS AND SAVINGS

- (1) The following Bylaws revoked by this bylaw

Christchurch City Council Bylaw 118 – Parks and Reserves 1981

Christchurch City Council Bylaw 120 – Avon Heathcote Estuary and Rivers 1982

Banks Peninsula District Council Bylaw – Parks and Reserves 1996

Heathcote County Council Bylaw – Reserves 1933 (No. 1)

Riccarton Borough Council Bylaw (No. 1) part 8 Parks and Reserves

Waimairi County Council Bylaw (No. 1) – 1966 part vii Reserves and Domains

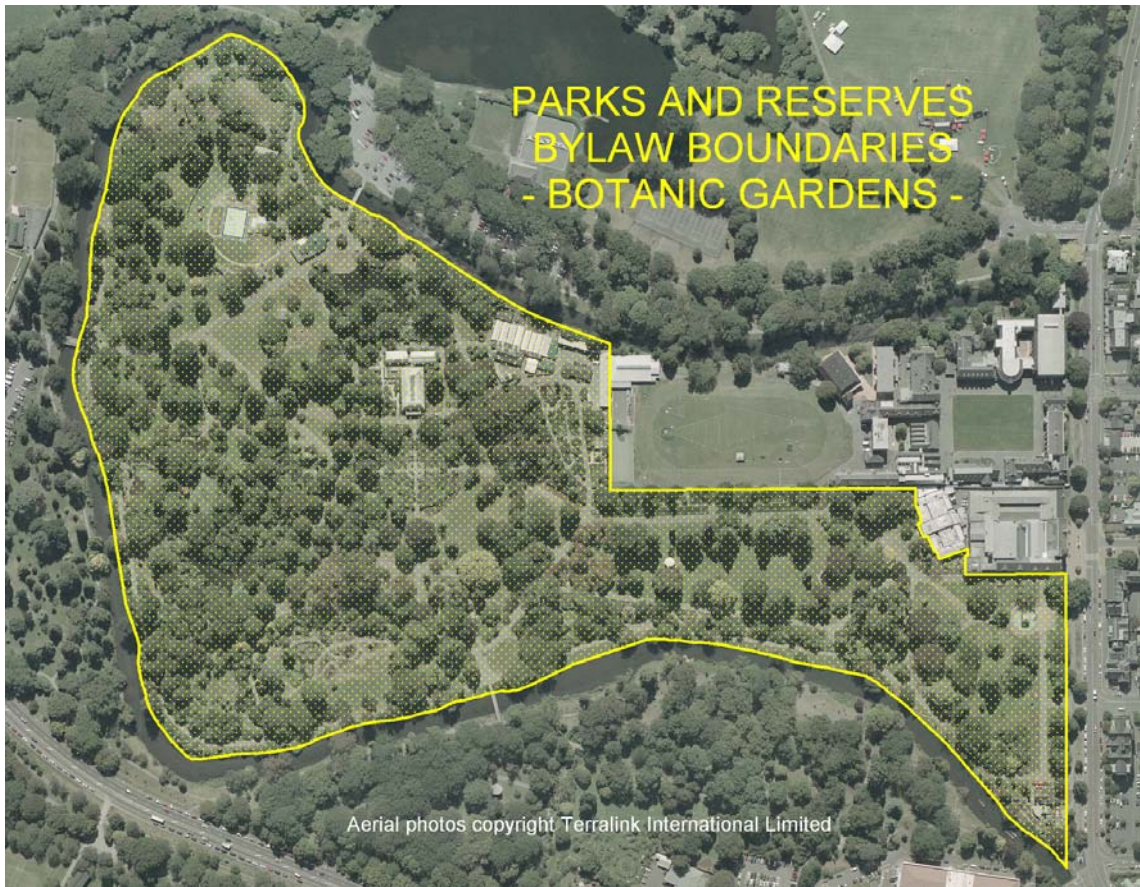
Paparoa County Council Bylaw – 1981 section 15 Reserves

- (2) **All approvals, permits, and other acts of authority which originated under any of the Bylaws revoked under subclause (1), and all applications, and other acts of parties and generally all documents, matters, acts of parties and things which so originated and are continuing at the commencement of this Bylaw, continue for the purposes of the Bylaw to have full force and effect.**
- (3) **The revocation of any of the Bylaws under subclause (1) does not prevent any legal proceedings, criminal or civil, being taken to enforce those bylaws and such proceedings continue to be dealt with and completed as if the bylaws had not been revoked.**

The initial resolution to make this bylaw was passed by the Christchurch City Council at a Meeting of the Council held on 27 March 2008 and was confirmed following consideration of submissions received during the special consultative procedure, by a resolution of the Council at a subsequent Meeting of the Council held on **[insert date]**

SCHEDULE 1

PLAN OF BOTANIC GARDENS



SCHEDULE 2

PLAN OF RAWHITI GOLF COURSE

