

REPORT

TO: Chief Executive Officer
FOR: Council Meeting – 27 May 2009
FROM: Bylaw Analyst
DATE: 13 May 2009
SUBJECT: Adoption of the Parks and Reserves Bylaw 2009

1. RECOMMENDATION

- 1.1 That the Council accept for adoption the Parks and Reserves Bylaw 2009.

2. PURPOSE

- 2.1 The purpose of this report is to:

- (i) Provide Council with the final bylaw as prepared by Council's Bylaw Analyst and amended by the Council Hearing Panel Subcommittee for adoption.

3. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

- 3.1 The main object and intent behind the original bylaws has not changed significantly in the proposed new Parks and Reserves Bylaw 2009. While some changes have been made to procedural and administrative areas, and some sections rearranged to assist in clarity, it is considered that the overall intent and principles that created the existing bylaws remain the same.

4. HISTORY/BACKGROUND

- 4.1 The Bylaw Analyst has developed the proposed Parks and Reserves Bylaw 2009 in consultation with a working party consisting of Council staff representing the Asset Management, Building and Regulatory departments.
- 4.2 Preliminary consultation on the draft bylaw was undertaken with Council Committees during August/September 2008.
- 4.3 A report attaching the first draft of the bylaw was provided to the Council meeting of 25 February 2009 requesting that the Special Consultative Procedure be initiated. Council approved the recommendations of the Council meeting of 25 February 2009. Subsequently a sub-committee was formed, consisting of Cr Foster, Cr Philips and Cr Walters.

4.4 The bylaw was publicly notified on 28 February 2009 in Council Call and The Christchurch Press with submissions closing on 30 March 2009. The Council internet site was also utilised.

4.5 Correspondence was also sent to the Council Committees (Reserve, Hall, Township and Community Boards) and key stakeholders for their consideration.

4.6 Submissions

4.6.1 One submission was received. A copy of the summary of the submission was provided to the submitter and to the Hearing Panel Subcommittee.

4.6.2 The submission was not directly relevant to the Parks and Reserves bylaw. This matter identified by the submitter requires to be dealt with as part of a future review of the Dog Control Bylaw. This bylaw currently lists areas where dogs are prohibited including a number of parks, domains and reserves. The inclusion of prohibited areas in the Dog Control Bylaw has been based on information provided by Reserve Management Committees who are responsible for the day to day management of these sites. The main issue raised in the submission related to deposition of offensive matter and is adequately covered by the current Dog Control Bylaw (Section B - Removal of Faeces).

4.6.3 The Hearing Panel proposes that the Regulatory Manager is informed of the submission for a response to be sent to the submitter in regard to the Dog Control Bylaw.

4.7 Hearing and Deliberations

4.7.1 The hearing and deliberations were held on 21 April 2009 at the Rolleston Service Centre. The hearing date was set for 17 April 2009 but was subsequently changed to the same day as the Rural Fire bylaw hearing due to the small number of submissions to be heard at both of the hearings.

4.7.2 The Hearing Panel consisted of Cr Foster, Cr Walters, and Cr Philps with Mrs K Harrison in attendance.

4.7.3 The Hearing Panel considered the submission and then deliberated on the bylaw. A minor typographical error was identified by Cr Walters. Appendix One details the amendment to the bylaw.

4.8 Conclusion

4.8.1 The Bylaw Analyst and the Hearing Panel confirmed one typographical amendment to the bylaw.

4.8.2 No further legal advice was required.

- 4.8.3 A notice will be placed into the Council Call and on the Council website to inform readers that the bylaw will be presented to the Council meeting of 27 May 2009 for final adoption.
- 4.8.4 Correspondence has been sent to the submitter advising them that the bylaw will be presented to the Council meeting of 27 May 2009 for final adoption.
- 4.8.5 The final Parks and Reserves Bylaw 2009 is attached to this report for adoption by the Council (refer Appendix Two).

5. TIMELINE

5.1 The timeline leading to the adoption of the bylaw is detailed below.

Timeline	Selwyn District Council Parks and Reserves Bylaw 2009
27 May 2009 (Council Meeting)	Adoption of the Selwyn District Council Parks and Reserves Bylaw 2009 at its ordinary Council Meeting
13 June 2009	Public notification on the adoption of the Selwyn District Council Parks and Reserves Bylaw 2009 by Council and its commencement date
10 June 2009* (Council Meeting)	Adoption of the Selwyn District Council Parks and Reserves Bylaw 2009 by Council at its ordinary Council Meeting
1 July 2009	Commencement date of the new Selwyn District Council Parks and Reserves Bylaw 2009

** If there are further considerations identified by the Council at the meeting of 27 May 2009, this shall be reported back to Council including recommendations on how to proceed or the final bylaw will be sent for adoption at the Council meeting of 10 June 2009.*

6. VIEWS OF THOSE AFFECTED/CONSULTATION

- 6.1 Public consultation on the bylaws was undertaken between 28 February and 30 March 2009. The general public and specific groups and organisations were invited to make submissions on the proposed new bylaw.
- 6.2 On receipt of the submission a Bylaw Subcommittee consisting of Councillors and Council staff was convened to consider and hear the submission made on the draft bylaw. Based on these deliberations the draft bylaw was amended and refined as necessary.
- 6.3 Consultation with Maori:
- 6.3.1 The Council has entered into discussions with the local Runanga in recognition of our special partnership with Maori.

7. COMMUNITY OUTCOMES

- 7.1 Appendix Three provides for the Community Outcomes and details how the Township Reserves & Streetscapes contribute.

8. NEGATIVE IMPACTS

- 8.1 The bylaw is unlikely to negatively impact on the community as a whole or on the Council activities and will assist in the long term sustainable management of the Parks and Reserves in the Selwyn District.

9. RELEVANT POLICY/PLANS

- 9.1 The current Selwyn District Council Parks and Reserves Bylaws and the draft 1995 Bylaw have been considered as part of the review process.

10. LEGAL IMPLICATIONS

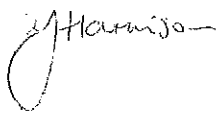
- 10.1 Council have obtained legal advice to ensure that the proposed new Parks and Reserves Bylaw 2009 is consistent with the NZ Bill of Rights Act 1990. Any further amendments to the bylaw as a result of the submission have been finalised with the Hearing Panel. No further advice was required from the Council Solicitor.

11. FUNDING IMPLICATIONS

- 11.1 The recommendations contained in this report do not have any significant funding implications.

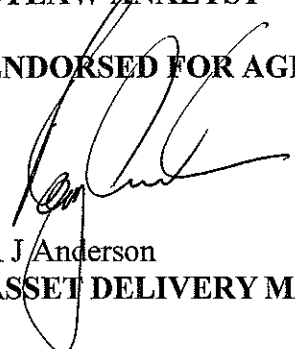
12. HAS THE INPUT/IMPACT FROM/ON OTHER DEPARTMENTS BEEN CONSIDERED?

- 12.1 The Asset Management Bylaw Analyst has developed the proposed new bylaw with Council staff representing Asset Management, Building and Regulatory, Reserve Management Committees and with the assistance of Susan Newell and Kerry Smith of Buddle Findlay (Council Solicitors).



K J Harrison
BYLAW ANALYST

ENDORSED FOR AGENDA



R J Anderson
ASSET DELIVERY MANAGER

APPENDIX ONE

SUMMARY OF AMENDMENTS TO THE DRAFT PARKS AND RESERVES BYLAW 2009

- Amendment to *Title*
- Amendment to *Clause 7.3*

SELWYN DISTRICT COUNCIL PARKS AND RESERVES BYLAW 2009

1. TITLE

- 1.1 A Bylaw of the Selwyn District Council pursuant to the powers and authority vested in the Council by the Local Government Act 2002 and the Reserves Act 1977, and all other Acts, powers and authorities enabling it in that behalf to make a Bylaw to be known as the Selwyn District Council Parks and Reserves Bylaw 2009.

Deleted: by way of Special Order

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Comment [h1]: Reworded to reflect consistency with other bylaws.

2. DATE OF COMMENCEMENT

- 2.1 This Bylaw comes into force on 1 July 2009.

3. APPLICATION OF BYLAW

- 3.1 This Bylaw applies to parks and reserves vested in or under the control of the Selwyn District Council for the benefit and enjoyment of all users of those parks and reserves.
- 3.2 The Council also has policies which it uses as part of the management of the parks and reserves; they do not form part of this Bylaw but should be consulted by any person interested in the management of the parks and reserves.

4. DEFINITIONS

For the purpose of this Bylaw, unless the context otherwise requires:

"Aircraft" means any man-made device capable of flight, including, but not limited to aeroplanes, helicopters, gliders, hang-gliders, hot air balloons and radio-controlled model aircraft, but 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.

"Authorised Officer" means a person appointed by the Council to act on its behalf with its authority

"Camp" means to reside in or sleep overnight in a structure, tent, caravan, campervan or other vehicle.

"Council" means the Selwyn District Council or any officer authorised to exercise the authority of the Council.

"Cycle" means a vehicle that has at least two wheels and that is designed primarily to be propelled by the muscular energy of the rider; and includes a power-assisted cycle.

"Enforcement Officer" means a person appointed by the Council to exercise the power of an enforcement officer in relation to offences against, and offences under, the Local Government Act 2002 and this Bylaw.

"Fauna" means animals of any kind.

"Flora" means plants of any kind.

"Natural water body" means any naturally occurring body of water, including a river, creek, stream, drain or lake.

"Organised sports games" means games that are scheduled by sports codes and/or sports clubs that are played on areas of reserves set aside as sports ground areas.

"Park" has the same meaning as reserve.

"Registered" in relation to a vehicle, means registered under the Transport (Vehicle and Driver Registration and Licensing) Act 1986.

"Reserve" or **"public reserve"** has the same meaning as the Reserves Act 1977 and includes cemeteries, sports grounds, recreation areas and gravel reserves.

"Vehicle" has the same meaning as in Section 2(1) of the Land Transport Act 1998 except that it does not include cycles.

"Wheeled recreational device" means a vehicle that is a wheeled conveyance (other than a cycle that has a wheel diameter exceeding 355 mm) and that is propelled by human power or gravity, and includes a conveyance to which are attached one or more auxiliary propulsion motors that have a combined maximum power output not exceeding 200 W.

5. RESERVES OPEN TO THE PUBLIC

5.1 Reserves are open to the public at all times except;

(a) When the Council has determined that a reserve or any part of a reserve should be closed temporarily, or during such hours as may be nominated by the Council;

(b) When the Council has determined that an entry fee is payable, no one may enter a reserve unless that fee has been paid.

5.2 When the Council closes a reserve or part of a reserve, such closure will be clearly signposted at the entrance(s) to that reserve or closed area.

5.3 No one may enter or remain in a closed reserve or any closed part of a reserve when signage indicates that closure, except with the prior written permission of the Council.

5.4 The Council may temporarily close a reserve or part of a reserve to allow it to be used for a particular purpose in accordance with sections 53 and 54 of the Reserves Act 1977.

5.5 The Council may grant a temporary, non-exclusive licence to occupy part of a reserve, on such terms as it considers appropriate.

6. BEHAVIOUR IN RESERVES

6.1 No person may, in a park or reserve:

- (a) Damage, bury, disturb or remove anything 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) Fix or place any placard, sign, or noticeboard, in, on, or about any reserve,

Unless:

- (e) Prior approval in writing has been granted by the Council; or
- (f) The person or persons is required to carry out the activity for authorised reserve maintenance purposes.

7. VEHICLE CONTROLS WITHIN RESERVES

7.1 No person may drive or ride any vehicle within any reserve in a manner which, having regard to all the circumstances is or might be dangerous to any person.

7.2 No person may drive or ride any vehicle within any reserve in a manner which, having regard to all the circumstances causes or might cause damage to structures, facilities, flora or fauna.

7.3 No person may drive any vehicle in any reserve at a speed in excess of 20 km/h or at a speed contrary to the intent of clause 7.1 or such other speed limit as the Council from time to time indicates by a sign or signs. This limit does not apply to cycles and wheeled recreational devices.

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7.4 No person may stop or park any vehicle within any reserve in such a manner that it causes or is likely to cause an obstruction to any entrance, thoroughfare, path or walkway.

7.5 Where, in the opinion of any authorised officer of the Council, a vehicle (whether complete or not) has been abandoned in any reserve, the officer may take possession of the vehicle and dispose of it in the same manner as provided by Section 356 of the Local Government Act 1974.

7.6 No person may operate a vehicle in a natural water body or on its banks and margins and its associated waters.

7.7 No person may cause a vehicle to enter or exit a natural water body or its associated waters.

7.8 No person may operate the following motor vehicles in any reserve:

- (a) all-terrain vehicles (ATVs)
- (b) tri or quad bikes,
- (c) farm bikes,
- (d) trail bikes,
- (e) any other vehicle that has been designed for off road use
- (f) any vehicle that is not registered
- (g) any vehicle that does not have a current Warrant of Fitness.

Unless:

- (h) prior approval in writing has been granted by the Council; or
- (i) use of such vehicle is required for authorised reserve maintenance purposes.

7.9 A person who does not have a current driver's licence may not operate a vehicle in a reserve.

8. ANIMALS

8.1 The Dog Control Bylaw states the reserves where dogs are prohibited.

8.2 Horses may not be led or ridden on roads in reserves and in areas of the reserve unless the reserve has been specifically identified for that purpose.

9. FIRES

9.1 Pursuant to the Rural Fire Bylaw 2009 the use of fireplaces specifically designed for that purpose are restricted to the open fire season only.

9.2 The use of gas fire barbeques is permitted.

9.3 Despite Clause 9.2 the Principal Rural Fire Officer may prohibit the use of gas barbeques in a prohibited fire season in specified areas when, in his or her opinion, such prohibition is reasonably necessary and in the interest of public safety.

9.3 Lighting of fires in the open air in urban areas is regulated under the Canterbury Regional Council's Air Quality Plan and nothing in this Bylaw has any effect on requirements under that Plan.

10. CAMPING

10.1 No person may camp in a reserve unless:

- (a) It is in an area specifically set aside by the Council for camping where the Council has authorised the presence of camping through a reserve management plan, licence, designated area or other similar document.
- (b) That person has obtained the prior written permission of the Council to do so.

NOTE [not forming part of this Bylaw] – This Clause applies to Camping in Reserves but does not apply to authorised Camping Grounds. Refer to the Selwyn District Council Camping on Reserves R301 Policy.

11. TENTS, BOOTHS, ETC.

11.1 No person may put up or erect any stall, booth, container, tent (excluding any casual shade tent or a tent used for the purpose defined in Clause 10), or structure of any kind in a reserve unless that person has:

- (a) Obtained the prior written permission of the Council for the purpose and installation of the structure; and
- (a) Paid any applicable fees set by the Council.

11.2 To avoid any doubt, if a person complies with Clause 10, that person is not required to comply with Clause 11.1.

NOTE [not forming part of this 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.

12. AIRCRAFT

12.1 No person may, without the prior written permission of the Council, and having paid any applicable fees set by the Council:

- (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.

12.2 Nothing in Clause 12.1 prevents an aircraft from being used in or over a reserve in an emergency situation.

12.3 Clauses 12.1 (a) and (b) do not apply where a reserve has been designated as an airfield under the Reserves Act.

12.4 Despite Clause 12.1 a person may operate 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 permission of the Council; or
- (c) The model aircraft:
 - (i) Is radio controlled and either battery or electric powered; and
 - (ii) Has a total flying weight of not more than 1 kilogram; and

- (iii) Does not cause annoyance or inconvenience to other users of the reserve; and
- (iv) Does not over-fly the boundaries of the reserve; and
- (v) Does not fly from an area in which the Council has by resolution determined that model aircraft should be specifically excluded, and that exclusion is clearly signposted.

13. SPORTS AND GAMES

- 13.1 Organised sport games may only be played in areas of reserves set aside as sports ground areas.
- 13.2 Organised sports games may only be played outside of sports ground areas with the prior approval of the Council.
- 13.2 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).

NOTE [not forming part of this 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.

14. ORDERING OFF

- 14.1 An enforcement officer may order any person to leave a reserve if that person has or may have committed a breach of this Bylaw, and such order is necessary to restore immediate order. Anyone ordered by an enforcement officer to leave a reserve must comply with that order immediately.

15. OFFENCES AND PENALTIES

- 15.1 Every person who breaches this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$1,500.00; and
- 15.2 Every person who is convicted of an offence against this Bylaw is liable for the costs of remedying any damage caused in the course of committing the offence.

16. REPEALS

- 16.1 The Ellesmere County Council General Bylaw 1969 Part XVI Parks and Reserves, Malvern County Council General Bylaw 1987 Chapter 17 Parks and Reserves, Paparua County Council Bylaw 1981 Section 15 Reserves and the Selwyn District Council Vehicle Speed Restrictions and Controls in Reserves Bylaw 2008 are hereby repealed.

The **COMMON SEAL** of the)
SELWYN DISTRICT COUNCIL)
was hereunto affixed, in accordance)
with the Special Order made by the)
Council on _____)
in the presence of:)

_____ Mayor

_____ Chief Executive

Draft with HP Amendments

APPENDIX TWO

- **FINAL BYLAW TO BE ADOPTED BY THE COUNCIL:**

PARKS AND RESERVES BYLAW 2009

SELWYN DISTRICT COUNCIL PARKS AND RESERVES BYLAW 2009

1. TITLE

- 1.1 A Bylaw of the Selwyn District Council pursuant to the powers and authority vested in the Council by the Local Government Act 2002 and the Reserves Act 1977, and all other Acts, powers and authorities enabling it in that behalf to make a Bylaw to be known as the Selwyn District Council Parks and Reserves Bylaw 2009.

2. DATE OF COMMENCEMENT

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or
- (b) Use an aircraft to set down, pick up, or recover anything in a reserve;
or
- (c) Parachute into a reserve.

12.2 Nothing in Clause 12.1 prevents an aircraft from being used in or over a reserve in an emergency situation.

12.3 Clauses 12.1 (a) and (b) do not apply where a reserve has been designated as an airfield under the Reserves Act.

12.4 Despite Clause 12.1 a person may operate 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 permission of the Council; or
- (c) The model aircraft:
 - (i) Is radio controlled and either battery or electric powered; and
 - (ii) Has a total flying weight of not more than 1 kilogram; and

- (iii) Does not cause annoyance or inconvenience to other users of the reserve; and
- (iv) Does not over-fly the boundaries of the reserve; and
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- 15.2 Every person who is convicted of an offence against this Bylaw is liable for the costs of remedying any damage caused in the course of committing the offence.

16. REPEALS

- 16.1 The Ellesmere County Council General Bylaw 1969 Part XVI Parks and Reserves, Malvern County Council General Bylaw 1987 Chapter 17 Parks and Reserves, Paparua County Council Bylaw 1981 Section 15 Reserves and the Selwyn District Council Vehicle Speed Restrictions and Controls in Reserves Bylaw 2008 are hereby repealed.

The **COMMON SEAL** of the)
SELWYN DISTRICT COUNCIL)
was hereunto affixed, in accordance)
with the Special Order made by the)
Council on _____)
in the presence of:)

_____ **Mayor**

_____ **Chief Executive**

APPENDIX THREE

• COMMUNITY OUTCOMES – PARKS AND RESERVES

Community Outcome	How Township Reserves & Streetscapes Contribute
<i>A living environment where the rural theme of Selwyn is maintained</i>	<ul style="list-style-type: none"> • Township reserves and streetscapes contribute to the landscape character of the District and enhancement of rural township environments
<i>Coordination of community/social services</i>	<ul style="list-style-type: none"> • Residents have places for passive recreation and leisure activities to benefit physical and mental wellbeing
<i>An safe living environment</i>	<ul style="list-style-type: none"> • Township reserves provide safe walking and cycling linkages through neighbourhoods

Community Outcome	How Township Reserves & Streetscapes Contribute
<i>A living environment where the rural theme of Selwyn is maintained</i>	<ul style="list-style-type: none"> • Recreation Reserves contribute to the landscape character of the District and enhancement of rural township environments
<i>Coordination of community/social services</i>	<ul style="list-style-type: none"> • Residents have places for physical recreation and leisure activities to benefit physical and mental wellbeing