Bylaw

OPEN SPACES

TITLE:	Ashburton District Council Open Spaces Bylaw 2016
TEAM:	Open Spaces
RESPONSIBILITY:	Open Spaces Manager
DATE ADOPTED:	1 September 2021
COMMENCEMENT:	1 September 2021
NEXT REVIEW DUE:	1 September 2026

1. Title

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

2. Purpose

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

3. Related documents

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

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5. Application

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

5.2. Council has Reserve Management Plans for reserves owned or managed by Council. These do not form part of this bylaw, but should be referred to by any person interested in the management of Council's reserves.

5.3. This bylaw does not specifically cover regulation of dogs in Open Spaces. This is dealt with by the Dog Control Bylaw.

6. Definitions

In this bylaw, unless the context requires otherwise:

Aircraft means any man-made device capable of flight, including, but not limited to aeroplanes, helicopters, gliders, hang-gliders, kites, hot air balloons, and unmanned aircraft such as drones. It

does not include balloons that are controlled from the ground via strings.

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

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

Bylaw means the Ashburton District Council Open Spaces Bylaw 2016.

Council means Ashburton District Council.

District means the district of the Ashburton District Council.

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

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

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

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

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

Scooters includes foot-powered scooters and electric scooters.

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

7. Entrances and exits

7.1. No person shall willfully obstruct any of the approaches, entrances, exits, thoroughfares, or walkways of any open space.

8. Damage and interference

8.1. Without the prior written permission of Council or an authorised officer, no person, either personally or through any agent under their control or through omission, may:

8.1.1. remove, destroy, damage, deface, obstruct, disturb, or otherwise interfere with any thing, or any part of any thing, in or enclosing any Open Space, including any:
(i) structure or fitting;
(ii) sign, notice, label, inscription, billboard, or placard;
(iii) path, track, step, gravel, sand, soil, or border;
(iv) tree, shrub, or plant of any kind, including taking any part of any tree, shrub, or plant of any kind;
(v) area prepared for any sport or game;
(vi) flora, fish, bird, fauna, or any naturally occurring living thing.

8.1.2. plant any tree, shrub, or plant of any kind, or sow or scatter the seed of any tree, shrub, or plant of any kind, in any Open Space;

8.1.3. deposit offensive or dangerous matter, or cause pollution within any Open Space;

8.1.4. leave any litter within the limits of any Open Space other than in receptacles provided therefor.

8.1.5. pollute or render any open space unfit for purpose or future use, including any stream, dam, pond or fountain in any Open Space;

8.1.6. permit or cause wastage of water or permit any water tap to flow for a longer period than may be reasonably required for the filling of utensils for drinking, cooking, or washing purposes;

8.1.7. bathe, wade or swim in any water in any Open Space where bathing, wading or swimming is prohibited by the Council and a sign or signs to that effect are displayed;

8.1.8. erect, construct, or place in any Open Space any walking track, cycling track or other cycling facility, dam, tree-house, sign, notice, label, inscription, billboard, or placard without the prior written permission of the Council or an authorised officer;

8.1.9. erect, construct or place any fence or structure in any Open Space, except as provided for in 11.1. The erection or modification of any fence on the boundary of an Open Space must be approved by Council or an authorised officer and comply with the Fencing Act 1978.

8.2. Any person to whom the Council grants permission under clause 8.1 must comply with any condition imposed by the Council.

9. Animals

9.1. No person shall bring any animal, or allow any animal to wander or graze or cause damage, within the limits of any Open Space unless:

9.1.1. a Council bylaw has allowed the animal in the area, such as through the Dog Control Bylaw and the related Dog Control Policy; or

9.1.2. Council has authorised the presence of animals through a Reserve Management Plan, licence or other similar document; or

9.1.3. permission has been granted by an authorised officer; or

9.1.4. the Open Space has been booked for an event allowing the presence of animals.

9.2. In the case of any animal or bird protected by the Wildlife Act 1953, no such permission shall be granted under clause 9.1.3 to bring such animal or bird into any Open Space, unless the provisions of that Act have been complied with.

9.3. An authorised officer may seize and confine any loose animal found within any Open Space.

10. Vehicles

10.1. No person shall operate, ride or drive, park or utilise any vehicle other than bicycles or scooters on or in any Open Space except:

10.1.1. in areas clearly signposted and notified as being available for such use
10.1.2. where permission has been granted by an authorised officer.

10.2. Persons may ride bicycles or scooters within any Open Space, except in areas signposted as being prohibited for such use.

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

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

11. Erection of tents and booths

11.1. No person shall camp, place, put up or erect any stall, tent or structure of any kind within an Open Space except:

11.1.1. where permission has been granted by an authorised officer, and then only in accordance with conditions attaching to permission granted; or
11.1.2. in areas where camping is expressly permitted by Council; or
11.1.3. where the temporary structure is intended to assist in protection from weather and sun and will only be in place between 2 hours after sunrise and 2 hours before sunset. The grouping of these structures is permitted so far as they do not create a nuisance, restrict access or impact on the enjoyment of that Open Space by other users.

11.2 Authorised officers have the right to request any structure be removed from any open space at any time.

Explanatory note

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

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

For more information please visit *www.ashburtondc.govt.nz/community-facilities/council-campgrounds*

12. Misbehaviour

12.1. Within the limits of any Open Space, no person shall act in any way that will cause nuisance to any other person. Such actions can include, but are not limited to: the use of obscene language, being under the influence of drugs or alcohol, playing loud music, disrupting others' use of the Open Space, or misbehaving in any way.

12.2. Smoking or vaping is not permitted in some open spaces. These locations are listed in Council's Smokefree Outdoor Areas Policy.

13. Assemblies

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

14. Sports and games and other recreational activities

14.1. The Council or an authorised officer may stop or prevent any sport, game, or other recreational activity being undertaken or played on any part of an Open Space where it is liable to cause damage to the Open Space or anything therein.

14.2. No person shall play any organised sport in any Open Space (or part thereof) that is not set apart for that purpose.

14.3. No person shall play at or engage in or practice sport, game, or other recreational activity on any playing ground or part thereof on any Open Space after being requested by an authorised officer to leave, or when any notice is erected at the main entrance to any Open Space advising that grounds are closed to play.

14.4. No person shall play or practice golf in any Open Space except within such part of an Open Space which the Council has by resolution set aside for that purpose and signposted accordingly.

15. Aircraft

15.1. No person may take off, fly, or land aircraft, remotely piloted aircraft, or any kind of flying machine or glider within any Open Space except in case of emergency or in accordance with the prior permission of the Council or an authorised officer.

15.2. Despite clause 15.1, model aircraft or remotely piloted aircraft may be operated in Council's Open Spaces in compliance with every condition below;

15.2.1. No person shall operate a remotely piloted aircraft:
- 15.2.1.1. within 50 meters of any playground or paddling pool;
- 15.2.1.2. in Council cemeteries;
- 15.2.1.3. in camp ground areas;
- 15.2.1.4. over a sports field if it is in use by others;
- 15.2.1.5. without seeking permission of other users of the Open Space at the time of operation where the operator will capture images;
- 15.2.1.6. when there is booked use of a public area, except where the booking is the user's own;
- 15.2.1.7. if required by an authorised officer to cease operation;
- 15.2.1.8. within the no fly zone in the Ashburton Domain (see map 1).

15.2.2. Unmanned aircraft operators must:
- 15.2.2.1. comply with the Office of the Privacy Commissioner's guidance on preserving peoples' personal privacy by not flying over other people using the Open Space or over adjoining private property without their consent or a Part 102 certification under the Civil Aviation Authority;
- 15.2.2.2. Comply with Civil Aviation Authority Rules;
- 15.2.2.3. Be courteous towards other users who visit the Open Space for quiet enjoyment.

Explanatory note

Civil Aviation Authority Rules Part 101 state that a drone or unmanned aircraft must:

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

If these requirements cannot be met then pilots may apply for a Part 102 Certification. All flights should be recorded on AirShare (*www.airshare.co.nz*).

For more information please visit www.aviation.govt.nz/drones/rules-and-regulations-for-drones-in-new-zealand

16. Public access to open spaces

16.1. Open Spaces will be open to the public at all times except:

16.1.1. during such hours as the Council or authorised officers may from time to time determine; or

16.1.2. as otherwise set out in section 17 of this bylaw.

16.2. No member of the public will limit any other member of the public's lawful access to any Open Space or part thereof without the prior written permission of the Council or authorised officer.

17. Closures and fees

17.1. The Council may close all or any portion of any Open Space, for any period of time it sees fit, for the purposes of limiting public access for a specific purpose or event.

17.2. Any such closure by the Council will be notified to the public.

17.3. The Council may by resolution, for any Open Space, set or vary the conditions of its use or set any reasonable fee it wishes, either temporarily or permanently. Payment of those fees shall be a condition for access to or use of that Open Space.

17.4. Any such variation of conditions or setting of fees by the Council will be notified to the public.

17.5. No person other than an authorised officer going about their duties shall enter or remain in any Open Space while it is closed to the public without paying the prescribed fee (where applicable) or without the prior permission of Council or an authorised officer.

17.6. Any person who enters an Open Space prior to its closure, and who stays in that place, must either pay the prescribed fee (where applicable) or leave that Open Space for the duration of the closure.

18. Breaches of bylaw

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

18.2. Any person who is suspected by an authorised officer of a breach of the provisions of this part of the bylaw shall immediately supply their full name and residential address upon request by an authorised officer.

18.3. Any person who breaches this bylaw may be prohibited from re-entering or returning to the Open Space for such period as the authorised officer shall determine.

18.4. Breaches of this bylaw may also result in an application being made to the District Court for an injunction to restrain such from the activity that they have been involved in.

18.5. Any person who breaches this bylaw may be prosecuted for any such breach and is liable upon summary conviction to a fine, as provided for under the Local Government Act 2002 (which specifies a fine not exceeding $20,000), and may also be liable to penalties under other legislation.

Appendix

Map 1. *Ashburton Domain no fly zone for remotely piloted aircrafts (outlined in red)*

