

Statement of Proposal for the
Proposed
Christchurch City
Council Urban Fire
Safety Bylaw 2014

STATEMENT OF PROPOSAL FOR THE PROPOSED CHRISTCHURCH CITY COUNCIL URBAN FIRE SAFETY BYLAW 2014

This statement of proposal is made under sections 83, 83A, 86, 89 and 156 of the Local Government Act 2002.

SUMMARY OF INFORMATION

The Council proposes to revoke the Christchurch City Council Urban Fire Safety Bylaw 2007 and replace it with the Christchurch City Council Urban Fire Safety Bylaw 2014.

The Council is revoking the Bylaw because, having completed a review of the Bylaw as required by the Local Government Act, there are improvements to the Bylaw that can be made and these are best done within a new Bylaw. The Council also recommends some changes that reflect new circumstances and address the risk of fires from fireworks. The Council's aim with the new Bylaw is to protect public safety by preventing danger from fire.

The Council determined under section 155 of the Act that the new Bylaw is the most appropriate way of addressing the perceived problems identified. The Bylaw is also in the most appropriate form and does not give rise to any implications under the New Zealand Bill of Rights Act 1990.

The proposed new Bylaw will:

- (a) Move the explanatory note from the back of the previous Bylaw to the front, and rename it "Preamble". This preamble is not part of the Bylaw but is intended to indicate its general effect and refers to other restrictions that may apply to the lighting of fires in the open air.
- (b) Add a separate section on fireworks providing for conditions that apply when lighting fireworks.
- (d) Amend Clause 11(2) relating to giving public notice of a prohibited fire season by adding that this information would be also be available on the Council website.
- (e) Exempt more cooking devices such as pizza ovens and other devices which pose a low fire risk when being operated, such as gas-fired appliances.
- (f) Exempt fires for research, training and biosecurity purposes from certain restrictions and conditions.
- (g) Amend Clause 8(b), conditions on fires (outside a prohibited fire season) by reducing from 5m to 3m the distance a fire has to be from buildings, trees, hedges, fences or other combustible material.

Copies of the Proposal

Copies of the Statement of Proposal are available on the Council's website (www.ccc.govt.nz) and can be accessed at all Council Service Centres, Council Libraries and on the Council's website during the consultation period.

Submissions

Submissions on this proposal can be made either:

Online: www.ccc.govt.nz/HaveYourSay/

E-mail: firebylaw@ccc.govt.nz

Post:

Freepost 178
Submissions on the proposed Urban Fire Safety Bylaw
Christchurch City Council
PO Box 73016
Christchurch 8154

Hand Deliver:

The Council Administration Building at 53 Hereford Street or any Library branch or Service Centre

Submissions on this proposal may be made to the Council between 14 July 2014 and 15 August 2014.

It is envisaged that the Council's Hearings Panel will hear oral submissions on the proposal during September 2014.

For further information contact:

Siobhan Storey
Senior Policy Analyst
Strategy and Planning
Phone: 941 8916
Email: siobhan.storey@ccc.govt.nz

STATEMENT OF PROPOSAL FOR THE PROPOSED CHRISTCHURCH CITY COUNCIL URBAN FIRE SAFETY BYLAW 2014

The Council proposes to revoke the Christchurch City Council Urban Fire Safety Bylaw 2007 and replace it with the Christchurch City Council Urban Fire Safety Bylaw 2014.

The Council is revoking the Bylaw because, having completed a review of the Bylaw as required by the Local Government Act, there are improvements to the Bylaw that can be made and these are best done within a new Bylaw. The Council also recommends some changes that reflect new circumstances and address the risk of fires from fireworks. The Council's aim with the new Bylaw is to protect public safety by preventing danger from fire.

A copy of the proposed Bylaw is included at the end of this Statement of Proposal.

Reasons for the proposal

Section 156 of the Local Government Act 2002 requires the Council to use the special consultative procedure when amending a bylaw.

This Bylaw has been reviewed as part of the Council's 10 year Bylaw Review Programme.

A report on the review is included in the section 155 analysis.

The Council is revoking the Bylaw because, having completed a review of the Bylaw as required by the Local Government Act, there are improvements to the Bylaw that can be made and these are best done within a new Bylaw. The Council also recommends some changes that reflect new circumstances, address the risk of fires from fireworks, make some wording improvements, exempts some more outdoor cooking devices, and allows fires for research, biosecurity and training purposes at any time. The Council's aim with the new Bylaw is to protect public safety by preventing danger from fire.

Report on section 155 determination

Introduction

In reviewing an existing bylaw, and when making or amending a bylaw, the Local Government Act 2002 (the Act) requires the Council to go through an analysis in accordance with section 155 of the Act. This requires that the Council must determine whether the bylaw is the most appropriate way of addressing the perceived problem, and once that has been determined, that the bylaw is in the most appropriate form, and it does not give rise to any implications under the New Zealand Bill of Rights Act 1990. A s155 analysis has been undertaken for the review of the current Urban Fire Safety bylaw and in respect of the proposed new Bylaw.

The Urban Fire Safety Bylaw 2007 was introduced in 2007 to replace the Christchurch City Fires Bylaw 2006.

As a result of the review of the 2007 Bylaw Council has determined that the Bylaw should be revoked and replaced with a new Urban Fire Safety Bylaw 2014. The proposed Bylaw makes some changes to the 2007 Bylaw to include matters that were not addressed in that Bylaw or make the Bylaw easier to read.

The perceived problems

The problem, at a broad level, is that at certain times of the year, and as a result of certain practices, the safety of people and property can be compromised by fires that are lit in the open air. To address this problem the 2007 Bylaw currently provides for prohibitions to be made on lighting fires in the open air for the urban and residential areas at a time of potentially serious or extreme fire conditions for a specified period within the whole or any specified part of the territorial area. It also places restrictions relating to the placement and times of operation for fire safety reasons. Traditional cooking fires and barbecues are excluded

from the open air definition but operations of these are controlled for fire safety reasons.

The proposed Bylaw intends to continue many provisions of the 2007 Bylaw but also proposes including a separate section on fireworks, including conditions that apply when lighting fireworks, exempting more cooking devices such as pizza ovens and other devices which pose a low fire risk when being operated, and exempting fires for research, training and biosecurity purposes from certain restrictions and conditions. It also includes new definitions and clarifies the existing definition of fire in the open air. A clause by clause analysis of the current Urban Fire Safety Bylaw and the proposed new bylaw is attached at the end of this s155 determination.

Further analysis of the proposed Bylaw and the problems it seeks to address are discussed below.

The proposed Bylaw will:

- (a) Move the explanatory note from the back of the Bylaw to the front, and rename it "Preamble". This preamble is not part of the Bylaw but is intended to indicate its general effect and refers to other restrictions that may apply to the lighting of fires in the open air.

This rearrangement provides useful information for any person wanting to know about the Bylaw and what it applies to. The preamble also has links to maps showing the various fire districts so people can easily find out which fire district they are in.

- (b) Add a separate section on fireworks, providing for conditions that apply when lighting fireworks.

Currently the Bylaw is silent on anything to do with fireworks and fireworks pose a significant fire risk, especially when they are lit during the spring and summer months. The conditions ensure that fireworks are lit safely.

- (c) Amend Clause 11(2) in the 2007 Bylaw relating to giving public notice of a prohibited fire season by adding that this information will also be available on the Council website.

These days many people get up-to-date information through the Internet.

- (d) Exempt more cooking devices such as pizza ovens and other devices which pose a low fire risk when being operated.

More cooking devices that pose a low fire risk are commonly being used.

- (e) Exempt fires for research, training and biosecurity purposes from certain restrictions and conditions.

This is a practical addition to the bylaw. For example, if there is a disease outbreak such as infected beehives, the best way to combat the outbreak may be to burn the infected hives.

- (f) Amend Clause 8(b) of the 2007 Bylaw, conditions on fires (outside a prohibited fire season) by reducing from 5m to 3m the distance a fire has to be from buildings, trees, hedges etc.

Advice from the Principal Rural Fire Officer is that a 3m distance from such structures is ample.

- (g) Amend Clause 10 of the 2007 Bylaw, disposal of waste, by amalgamating the two sub-clauses into one.

This simplifies the clause and makes it easier to read.

Is a bylaw the most appropriate way to address the perceived problems?

For the reasons set out above and in the clause by clause analysis, the Council has determined that the proposed Bylaw is the best way to address possible issues in the wider city area to do with fire hazards and fire safety.

There have been no issues with the current bylaw, and although other education tools could also address some of the perceived problems, education materials cannot provide for an enforcement response, if required. The additional provisions included in the proposed bylaw enhance the Council's ability to promote fire safety measures.

Appropriate form of Bylaw and New Zealand Bill of Rights Act considerations

The Council considers the proposed Bylaw is in the most appropriate form. The Council considers the proposed Bylaw may give rise to implications under the New Zealand Bill of Rights Act 1990 (NZBORA) as it introduces restrictions on the lighting of fireworks and clarifies that releasing a paper (Chinese) lantern into the air is a "fire in the open air" under the Bylaw. These provisions could be regarded as limiting the right to freedom of expression in section 14 of NZBORA (or possibly the right to right to manifest a religion or belief under section 15). However, the Bylaw does not prohibit the lighting of fireworks or the lighting of a paper lantern; it only imposes conditions to ensure fireworks are lit safely, and restricts the release of paper lanterns into the air.

Submissions

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Online: www.ccc.govt.nz/HaveYourSay/

E-mail: firebylaw@ccc.govt.nz

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Preamble

This preamble is not part of the bylaw, but is intended to indicate its general effect and refers to other restrictions that may apply to the lighting of fires in the open air.

1. This bylaw applies to the nine urban fire districts of Christchurch City territorial area: Christchurch, New Brighton, Sumner, Brooklands, Lyttelton, Diamond Harbour, Governor's Bay, Little River and Akaroa. (See the maps attached (at [hyperlink](#))). The above predominantly urban areas are administered by the New Zealand Fire Service under the Fire Service Act 1975. The bylaw does not apply to the rest of the Council's territorial area as fire control for rural parts of Christchurch City is covered by the Forest and Rural Fires Act 1977 and the Forest and Rural Fires Regulations 2005. More detailed information about the exact coverage of the bylaw (particularly borderline locations) can be obtained by contacting the Council through its information phone line, 941 8999
2. This bylaw relates to fire safety only. Environment Canterbury (the regional council) also has restrictions on the lighting of fires in urban areas for 'clean air' purposes. Anyone lighting an open air fire has to comply with the rules of the Regional Plan in addition to this bylaw. More information about the Regional Plan rules on lighting fires outdoors can be found at <http://ecan.govt.nz/advice/your-land/outdoor-burning-fires/Pages/Default.aspx> or by phoning Environment Canterbury on 03 353 9007 or toll free on 0800 324 636.
3. If a fire is to be lit in the open air within 1 kilometre of Crown land then permission may also be required to light that fire from the Department of Conservation.
4. Christchurch City Council, in addition to controlling the lighting of fires under this bylaw, can also require people to reduce fire risk on their properties under provisions in the Local Government Act 2002 relating to fire safety:
 - Section 183 enables the Council to give notice to require an owner or occupier to remove any growth or matter that could become the source of danger in a fire. "Growth" and "matter" are defined in this section.
 - Section 186 enables the Council to carry out the work and to recover costs, where the owner or occupier don't comply with a Section 183 notice.

Pursuant to the powers vested in it by the Local Government Act 2002 the Christchurch City Council makes this bylaw.

1. SHORT TITLE

This bylaw may be cited as the Christchurch City Council Urban Fire Safety Bylaw 2014.

2. COMMENCEMENT

This bylaw comes into force on X 2014.

3. OBJECT OF BYLAW

The object of this bylaw is to protect public safety by preventing danger from fire.

4. APPLICATION OF BYLAW

This bylaw only applies to those parts of the district which are a fire district declared or constituted under section 26 of the Fire Service Act 1975.

5. INTERPRETATION

In this bylaw, unless the context otherwise requires:

Barbecue means a fixed or portable gas fired or solid fuel burning appliance or device designed or intended for the cooking of food in the open air

Council means the Christchurch City Council

District means the district for which the Council is the territorial authority

Fire in the open air does not include a fire within:

- (a) A fireplace or incinerator constructed and maintained in a dwelling or other structure or any other place to the approval of the Council; or
- (b) A barbecue; or
- (c) A hangi; or
- (d) A pizza oven; or
- (e) Any other self contained device that does not use solid fuels; and

to avoid doubt, a fire in the open air does include setting on fire any paper lantern, such as a Chinese lantern, which is being released into the open air.

Firework has the same meaning as in the Hazardous Substances and New Organisms Act 1996 and the Hazardous Substances (Fireworks) Amendment Regulations 2004:

An object containing small quantities of hazardous substances with explosive properties enclosed in a case of paper or similar material of such a strength, construction, and character that the ignition or explosion of one such firework will not cause the explosion en masse of similar fireworks kept or carried with it, and whose sole or principal effect is not percussive or vertical or horizontal flight. A firework includes any pyrotechnic novelty or noise maker.

Hangi includes an umu

Occupier in relation to any premises, includes any tenant, agent, manager, foreperson or other person acting or apparently acting in the general management or control of the premises

Pizza oven includes any similar enclosed device designed or intended for cooking food in the open air

Premises means both land and buildings and any part thereof

6. CONDITIONS ON FIRES IN THE OPEN AIR

- (1) Unless a prohibition under clause 13 is in force a person may light a fire in the open air only if all of the following conditions are met:
 - (a) the fire must not, by reason of its location, risk of spread, or prevailing circumstances of wind or otherwise, constitute or be likely to constitute a danger to any person or property;
 - (b) the fire must not be within three metres of any part of a building, tree, hedge, fence or any other combustible material;
 - (c) the fire may not be lit before sunrise and must be completely extinguished by sunset;
 - (d) there is immediately available a water supply connected to a hose;
 - (e) the fire is adequately supervised at all times until it is completely extinguished.
- (2) Unless the conditions in clause 6(1) are met, a person who is the owner or occupier of any premises must not permit or allow any fire to be lit or continue to burn at the premises.

7. CONDITIONS FOR LIGHTING BARBECUES, PIZZA OVENS AND HANGI AT ANY TIME

- (1) At any time, even if a prohibition is in force under clause 13, a person may use a barbecue, pizza oven or make a hangi if all of the following conditions are met:
 - (a) the barbecue, pizza oven or hangi must not, by reason of its location, inadequate containment, or prevailing circumstances of wind or otherwise, be or likely to be a danger to any person or property;
 - (b) there is immediately available a water supply;
 - (c) adequate supervision is maintained at all times while combustion is occurring.
- (2) Unless the conditions in clause 7(1) are met, a person who is the owner or occupier of premises must not permit or allow the use of any barbecue, pizza oven or the making of any hangi on those premises.

8. CONDITIONS ON LIGHTING FIREWORKS

- (1) At any time, even if a prohibition is in force under clause 13, a person may set on fire any fireworks if all of the following conditions are met:
 - (a) the fireworks must not, by reason of their location, risk of spread, or prevailing circumstances of wind or otherwise, constitute or be likely to constitute a danger to any person or property;
 - (b) the fireworks must not be within two metres of any part of a building, tree, hedge, fence or any other combustible material;
 - (c) there is immediately available a water supply connected to a hose;
 - (d) the fireworks are adequately supervised at all times until they have completely burned out.
- (2) Unless the conditions in clause 8(1) are met, a person who is the owner or occupier of any premises must not permit or allow any fireworks to be set on fire or to continue to burn at the premises.

9. NO FIRE TO BE LIT IN BREACH OF ANY OTHER LEGISLATION

Nothing in clauses 6, 7 or 8 of this Bylaw authorises the lighting of any fire in the open air, firework, barbecue, pizza oven or hangi if doing so would constitute a breach of any Act or regulation (including any rule in a district or regional plan under the Resource Management Act 1991).

10. EXEMPTIONS FROM CERTAIN RESTRICTIONS AND CONDITIONS

- (1) On application, the Council may issue to any person an exemption from the requirements of clauses 6, 7 and 8 of this Bylaw.
- (2) An application for exemption under clause 10(1) must be in writing in such form as the Council determines.
- (3) The Council may charge an application fee for an exemption under clause 10(1).
- (4) The Council may issue an exemption under clause 10(1) subject to such conditions as it considers appropriate.
- (5) Every exemption issued under clause 10(1) must be in writing and will specify the conditions, if any, upon which the exemption is issued.

11. HOT ASHES

No person may place on any premises, and no person being the owner or occupier of any premises may permit or allow to remain on those premises, any hot ashes, live cinders, or embers unless they are contained in such a manner as will prevent the spread of fire or heat to any flammable or combustible material.

12. DISPOSAL OF WASTE

No person may place, or permit or allow to be placed, any hot ashes, live cinders, embers, explosive, or highly flammable material

- (a) in any refuse receptacle in any public place; or
- (b) in any other container that is left in a public place.

13. PROHIBITION OF FIRES

- (1) The Council may at any time prohibit the lighting of fires in the open air, within all or any parts of the Council's district referred to in clause 4 of this Bylaw, to prevent the outbreak or spread of fire.
- (2) The Council will give public notice of any prohibition made under clause 13(1) by:
 - (a) broadcast from a radio station broadcasting in the area subject to the prohibition; or
 - (b) notice in a newspaper circulating in the area subject to the prohibition; and
 - (c) notice on the Council's website and any other social media website as determined by the Council.
- (3) The Council may at any time in the manner provided in clause 13(2) vary or cancel any prohibition made under clause 13(1).
- (4) Except where a fire is permitted under this Bylaw, or when the Council has issued an exemption under clause 15, no person may cause, permit or allow any fire to be lit at premises owned or occupied by that person, or allow any fire to continue to burn at those premises in contravention of any prohibition made under this clause.

14. FIRES PERMITTED FOR RESEARCH AND TRAINING PURPOSES AT ANY TIME

- (1) At any time, even if a prohibition is in force under clause 13, fires for fire fighting research and fire fighter training are permitted provided the following conditions are met:
 - (a) the fire must be under the control of a recognised body authorised to undertake fire fighting research or fire fighting training activities such as the Rural Fire Authority, New Zealand Fire Service, Department of Conservation, or Christchurch International Airport Authority, and
 - (b) the lighting of any fire under this clause does not breach any rule in a regional plan under the Resource Management Act 1991.

15. EXEMPTION FROM PROHIBITION

- (1) On application, the Council may issue to any person an exemption from a prohibition imposed under clause 14 where it is satisfied that:
 - (a) the fire is urgently required to prevent, reduce or overcome any hazard to life, health, property or the environment; and
 - (b) the use of fire is the most efficient and effective means to reduce any risk of hazard to life, health, property or the environment.
- (2) An application for exemption under clause 15(1) must be in writing in such form as the Council determines unless, because of the urgency of the situation, the Council allows an alternative form of application.
- (3) The Council may charge an application fee for an exemption under clause 15(1).
- (4) The Council may issue an exemption under clause 15(1) subject to such conditions as it considers appropriate.
- (5) Every exemption issued under clause 15(1) must be in writing and will specify the conditions, if any, upon which the exemption is issued.

16. 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, as set out in the Local Government Act 2002.

17. CHRISTCHURCH CITY GENERAL BYLAW

The provisions of the Christchurch City General Bylaw 2008 and any bylaw passed in amendment or substitution are implied into and shall form part of this bylaw.

18. SAVINGS

Nothing in this bylaw derogates from or otherwise affects any prohibition or restriction issued in respect of the lighting of fires in the open air, or setting on fire any material, under the provisions of the Forest and Rural Fires Act 1977 and any amendments thereto and the Forest and Rural Fires Regulations 2005 and any amendments thereto.

19. REVOCATION

The Christchurch City Urban Fire Safety Bylaw 2007 is hereby revoked.

The initial resolution to make this bylaw was passed by the Christchurch City Council at a meeting of the Council held on 26 June 2014 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 on {insert date} 2014.

Submission Form

PLEASE READ BEFORE COMPLETING YOUR SUBMISSION

We want to hear your thoughts about the changes we are proposing in this bylaw. Please send us your submission between Monday 14 July 2014 and 5 pm on Friday 15 August 2014. You can write your submission on this form and/or on paper, remembering to put your name on it, and make sure we get it no later 5 pm on 15 August, 2014. We cannot take submissions that have no name on them.

Whether you use the submission form or not, you must give us your full name, address and telephone number. It is also helpful if you refer to the specific page(s) or section(s) of the proposed bylaw. If you are submitting on behalf of an organisation, please tell us this, and what your role is in the organisation.

We must get your submissions at the 53 Hereford Street Civic Offices no later than 5 pm on 15 August 2014. We cannot accept your submission after this time, even if it is postmarked for that day. If you think it might arrive too late by post, hand deliver it to the 53 Hereford Street Civic Offices.

By law, we must let the public and Councillors see all written or electronic submissions. They will also be able to see your name and address. If you believe you have compelling reasons why we should keep your contact details and/or submission confidential, please phone the Council's Hearings Team on 941 8999 or 0800 800 169 if you live in Banks Peninsula.

You can send your submission:

On the internet

Go to "Have Your Say" website and follow the instructions to fill in the form: www.ccc.govt.nz/HaveYourSay

By email

Please email your submission to: firebylaw@ccc.govt.nz

By post

Please post your submission (no stamp is needed) to:
 Freepost 178
 Submissions on the proposed Urban Fire Safety Bylaw
 Christchurch City Council
 PO Box 73016
 Christchurch 8154

You can submit from Monday 14 July 2014 to 5pm on Friday 15 August 2014

Your submission

If you wish, you can also present your submission in person to a committee of the full Council. If you do want to speak about your submission, please tick the appropriate box below. You will have five to ten minutes to tell the Councillors about your thoughts. That includes time for the Councillors to ask you questions. We will confirm the date and time of your hearing in writing, by email or by telephone call.

Tick I do NOT wish to discuss my submission at the hearing, and ask that this written submission be considered
 one OR
 I wish to discuss the main points in my written submission at the hearings

I am completing this submission: For myself On behalf of a group or organisation

If you are representing a group or organisation, how many people do you represent?

My submission refers to:

Page(s) Clause(s) Schedule(s)

Your name

Organisation name (if applicable)

Organisation role (if applicable)

Contact address

Postcode

Phone number (day) Phone number (evening)

Email (if applicable)

Signature Date

The Council is proposing to pass a new bylaw called the Christchurch City Council Urban Fire Safety Bylaw 2014. It will replace the current Christchurch City Council Urban Fire Safety Bylaw 2007.

The Council aims to use the new bylaw to protect public safety by preventing danger from fire. The proposed bylaw recommends some changes that reflect new circumstances and addresses the risk of fires from fireworks.

Please tell us whether you agree or disagree with having a new bylaw that:

- sets conditions that apply when lighting fireworks
- exempts more cooking devices such as pizza ovens and other devices which pose a low fire risk when being operated, such as gas-fired appliances
- exempts fires for research, training and biosecurity purposes from certain restrictions and conditions.

Below are three questions about the proposed bylaw. Please tick the option you agree with, and add any comments you have.

Proposal to have a new bylaw

1. The Council should have a new bylaw that sets conditions that apply when lighting fireworks.

I agree that the Council should have a new bylaw that sets conditions that apply when lighting fireworks

Comments _____

I agree, but I don't agree with some of the provisions in the draft bylaw

Comments _____

I disagree that the Council should have a new bylaw

Comments _____

I disagree, because the bylaw will not be effective

Comments _____

I neither agree nor disagree

Comments _____

Other

Comments _____

2. The Council should have a new bylaw that exempts more cooking devices such as pizza ovens and other devices which pose a low fire risk when being operated, such as gas-fired appliances.

I agree that the Council should have a bylaw that exempts more cooking devices such as pizza ovens and other devices which pose a low fire risk when being operated, such as gas-fired appliances

Comments _____

I agree, but I don't agree with some of the provisions in the draft bylaw

Comments _____

Submission Form

I disagree that the Council should have a new bylaw

Comments _____

I disagree, because the bylaw will not be effective

Comments _____

I neither agree nor disagree

Comments _____

Other

Comments _____

3. The Council should have a new bylaw that exempts fires for research, training and biosecurity purposes from certain restrictions and conditions.

I agree that the Council should have a new bylaw that exempts fires for research, training and biosecurity purposes from certain restrictions and conditions

Comments _____

I agree, but I don't agree with some of the provisions in the draft bylaw

Comments _____

I disagree that the Council should have a new bylaw

Comments _____

I disagree, because the bylaw will not be effective

Comments _____

I neither agree nor disagree

Comments _____

Other

Comments _____

You may add more pages if you wish. Thank you for your submission.

