

## CHRISTCHURCH CITY COUNCIL

### NOTES OF THE PROCEEDINGS OF THE HEARINGS PANEL RECEIVING VERBAL SUBMISSIONS ON THE PROPOSED CHRISTCHURCH CITY FIRE SAFETY BYLAW 2007

Held on Friday 31 August 2007 at 1pm  
in No 1 Committee Room, Civic Offices

**PRESENT:** Councillors Sue Wells (Chair) and Bob Shearing and  
Mr Stewart Miller (Chair, Akaroa/Wairewa Community Board.)

**IN ATTENDANCE:** David Rolls, Terry Moody, Murray Sinclair, Keith Marshall,  
Alan Bywater and Peter Hines (Secretary).

#### ELECTION OF CHAIR

Moved by Councillor Shearing, seconded by Mr Miller “*that Councillor Sue Wells Chair this meeting of the Hearings Panel*”, which was **carried**.

#### DOCUMENTATION

Members of the Panel had received copies of the written submissions lodged by those who did not want to be heard.

Panel members had also received copies of the written submissions made by the 13 persons or organisations who or which had expressed a wish to make verbal submissions to the Panel. In the event, three of those (Bruce Berryman, Peter Van Rij and Nga Papatipu Runanga Te Runanga O Ngai Tahu) withdrew their requests to be heard, prior to the hearing. A fourth (Sylvia Lukey, on behalf of Kennedy’s Bush Neighbourhood Association) did not attend at the appointed time [and later explained in an email to the Secretary that she had been unable to do so because of an unexpected event. However, she was satisfied that her written submission had received appropriate attention.]

#### BRIEFING

Terry Moody presented an ‘Analysis of Submissions and Officer Comments’ on the matters raised in the submissions received.

The intent of the proposed Bylaw is to control open-air burning, for fire-safety reasons only, in the whole or parts of Christchurch City included in Urban Fire Districts. The proposal is for a more liberal regime than is currently the case under the 2006 Bylaw, in that fires in the open-air would be permitted during the hours of daylight except where and when a prohibition had been imposed by the Council at times of serious or extreme fire hazard. Enactment of the proposed Bylaw would revoke the Christchurch City Fires Bylaw 2006.

The Panel noted that:

- burning in areas outside the Urban Fire Districts is controlled under the Forest and Rural Fires Act 1977; and
- regulation of burning for the purposes of controlling smoke or smell nuisance or general air quality is administered by the Canterbury Regional Council (‘ECan’) under rules.

## VERBAL SUBMISSIONS

- 1. Mark Pickering** has approximately six trailer-loads per year of garden material which he would prefer to be able to burn. He questioned the 'five metre' clearance specified in the proposed bylaw, saying that clear space some 10 metres in diameter is difficult to achieve in many, if not most, suburban situations. Mr Pickering felt that there should be more emphasis on education, particularly about 'fire courtesy' – essentially 'good neighbourliness'. He was concerned that making things too difficult for the owners of large sections would tend to lead to the elimination of large trees in residential areas, disadvantaging the environment.
- 2. JL Hoare** has lived near the top of Hackthorne Road, Cashmere, for 38 years and his property has one adjoining neighbour. He applauded the concentration on fire safety, noting ECan's responsibility for air quality. He would like a system which permitted open-air fires during March/April and September/October, without the need to seek dispensation.
- 3. John Williamson** has owned 3<sup>1</sup>/<sub>2</sub> acres (approx 1.5 hectares) in Avoca Valley for 25 years and prior to the 2006 bylaw (enacted, he noted, with little or no consultation), had always disposed of waste vegetation by fire, about twice a year. In 2006, he sought and received a dispensation. He objects to the proposed bylaw containing a provision that could see the introduction of fees. In his time in the Valley, he had known of only two unwanted outbreaks of fire there; the first, when burglars vandalised and set fire to an empty house and the second caused by someone smoking in bed.
- 4. Mr Lloyd** (who had made no submission, but attended the meeting having seen it advertised in the public notices) was invited to speak to the Panel. He was concerned by the behaviour of a person a few doors away from his home in Halswell. On 31 March 2007 this person had burned old tyres on his property, creating smell, significant air pollution and reduced driving visibility. Mr Lloyd reported that he had telephoned the Christchurch City Council and NZFS (neither of which was prepared to act and referred him on) and ECan's Pollution Hotline (which went unanswered!) He recognised that ECan – not the Christchurch City Council – has responsibility for air quality. He was particularly concerned about a repeat of the 31 March incident, having noted a number of tyres apparently stockpiled at the offending property. Staff noted the address of the person said to have lit the fire, with a view to the Enforcement Unit visiting and, depending on what was found there, liaising with other appropriate authorities.
- 5. Mrs HR Thacker (also representing ATM Thacker)** was concerned about the 2006 bylaw, effectively banning open-air fires without a dispensation, and would welcome its revocation. She felt that Christchurch's large and enthusiastic community of gardeners were helping maintain the 'Garden City' image and being able to burn in March/April and September/October helped them in this.

Although she and her husband did a lot of composting, not everything was suitable for that – diseased plants, for instance. Disposal via refuse stations was not an option for many people either because of cost or accessibility (having a towbar and trailer) or both.

Mrs Thacker was opposed to the provisions in the proposed bylaw which could see application fees introduced for dispensations or other permits. Mrs Thacker questioned the five metre clearance, noting that only a smaller area (say, four metres) was likely to be available to many suburban gardeners. With appropriate water to hand, she felt that a four metre clearance would be manageable and safe.

- 6. Pam Richardson (facilitator for the Banks Peninsula Branch of Federated Farmers)** is pleased to see the intended revocation of the 2006 bylaw. She stressed the important role played on the Peninsula by the Rural Fire Officers, who could also take a lead in educating their communities about fire safety and the presence of hazard conditions. Community Boards, too, could play a similar role. Ms Richardson felt that there should be more prominent signs and notices to ensure that tourists (including campers, who often lit fires), as well as residents, were informed of fire risks – in this regard, she noted particularly the various ‘entrances’ to the Peninsula (eg Hilltop).

Ms Richardson noted that some time ago permission had initially been granted to a coastal resident to hold a fairly large-scale (but nevertheless ‘amateur’) fireworks display, during the time a fire ban was in force. Pressure from the local community caused the initial permission to be withdrawn. Ms Richardson said such a situation should not arise again, with fire safety taking utmost precedence.

- 7. Julian Odering (a Director of Oderings Nurseries Chch Ltd)** made a submission based on the company’s experiences operating large plant- and tree-growing properties both inside and outside the Urban Fire District. A 9-acre (approx 3.6 hectare) property at 116 Philpotts Road has a number of poplar shelter belts, of which about one-sixth are topped and thinned each winter. Larger material is chopped for firewood, whilst smaller material is burned either in spring or autumn when dry. This happens only on windless days and two 1000-litre water tankers with two pumps are on standby. Additionally, hoses are available from the property’s well supply. This year, passing motorists reported their fire by cellphone to NZFS. The visiting fire officer found that everything that was being done was being done correctly and safely. However, a fire ban was in place. A subsequent application for a dispensation was declined. The waste timber remains on the exposed site, where it could be lit by vandals, with considerable risk to properties.

The second property just outside the Urban Fire District is 12 acres (approx 4.8 hectares) at 205 Cashmere Road. There are 60 large macrocarpa, which tend to split easily following strong winds and snow, and there is always a quantity of timber waste needing collection and disposal, some of it blocking waterways (eg Cashmere Stream) and other pieces falling on (and breaking) electric fences. Ideally, controlled burns take place twice a year.

The final property is 50 acres (approx 20.2 hectares) at 45 Old Tai Tapu Road, just outside the city boundary. This year, Oderings Nurseries applied to the Council for a dispensation but was redirected to ECan, who redirected them to Selwyn DC, who referred them to the Department of Conservation (DOC) because the property is within one kilometre of a waterway and the waterway corridor is administered by DOC.

After an inspection, DOC issued an exemption effective 5 April to 31 October, with a lengthy list of conditions. On 10 July, it took the farm manager five hours on the phone to various people to confirm it was alright to light that day. Approval was given but was later countermanded (it is thought by an ECan employee) after the fire had been lit. Oderings Nurseries would like to see the confusion between air quality, fire safety and nuisance ended, with the relevant organisations acting collaboratively.

The Principal Rural Officer undertook to check the location and status of each of the properties mentioned and get back to Mr Odering, with comprehensive advice.

- 8. Lewis Peak (and on behalf of M Blythe)** has a two acre property which was formerly the site of a commercial flower-growing operation. It is surrounded by macrocarpa hedges. Whilst much garden material is composted, this is not possible with all of the waste. They found the 2006 bylaw onerous in its requirement for dispensations and would like to see a return to the earlier provisions of 'fire months' in March/April and September/October. There seemed to be only three options – do nothing (and stockpile, creating greater risk); taking material to the Refuse Station (using polluting vehicles to do so); or mulching (which again would entail vehicle-miles to hire a machine, take it to the property, operate and return it). Mr Peak said that he understood the complications with ECan's conflicting air quality rules, but he hoped that the Council and ECan would get together to discuss the situation. He would be applying for a dispensation tomorrow (1 September) as there was a large stockpile of waste to burn.

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- 10. Ted Allen Adams and Ken Allen Adams (for Fifield Trust).** Mr Ted Allen Adams said that the property "Fifield" at Hawford Road, Opawa, comprises a heritage building surrounded by many mature trees. Plant material waste amounted to about four or five trailer loads a year, which they would choose to burn on two controlled days. Although they composted where possible, burning was the preferred option for some material – ie that which did not compost or was noxious (eg Old Man's Beard), where burning on-site was preferable to transporting the waste elsewhere, with the risk of spreading seeds.

Mr Ken Allen Adams welcomed the move to revoke the 2006 bylaw and fully supported the proposed bylaw allowing open-air burning during daylight hours except at a time of high or extreme fire safety risk. Paradoxically, not being allowed to burn heightened the fire hazard. On their property they used a double-burning incinerator of their own design, which was very safe. In their experience people, including their neighbours, preferred having fires and trees, rather than having no fires and no trees, which was a potential consequence of banning or strictly limiting fires, especially in suburban settings like Opawa where larger, older properties were under threat by development and closer settlement.

On their property they practised holistic environmental care, returning ash to the soil, operating worm farms, etc and took care of the ecology of their property.

He fully appreciated that air quality was the responsibility of ECan (not the Council) and said that he had made submissions to that body which was, he believed, wholly misguided on the question of PM10 particulates. Personally, he believed that humankind had become congenitally tolerant of wood-smoke because of the thousands of years of cooking/heating fires in caves and other non- or poorly-ventilated dwellings.

There being no other persons or organisations present wishing to make verbal submissions, the Chair declared the hearings closed at 4pm.

## DELIBERATION

David Rolls drew attention to one written submission (number 27 – Mike Wyatt) which had identified some grammatical and punctuation errors and it was agreed that the appropriate corrections be made.

Mr Wyatt's other point, in relation to clause 6 (setting out how public notification of any prohibition was to be made) was that notice should be given by radio broadcast **and** by notice in a newspaper, whereas the proposed bylaw had these as alternatives (**or**, rather than **and**.) After discussion, Mr Wyatt's suggestion was not adopted on the ground that notification might well be required in urgent circumstances, where radio was an effective option but the delays inherent in newspaper advertising could not be afforded.

Members of the Panel discussed clauses 6(1) and 6(2) further and, noting the wording of similar provisions in the Rural Fires Act, recommended that the wording in the proposed bylaw be amended to read as follows:

### **“6. PROHIBITION OF FIRES**

- (1) The Council may at any time where in its opinion special reason exists or may exist to prevent the outbreak or spread of fire, prohibit the lighting of fires in the open air for any specified period of time within the whole or any specified part of the city **as described in clause 4.**
- (2) The Council shall give public notice of any prohibition made under clause 6(1) by:
  - (a) broadcast from a ~~national or commercial~~ radio station ~~operating within the district~~ **broadcasting in the locality**; or
  - (b) notice in a ~~daily~~ newspaper circulating ~~throughout the district~~ **in the locality.**”

It was noted that submission number 47 (Andrea Lobb for Nga Papatipu Runanga, Te Rununga O Ngai Tahu) had included the valid point that the plural of hangi is hangi, not 'hangis' as in the heading to clause 9 in the proposed bylaw. It was recommended that this correction be made.

The Panel noted that the 'five metre clearance', about which a number of submitters had complained, had been in the city's bylaws for over 20 years. The Panel also noted the comment of Assistant Fire Commander Mark Chubb, that such a requirement was not “severe or conservative” and that, in his view, “it is more likely to be insufficient, than excessive”. The Panel recommended that the provision be retained.

Minor changes were recommended as follows:

- in clause 4 by the insertion of the word “Act” after the words “the Fire Service”;
- in clause 8, by deleting the comma after the word “shall”; and
- in clause 10(4) by amending “9(1)” to read “10(1)”.

The Panel unanimously confirmed their recommendations to the Council.

The meeting closed at 4.45pm.