

1. WINDBREAK OUTSIDE 'THE BOULEVARD' ON OXFORD TERRACE

At the meeting of the Sustainable Transport and Utilities Committee on Tuesday 27 November 2001, that Committee considered a report on an application by the owners of 'The Boulevard' for a variation in their licence to occupy legal road. The variation was required to allow them to seek the necessary consents to construct a windbreak around and over the legal road that they currently lease.

The Committee decided:

- 1. That an ad hoc subcommittee, the Central City Streets Subcommittee, be established, comprising Councillors Stonhill, Wright, Megan Evans, Corbett and the Chairman, to develop policy proposals for recommendation to the Council via the Sustainable Transport and Utilities Committee, concerning windbreaks and similar structures and issues on central city streets, the Subcommittee to continue until all matters referred to it by the Committee are concluded.*
- 2. That consideration of the application be deferred pending development of the policy and guidelines by the Subcommittee.*
- 3. That especially because of fire safety considerations, the applicants be required by the Council as landowner, and also in terms of the Public Places and Signs Bylaw 1991, to take down the windbreak pending a decision on the application by the Council.*
- 4. That the applicant be invited to address the meeting of the Subcommittee to be held on Monday 10 December 2001.*

As noted elsewhere in this report, Ms Amanda Dewar, solicitor for the applicant, Mr John Butterfield, director, Mr Alan Cowie, architect, and Carol Caldwell, fire engineering consultant, attended at the commencement of the meeting and addressed the Subcommittee.

Following the presentation, members heard from Mr Brian Roff, Environmental Services Unit, and Mr Tony Doust, New Zealand Fire Service. Mr Roff indicated that in respect to the fabric contained in the awning, should a building consent be currently applied for, this would be declined as there was currently no evidence that this fabric satisfied the requirements of the Building Act. Mr Doust indicated that from the viewpoint of the Fire Service all outstanding matters had now been satisfied and they had no objection to the canvas structure now being occupied by The Boulevard. It was noted, however, that this approval related to the requirements of the Fire Service Act (which related to egress) and was made on the assumption that the Christchurch City Council, as regulatory authority, was satisfied with all requirements in respect to the Building Act. These requirements include the flammability of the fabric. In response to a question from the Chairman, Mr Doust indicated that in his view the structure was safe in terms of egress regulations, but that the spread of flame issue was not resolved..

As mentioned in the previous deputations, testing of the fabric was to be undertaken by the Wool Research Organisation New Zealand, in terms of the reference test method AS1530, part 2, for suspended flexible fabrics. The results of this testing were expected to be available perhaps as early as Monday afternoon.

The opportunity was taken to seek an opinion from the Council's Legal Services Manager as to responsibility in the event of a fire on the premises involving the awning, and it was noted that while the Council had provided for an indemnity clause in the licence to occupy and the primary responsibility would be with the lessee, Mr Mitchell took the view that the Council would be still likely to be involved in legal action. Ms Karilyn Shutt, Office Solicitor, advised the Subcommittee that she had attended a meeting with the management of The Boulevard on noise issues and the topic of the awning had been raised, and she had informed them that they would need to apply to the City Streets Unit for approval for this.

The Chairman then took the opportunity to summarise the issues which he felt should be considered by the Subcommittee in relation to this matter, being:

- The principal of enforcement, the need to support Council staff and any possible precedents that might be created.
- Whether a request had been made to the Council regarding the matter which was at issue.
- The structure was outside the deed of licence given to the property owner.
- Fire safety issues – while advice had been received that the structure was safe, no evidence had yet been presented regarding the fabric.
- The overall aesthetics of the area as a whole.
- The need for some spirit of compromise from the Council on the issue.

The Chairman then drew members' attention to the recommendation of the Sustainable Transport and Utilities Committee meeting of 27 November 2001, particularly recommendation no. 3:

“That especially because of fire safety considerations, the applicants be required by the Council as landowner, and also in terms of the Public Places and Signs Bylaw 1991, to take down the windbreak pending a decision on the application by the Council.

The opportunity was taken to canvass the views of individual members of the Subcommittee and it then resolved that the following recommendations be recommended to the Council for consideration at the ordinary meeting of 12 December 2001, in substitution for recommendations 2 and 3 of the Sustainable Transport and Utilities Committee contained on page 93 of the Council agenda:

Subcommittee's

Recommendation:

1. That consideration of the application be deferred pending development of the policy and guidelines by the Subcommittee.
2. That by way of compromise the licensee be required to remove the front panels and front poles of the structure only, pending development of policy guidelines and approval of any application.
3. That if a report showing an inflammability index of 12 or less for the red fabric contained in the awning is not received by the time of the ordinary Council meeting of 12 December 2001, the licensee be required by the Council to remove the entire structure immediately.