

## 10. PETITION OPPOSING NEIGHBOURHOOD TAVERN, ACHESON AVENUE

<b>Officer responsible</b> Environmental Services Manager	<b>Author</b> Jeremy Phillips, Planner, DDI 941-8802
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The purpose of this report is to provide advice on the recent establishment of a neighbourhood tavern in the Acheson Avenue shopping block.

A petition signed by 350 Shirley residents expressing opposition to the tavern's establishment was tabled at the Council meeting held on 1 July 2004. The prayer of the petition reads:

*"We the undersigned residents and visitors of Shirley are totally opposed to having a public bar at our local shops in Acheson Avenue. We do not need or want to encourage the social behaviours that will come with this type of activity in our area. It is too close to our kindy, neighbourhood centre and church. We have worked hard as a community to make positive changes to build a sense of community. This will have very negative and long lasting effects on our community. We do not want it."*

The Council resolved that the petition be referred to officers to be reported to the appropriate Committee of the Council.

This report covers:

- How the Proposed City Plan deals with licensed premises in suburban locations.
- The circumstances in which a resource consent was recently granted for a small neighbourhood tavern in Acheson Avenue.
- How the liquor licensing process enables consideration of wider issues under the Sale of Liquor Act 1989.

### THE PROPOSED CITY PLAN

The background to the Proposed City Plan's control of the sale of liquor for consumption on licensed premises can be found in the liberalised regime for licensed premises resulting from the passage of the Sale of Liquor Act 1989, and the Council's assessment of potential adverse effects of licensed premises on residential amenities.

The rules in the Plan generally allow for licensed premises in Business Zones adjoined by Living Zones where the hours of operation are between 7am and 11pm. However, where hours of operation are beyond these limits, the Plan controls potential nuisance effects (such as noise and traffic) and effects on residential amenity. The Plan does not try to address the kind of social issues raised in the petition.

### RECENT GRANTING OF RESOURCE CONSENT

On the basis of the Plan controls outlined above, a resource consent for the bar has been granted on a non-notified basis in relation to a minor car parking matter on 1 July 2004. The petition in opposition to the proposal was not known of at the time of this decision, however, the issues it raised could not have been assessed as relevant considerations anyway, as the bar complied with all other rules for licensed premises. In particular, the tavern complied with the hours of operation allowed under the proposed City Plan as they did not exceed 7am to 11pm. Accordingly, the City Plan restricted discretion in decision making on this application to the effects of failing to comply with a rule related to the design of a car park only. It should be noted that if the bar is proposed at any time to be open for the sale or supply of liquor beyond the hours of 7am and 11pm, further resource consent would be required, which in turn could address broader effects on the neighbourhood and any public opposition to the tavern.

### LIQUOR LICENCE UNDER THE SALE OF LIQUOR ACT 1989

The Sale of Liquor Act 1989 covers many aspects concerning the sale of liquor and associated management considerations. The object of the Sale of Liquor Act 1989 is "to establish a reasonable system of control over the sale and supply of liquor to the public with the aim of contributing to the reduction of liquor abuse, so far as that can be achieved by legislative means". On this basis the Council has chosen to leave most social issues to be dealt with under this legislation instead of through the controls of the City Plan.

Liquor licence applications under the Act may require public notification and a hearing before the Liquor Licensing Authority where there is significant opposition to a proposal. Such a hearing would consider the licence predominantly on the basis of the suitability of the applicant and may include input from the Sale of Liquor Inspector and/or the Police.

A liquor licence is required for the operation of the proposed Acheson Avenue tavern. At this time no application for a licence has been received. As the processing of the licence may require public notification and a hearing, submissions from concerned residents and through a petition could be directed to this process for consideration. It should also be noted that the Council has delegated the power to appoint one or more members of each Community Board to appear and be heard under section 108(e) of the Sale of Liquor Act 1989, for the purpose of providing community input.

A copy of the petition has been forwarded to the Liquor Licensing team for their information should they receive such an application.

**Staff**

**Recommendation:** That the information be received and a copy of this report be forwarded to the organisers of the petition.

**Chairman's**

**Recommendation:** That the above recommendations be adopted.