

## 6. APPOINTMENT OF ENFORCEMENT OFFICERS UNDER LOCAL GOVERNMENT ACT 2002: ARMOURGUARD STAFF

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The purpose of this report is to recommend that the Council appoint and warrant a number of Armourguard personnel as enforcement officers under the Local Government Act 2002 and, for that purpose, to confer upon them and delegate to them certain powers.

### STATUTORY FRAMEWORK

Section 177(1) of the Local Government Act 2002 authorises local authorities to appoint persons as enforcement officers in relation to any offences against that Act and against bylaws made under that Act. Section 177(2) requires local authorities to issue written warrants to persons it appoints as enforcement officers under section 177(1). Clause 32(1) of the Seventh Schedule to the Act prohibits the Council from delegating its power to warrant such enforcement officers.

Formally, under the Local Government Act 1974, the power to make such appointments had been delegated by Council to certain Council Officers.

The Act confers upon enforcement officers a number of powers. These include powers to seize and impound property that is involved in the commission of an offence (sections 164-166), powers to enter upon land for enforcement purposes (section 172) and powers to require any person that the officer believes is committing or has committed an offence to provide certain information (section 178).

### REQUIREMENT FOR WARRANTED OFFICERS

The Council has entered into an arrangement with Armourguard Security Limited whereby Armourguard provides security officers for the purpose of enforcing certain provisions of the Christchurch City Public Places and Signs Bylaw 2003 on streets and public places within the central city. Those provisions are clause 7, which relates to trading in public places and clause 15, which relates to performing as a busker in public places. Although this bylaw was made under the Local Government Act 1974, section 293(1) of the Local Government Act 2002 deems that bylaw to be a bylaw validly made under that latter Act.

In essence these officers are responsible for ensuring that unlicensed persons are not selling food or busking on streets and public places within the central city outside normal working hours. During normal working hours Council staff enforce these provisions.

### REMOVAL OF WORKS IN BREACH OF BYLAWS

Section 163 of the Local Government Act 2002 provides that if it is authorised by a bylaw a local authority may remove or alter a work or thing that is, or has been constructed, in breach of any bylaw and recover the cost of doing so from the offender.

Clause 14 of the Christchurch City General Bylaw 1990 empowers the Council to remove or alter a work or thing that is, or has been constructed, in breach of any of the Council's bylaws. Where the work or thing is situated upon private land clause 14(a) empowers the Council to serve a notice on the owner or occupier of that land requiring its removal. If the notice is not complied with then the Council may itself effect the removal at the expense of the owner or occupier. Where the work or thing is on, over, or above a road, public place, or reserve, clause 14(b) empowers the Council to remove it without notice and at the cost of the person who placed it there.

To enable the security officers to effectively enforce clauses 7 and 15 of the Christchurch City Public Places and Signs Bylaw 2003 it is recommended that the Council delegate its powers under clauses 14(a) and 14(b) of the Christchurch City General Bylaw 1990 to each of them. The Council did, in 1994, delegate such powers to every bylaw inspector appointed clause 9 of the General Bylaw. It is not suggested that this earlier delegation be revoked.

### COMPLIANCE WITH DECISION-MAKING REQUIREMENTS OF THE LOCAL GOVERNMENT ACT 2002

It is considered that the decisions sought from the Council in relation to this report concern matters of a minor administrative nature only. Consequently it is suggested that no further action need be taken in respect of the requirements of Sections 77 and 78 of the Local Government Act 2002.

**Recommendation:** That the Council:

1. Appoint and warrant as enforcement officers pursuant to Section 177 of the Local Government Act 2002 -
  - (a) Juran Graeme Boyd
  - (b) David George Charles
  - (c) Alan Howard Clark
  - (d) Stuart James McAlpine
  - (e) Mark David McNeil
  - (f) Glynn Owen
  - (g) David Allan Rush
  - (h) Dennis Llewellyn Willyams

for the purpose of detecting offences against clauses 7 and 15 of the Christchurch City Public Places and Signs Bylaw 2003 and for that purpose authorise them to exercise all the powers of enforcement officers under that Act;
2. Delegate, pursuant to clause 7(1) of the Christchurch City General Bylaw 1990, to each of the persons named in recommendation 1 (severally) its powers under clauses 14(a) and 14(b) of that bylaw for the purpose of enforcing clauses 7 and 15 of the Christchurch City Public Places and Signs Bylaw 2003.
3. That the Council note that a report will be prepared for the April 2004 meeting of the Regulatory and Consents Committee seeking to highlight minor changes needed to the Local Government Act 2002, to cover issues arising from drafting changes to the new Act.