

3. LIQUOR BAN BYLAWS

Officer responsible Director of Policy	Author Terence Moody, Environmental Health Policy Leader, DDI 941-8834
--	--

The purpose of this report is to advise the Council on the provisions of the Local Government Act 2002 in relation to liquor bans and to determine future policy in regard to this matter.

INTRODUCTION

Provision for the introduction of liquor bans in any area existed under section 709 of the Local Government Act 1974. This section was used late last year to impose a prohibition on the consumption of liquor in the Central City. The prohibition covers Thursday, Friday and Saturday nights between the hours of 7pm and 7am the following morning. The prohibition covered the consumption of liquor, the possession of liquor, and the bringing of liquor into the specified public places.

The prohibition was introduced on the grounds that the presence of liquor in the public place was likely to lead to the commission of a number of offences against the Summary Offences Act 1981.

Since then s.709 of the Local Government Act 1974 has been repealed. The new Local Government Act 2002, (s.314), provides that every prohibition in force under s.709A to s.709H of the Local Government Act 1974 continues in force, unless it is revoked or expires, for 12 months commencing 1 July 2003. Therefore, the current prohibition expires on 30 June 2004.

The new power to make bylaws specifically for liquor control purposes is contained in s. 147 of the Local Government Act 2002 which states;

- “(2) *Without limiting section 145, a territorial authority may make bylaws for its district for the purpose of prohibiting or otherwise regulating or controlling, either generally or for 1 or more specified periods,—*
- (a) *the consumption of liquor in a public place:*
 - (b) *the bringing of liquor into a public place:*
 - (c) *the possession of liquor in a public place:*
 - (d) *in conjunction with a prohibition relating to liquor under paragraphs (a) to (c), the presence or use of a vehicle in a public place.*
- (3) *A bylaw made under this section does not prohibit, in the case of liquor in an unopened bottle or other unopened container, —*
- (a) *the transport of that liquor from premises that adjoin a public place during any period when, under the Sale of Liquor Act 1989, it is lawful to sell liquor on those premises for consumption off the premises, provided the liquor is promptly removed from the public place:*
 - (b) *the transport of that liquor from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of liquor under the Sale of Liquor Act 1989:*
 - (c) *the transport of that liquor from outside a public place to premises that adjoin a public place—*
 - (i) *by, or for delivery to, a resident of those premises or by his or her bona fide visitors; or*
 - (ii) *from those premises to a place outside the public place by a resident of those premises, provided the liquor is promptly removed from the public place.”*

It should be noted that this section does not require the Council to have any belief that there will be offences related to the liquor being in a public place against the provisions of the Summary Offences Act 1981. However, it does require a determination as to whether a bylaw is the most appropriate way of addressing the perceived problem, and if so, the special consultative procedure under section 156 must be used.

DISCUSSION

The current liquor ban, introduced under s.709C of the Local Government Act 1974, requires the Council to be satisfied on reasonable grounds, that liquor would be present in the public place and that it was likely to lead to offences being committed under the Summary Offences Act 1981.

The present ban was introduced at the request of the Police based on their advice that such conditions existed in the central city area. As pointed out, the new Local Government Act 2002 does not specifically provide for such criteria, but the Council may consider such matters when arriving at its decision whether or not a bylaw is necessary.

Introducing a bylaw under the Local Government Act 2002 does require further consideration of what the perceived problems are, that would need to be addressed. The reduction in offences under the Summary Offences Act 1981 is not a necessary criteria. However, it may have some relevance in influencing perceptions of safety in the area or areas that may be chosen.

There are some obvious difficulties in obtaining comparable statistical information which can be used to determine the effects of the ban in reducing offending. For example, if Police special campaigns are undertaken during the period of evaluation, a higher number of offences may be revealed than if these campaigns were not introduced. In this case, however, the level of offences would have occurred in reality. If the special campaigns had not occurred the reported level of offences might have been lower suggesting that the effects of the ban were positive. It may be that perceptions of safety, or not, are formed through media coverage of matters rather than any real objective measures such as actual offences overall.

There are limited measures of perception of safety in relation to the Central City being obtained by the Council, except largely anecdotal reports. The Annual Survey of Residents, March 2003, which sampled a limited number of citizens, provides some information on how safe people feel in the City Centre by themselves. About 52% responded they felt unsafe or very unsafe "After dark" compared with 5% "During the daytime". In another question 9% sought the City Centre being made safer by "more policing/security/lighting" but only 1% sought "extend/enforce alcohol ban/get drunks out of City Centre".

Although it is not clear from the reported results, it is presumed that those answering these questions have experienced the Central City at night. In order to get a more accurate view of perceptions of safety in the Central City at night, a survey is needed of those people using the area at night. Such a survey could also determine the reasons for feeling unsafe, or the matters that may improve their perceptions of safety. Ideally such surveys should be taken on a regular basis to determine any changes of perception over time. The results could then be compared with numbers of offences as reported by the Police and could also take into account any special campaigns to improve safety in the area. The increase of Police presence in the area may in itself improve perceptions of safety, as no doubt would the reduction of alcohol-affected people, wherever they come from, apparent in the streets.

CONCLUSIONS

A number of groups support the continuation of a prohibition in the Central City as it is considered to increase the perception of safety. The Police, who are responsible for enforcing the ban, also support its continuance.

There is a need to ensure that adequate monitoring the effects of the prohibition is undertaken, whether in relation to offences under the Summary Offences Act 1981 or matters of perception of safety. This latter may be relevant in determining the grounds for considering whether or not a bylaw under section 147 of the Local Government Act 2002 is required, especially if perceived safety is significant problem in the area, or areas.

If the Council wishes to consider introducing a bylaw under s.147 of the Local Government Act 2002, or to deal with the perceived problem in some other way officers would report in February 2004. This would occur once a survey was undertaken as outlined above and results evaluated. It would then be possible to determine whether or not a bylaw would be the best way to address the problem.

It may be that other means, in conjunction with a bylaw, would be a more appropriate way to address the problem. Auckland City Council, for example, is considering other strategies such as public education, advocating for more Police, and implementing their Alcohol Policy in addition to a bylaw.

A February 2004 reporting date should enable a bylaw to be in place by the time of the discontinuation of the present restrictions in the Inner City.

Recommendations: That officers report in February 2004 on the merits of making a bylaw under section 147 of the Local Government Act 2002, once some evaluation of Police information has been received and the results of surveys of persons using the Central City at night have been obtained.

(Note: Councillor Megan Evans retired from consideration of this clause and took no part in the discussion or voting thereon.)