


21. TEMPORARY LIQUOR BAN HAGLEY PARK NORTH BAND TOGETHER CONCERT

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PURPOSE OF REPORT

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1. For the Hagley/Ferrymead Community Board to consider and make a recommendation to the Council on a proposal for a Temporary Alcohol Ban for Hagley Park North from 7am until 10pm on Saturday 23 October 2010 and on Sunday 24 October 2010, to complement the existing permanent ban from 10pm to 7am daily for the Band Together Concert.
 2. The outcome of the Board's consideration of this matter will be reported to the Council Meeting of 23 September 2010.

EXECUTIVE SUMMARY

3. Following the 4 September 2010 earthquake, a concert has been organised for Canterbury, called the Band Together Concert. It will be held on 23 October 2010 in Hagley Park North from noon 12pm until 8pm. (The postponement date is Sunday 24 October 2010 with same times.) It will feature a number of well known New Zealand bands/musicians as well as Christchurch bands. The theme of the event will be to celebrate Canterbury's spirit after the earthquake. The concert will be free and it is estimated that as many as 150,000 people could attend.
4. The Events Team have been in discussions with the Police about the concert. The Police have indicated that they support the concert provided that it is alcohol-free and an alcohol ban was in place to provide them the tool for enforcement. Given the number of people that may attend and that it is a community and family orientated event, it is considered appropriate to make the concert an alcohol-free event.
5. There is a Permanent Alcohol Ban in place that applies to Hagley Park seven days per week but this only applies during the hours of 10pm until 7am each day. This will not cover the hours of the concert. The Council has the power to declare a Temporary Alcohol Ban under clause 5 of the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009 ("the Bylaw").
6. A Temporary Alcohol Ban has the same effect as a Permanent Alcohol Ban, but the Temporary Alcohol Ban will apply for a limited time only. The area to which the Temporary Alcohol Ban is proposed to apply is North Hagley Park as set out in the **attached** map. This area is bounded by Park Terrace, Harper Avenue and Deans Avenue. The southern boundary would be Riccarton Avenue (from Deans Avenue) to approximately the Riccarton Cricket Club, then following River Avon around to Armagh Bridge.
7. It is also intended to apply clause 8(1) of the Bylaw to make it easier for the Police to enforce the Alcohol Ban. This means that the Police will be able to use their search powers in respect of containers and vehicles under section 170 of the Local Government Act 2002 ("the LGA 02") immediately and without notice.

FINANCIAL IMPLICATIONS

8. Financial provision will be required for public notices and display advertisements as well as appropriate signage. The costs of enforcement rest with the Police under powers in the Local Government Act 2002.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

9. There is no specific budgetary provision for introducing temporary alcohol bans. The costs of investigating the temporary ban can be absorbed in the Long Term Policy and Planning Activity. The costs of public notices and signage should be absorbed in the Events Activity.

LEGAL CONSIDERATIONS

10. The Bylaw is made under the authority of section 147 of the Local Government Act 2002 (“the LGA 02”).
11. Under the Bylaw, there is a Permanent Alcohol Ban in Hagley Park and its environs during the hours of 10pm to 7am, seven days per week. The specific area to which the Permanent Alcohol Ban applies is set out in the Schedule to the Bylaw. The effect of the Permanent Alcohol Ban is that no person may:
 - (a) consume alcohol in a public place; or
 - (b) consume alcohol in a vehicle in a public place; or
 - (c) bring alcohol into a public place, whether in a vehicle or not; or
 - (d) possess alcohol in a public place, whether in a vehicle or not.
12. The times during which the Permanent Alcohol Ban apply do not cover the times the Band Together Concert will take place. However, under clause 5 of the Bylaw the Council is able to declare a Temporary Alcohol Ban in a public place by way of resolution and the same alcohol restrictions will apply. Any such resolution must describe the specific area that is a Temporary Alcohol Ban Area and the times, days or dates during which the alcohol restrictions apply to any public places in the area.
13. Under clause 5(2) of the Bylaw, before the Council declares a Temporary Alcohol Ban Area, the Council will consider:
 - (a) if the proposed Ban relates to an event:
 - (i) the nature of the expected event;
 - (ii) the number of people expected to attend;
 - (iii) the history of the event (if any); and
 - (iv) the area in which the event is to be held; and
 - (b) the nature and history of alcohol-related problems usually associated with the area, together with any anticipated alcohol-related problems; and
 - (c) whether the benefits to local residents and to the city would outweigh the restrictions the resolution would impose on local residents and other people, including those who may be attending any events, in the area covered by resolution; and
 - (d) any information from the Police and other sources about the proposed dates, the event or the area to be covered by the resolution; and
 - (e) whether the Police support the proposed Temporary Alcohol Ban Area; and
 - (f) any other information the Council considers relevant.
14. The Police have various powers to enforce the Bylaw, including the power to search containers and vehicles in public places for alcohol, seize and remove alcohol, and arrest any person who is found to be breaching the Bylaw. Before the Police exercise these powers they must comply with the warning provisions in section 170 of the Local Government Act 2002. However, in certain circumstances as set out in section 170(3), the Police can search immediately and without notice. The Police have requested for this specifically for this event. In order to give the Police this power, the Council would need to resolve that clause 8(1) of the Bylaw applies to the Temporary Liquor Ban.¹

¹ Note that clause 8 provides as follows:

8. POLICE POWERS OF SEARCH IN TEMPORARY ALCOHOL BAN AREAS

- (1) This bylaw authorises a member of the Police to exercise the power of search under section 169(2)(a) of the Act for the purposes of section 170(2) of the Act in areas to which a resolution declaring a Temporary Alcohol Ban Area applies.
- (2) Clause 8(1) only applies if the resolution declaring a Temporary Alcohol Ban Area provides that clause 8(1) of this bylaw will apply.

Have you considered the legal implications of the issue under consideration?

15. Yes. The proposed Temporary Alcohol Ban will apply to a public place within the meaning of section 147 of the LGA 02. Hagley Park North is an area that is under the control of the Council and it is open to and is used by the public.
16. In terms of clause 5(1) of the Bylaw, the proposed resolution describes the specific area to which the Alcohol Ban will apply and the times and dates that it will apply. It is for a one-off event.
17. In terms of the considerations under clause 5(2) of the Bylaw, it is noted as follows:
 - (a) Clause 5(2)(a)(i) – the proposed ban does relate to an event. The nature of the event is a concert which is community and family orientated.
 - (b) Clause 5(2)(a)(ii) – the number of people expected to attend the event could be in the order of 150,000.
 - (c) Clause 5(2)(a)(iii) – this event is new but given the reason for the event it is a one-off event.
 - (d) Clause 5(2)(a)(iv) – the area in which the event is to be held is Hagley Park North. This area has been used for other events/concerts in the past but generally a Temporary Alcohol Ban has not applied during these events.
 - (e) Clause 5(2)(b) – in the past the nature and history of alcohol related problems associated with Hagley Park North have stemmed from boy racers along Harper Avenue. Other concerts held in Hagley Park North such as Classical Sparks and Christmas in the Park have not had Temporary Alcohol Bans in place, and people have enjoyed alcohol at such events. The Permanent Alcohol Ban applies after 10pm and has therefore has not interfered with concert goers drinking alcohol at these concerts. However, the large number of people anticipated to attend the Band Together Concert could lead to alcohol related problems such as drunken and disorderly behaviour, damage to the trees and other plants in the park, broken glass and litter, people urinating in public.
 - (f) Clause 5(2)(c) – whether the benefits to local residents and to the city would outweigh the restrictions the resolution would impose on local residents and other people, including those who may be attending any events, in the area covered by resolution. If the Temporary Alcohol Ban is imposed it will prevent concert attendees from enjoying alcoholic beverages at the concert. However, it is considered that the benefits to local residents and to the city at large will outweigh any disadvantages of this restriction. The restriction will be in operation for a relatively short period of time. It is a one-off restriction and will aid in promoting a safe and secure event for the whole of the city. Given the circumstances in which this concert is being held, it is considered important to focus on providing a safe environment.
 - (g) Clauses 5(2)(d) and (e) – given the tight frames involved the Police have not provided any written information about the proposed date of the event, the event or the area to be covered by the resolution except that the Police support a Temporary Alcohol Ban being put in place, and would like it to be alcohol-free event.
 - (h) Clause 5(2)(f) – it is considered a relevant consideration that this Concert will likely have a wider appeal than Classical Sparks or Christmas in the Park which are perhaps more family orientated events. While these events have not had alcohol bans in place, given the wider focus of this event on the community as well as families, it is considered appropriate to consider whether there should be greater restrictions on the consumption of alcohol at the concert.

CONSULTATION FULFILMENT

18. Ordinarily, the agreed process for establishing a Temporary Liquor Ban is that the relevant Community Board investigates the proposal, including the matters listed above and any implementation requirements such as signage or advertising, and associated costs. If the Community Board agrees that there is a need for a Temporary Liquor Ban, it must then report to the Regulatory and Planning Committee, which, if it agrees, will refer the report to the Council. The process could potentially take a number of weeks to complete.

19. Given the tight time frame it has not been possible for this matter to be investigated at the Community Board level and then a report prepared for the Regulatory and Planning Committee. However, the internal discussions have taken place between the Events Team, the Liquor Licensing Team, Strategy and Planning, and the Legal Services Unit. The Events Team and Strategy and Planning have discussed the matter with the Police and the Police indicated that they were basing their support for the event on the basis that it is alcohol-free and they would have the enforcement tool of the Temporary Alcohol Ban to support their enforcing this at the event.

ALTERNATIVE OPTION

20. If a Temporary Alcohol Ban is not imposed then alcohol can still be prohibited. The Council as a land owner is able to control who enters its land and the terms on which those persons enter its land. Technically it grants a "licence" to each person who enters Hagley Park. In other words, "a personal permission" to enter. In order for persons to be aware of the terms of entry (ie the terms of the licence), these terms would need to be clearly set out on a notice where event attendees are able to read the terms (and therefore accept the terms) before they enter concert area. These terms of entry could include a power to search and seize alcohol.
21. The disadvantage with this option is the power of the Police to enforce it. If a person breaches the terms of his or her licence, ordinarily the landowner would ask the person to leave the premises. If a person refuses to leave the premises then the landowner could use the provisions of the Trespass Act 1980. Section 3(1) of the Trespass Act 1980 provides that a person commits an offence against this Act who trespasses on any place and, after being warned to leave that place by an occupier of that place, neglects or refuses to do so. The Police have the power to arrest a person committing an offence against the Trespass Act. However, before they may do so, the Council as occupier will need to give the person committing the trespass a warning.
22. The Police have specifically requested for the Temporary Alcohol Ban as opposed to the option of exercising their authority under the Trespass Act and have made this conditional of their support for the proposed concert.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

23. See 23 below.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

24. Introducing a temporary alcohol ban in Hagley Park North could be considered to broadly align to the following LOS in the Strengthening Communities Activity Management Plan, 2.2.3.1. Maintain Safe City Accreditation every 15 years.

ALIGNMENT WITH STRATEGIES

25. The Safer Christchurch Strategy aims to see rates of injury and crime decline, for people to feel safe at times in Christchurch City and for Christchurch to have excellent safety networks, support people and services.

Do the recommendations align with the Council's strategies?

26. Yes – as above.

STAFF RECOMMENDATION

It is recommended that the Hagley/Ferrymead Community Board recommends to the Council that it resolves to introduce a Temporary Alcohol Ban in the Hagley Park North area from 7am until 10pm on both Saturday 23 October 2010 and on Sunday 24 October 2010 to complement the existing permanent ban from 10pm to 7am daily for the Band Together Concert.