

3. INTRODUCTION OF LIQUOR BAN BYLAW

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The purpose of this report is to recommend that the Council:

- (a) Approve the attached draft bylaw to regulate the consumption of alcohol in specified public places and at specified times in the Council's district; and
- (b) Commence the special consultative procedure under the Local Government Act 2002 to make that bylaw.

BACKGROUND

Provision for the introduction of liquor bans in any area existed under section 709 of the Local Government Act 1974, and this section was used last in 2002 to impose a general prohibition on the consumption of liquor in the Central City. This 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. In addition in June 2003 a prohibition relating to New Year's Eve events was introduced under section 709A of the Local Government Act 1974 in relation to Cathedral Square and Spencer Park areas.

Since then s.709 of the Local Government Act 1974 has been repealed.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 Council at its meeting held on the 23 October 2003 resolved:

"That staff report in February 2004, 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, on the merits of making a bylaw under section 147 of the Local Government Act 2002."

A report, including the findings of an evaluation of the effects of the central city liquor ban was presented to the Committee at its meeting on the 11 February 2004. This showed, on the information that was available from the Police, that there was an increasing level of offences in the central city area but also support for the liquor ban on behalf of members of the public.

The report stated:

"However, there are a number of other matters that should be considered in determining the possibility that provision be made to introduce such a bylaw:

- *The first is that some provision may need to be made for liquor bans for special occasions, New Years Eve in the Cathedral Square is one such with a long history of liquor bans.*
- *The second is that the current central city liquor ban appears to have general approval and is strongly supported by the Police as having value in reducing some offences.*
- *The third is that the Police have recommended some further restricted areas to be included in such bans both of which have had problems reported to the Council in the past.*
- *The fourth is that there appears to be support from the wider public for some limitation on people consuming alcohol in public places, in an uncontrolled manner outside licensed premises, at least during the night time hours.*

From the Police information that has been presented there is a indication that offences of disorder are committed, in the central city and some other areas, by persons under the influence of alcohol. While the source of such alcohol affected people may also be from persons frequenting the on-licensed premises in the central city the indication is that some obtain the liquor from off-licences, either in the particular area or by carrying it in from outside and this has been consumed in public places in the area.

The central city appears to be an area that attracts a large proportion of persons for alcohol related activities associated with the restaurants and bars.¹ Indeed there has been some support for such activities through the Central City Strategy adopted by the Council in 2001. It has been stated that ‘... alcohol is a key component of the entertainment/leisure industry. However, it is also considered that the entertainment/leisure industry (and in particular the associated consumption of alcohol) can have negative effects such as crime (vandalism, litter, theft, assaults)’.²

The perceived problem therefore relates to alcohol being consumed in public places, although outside those public place areas which are included in Sale of Liquor licences, and related behavioural activities. There is some evidence that changes to the areas and times the current liquor ban applies are needed to support the ability of the Police to undertake early intervention in the possibility of alcohol related behaviour occurring in the particular areas. The consumption of alcohol on licensed premises is regulated to a large degree to provide for early intervention in cases of alcohol related behaviour to reduce the likelihood of disorder and offending eventuating. Licensees have ‘responsible host’ policies and, in many cases, security staff to assist in early controls. These methods are not as readily available when drinking occurs in public places.”

The report was considered by the Committee at its meeting on the 11 February 2004 and the Committee assessed, in accordance with section 77 of the Local Government Act 2002, that it identified all the reasonably practicable options for addressing the perceived problem (attached). The Committee concluded that a bylaw, made pursuant to the Council's bylaw making powers contained in sections 147 and 155 of the Local Government Act 2002, was the most appropriate means of addressing the perceived problems.

The Council considered the Committee's report, together with a report detailing the assessment of the options identified by the Committee on 26 February 2004. At that meeting the Council resolved that a bylaw was the most appropriate way of addressing the perceived problems.

PROCEDURE FOR MAKING THE BYLAW

Before commencing to make the bylaw, the Council must first address the matters referred to in section 147 and section 155 of the Local Government Act 2002. Once those matters have been addressed, the Council must then follow the special consultative procedure set out in Section 83 of the latter Act.

Section 147 of the Local Government Act 2002

This section provides that bylaws may be made for the purpose of controlling the matter of liquor consumption in public places as follows:

- (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:*

¹ At present of the total on-licences in force under the Sale of Liquor Act in Christchurch City 45% are within the central city area covered by the current liquor ban and of the premises issued with 24 hour licences 35 of the 36 are in the central city area.

² Central City Team Draft Alcohol Policy Submission, 2003

- (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.*

In its report considered by the Council on 26 February 2004 the Committee set out its findings in regard to the evaluation that was undertaken of the previous liquor ban under the Local Government Act 1974.

Having regard to the results of the evaluation the Committee has no doubt that a bylaw, controlling the consumption of alcohol in certain public places at certain times, is required to fulfil its responsibility of developing a safer city in conjunction with the Police.

The provisions of the attached draft bylaw, which relate to control of consumption of alcohol in public places have been drafted in a manner so as to address the concerns of the Police, who have the responsibility for enforcement of liquor bans and dealing with disorderly and criminal behaviour, and aid in meeting the Council's 'Community of a Safer City'.

Section 155 of the Local Government Act 2002

Section 155(1) provides that *"before commencing the process to make a bylaw the Council must determine whether a bylaw is the most appropriate way of addressing the perceived problems"*. On 26 February 2004 the Council resolved that a bylaw was the most appropriate way of addressing the problems perceived by the Committee.

Section 155(2) provides that *"once the Council has determined that a bylaw is the most appropriate way of addressing the perceived problem it must, before making the bylaw, determine whether the proposed bylaw -*

- (a) *is the most appropriate form of bylaw; and*
- (b) *gives rise to any implications under the New Zealand Bill of Rights Act 1990"*.

Section 155(3) provides that *"no bylaw may be made which is inconsistent with the New Zealand Bill of Rights Act 1990"*.

Attached to this report is a draft bylaw, which the Committee considers is the most appropriate form of bylaw for addressing the perceived problems. (That draft is contained in the statement of proposal, which is attached to this report. The statement of proposal is marked 'Appendix 1').

Officers consider that the draft bylaw would not give rise to any implications under the New Zealand Bill of Rights Act 1990.

COMMENCEMENT OF SPECIAL CONSULTATIVE PROCEDURE FOR MAKING THE BYLAW

To commence the special consultative procedure to make the bylaw the Council must comply with section 83(1) of the Local Government Act 2002.

For this purpose the Council must, amongst other things:

- (a) Adopt, in accordance with section 83(1)(a) a statement of proposal together with a summary of the information contained in that proposal. That summary must comply with section 89; and
- (b) Include, in accordance with the requirements of section 83(1)(b), the statement of proposal on the agenda for a subsequent meeting of the Council; and

- (c) Make, in accordance with section 83(1)(c), the statement of proposal available for public inspection both at the Civic Offices and such other places as the Council determines necessary to provide all ratepayers and residents of the district with reasonable access to the statement; and
- (d) Give, in accordance with sections 83(1)(e) and 83(1)(g), public notice (and such other notice as the Council considers appropriate) of the proposal and the consultation being undertaken, together with notice of the period within which submissions on the proposal may be made to the Council. (This period must not be less than one month after the date of first publication of the notice.)

Statement of Proposal

The statement of proposal attached to this report will comply with the requirements of sections 83(1)(a) and 86 of the Act. It comprises of -

- (a) A draft of the bylaw as proposed to be adopted (as required by section 86(2)(a)); and
- (b) The reasons for the proposal (as required by section 86(3)); and
- (c) A report of the Council's consideration under section 155 of the problems being addressed by the proposal (as required by section 86(3)(b)(i)).

Summary of Information Contained in the Statement of Proposal

Section 83(1)(a)(ii) of the Act requires the Council to prepare a summary of the information contained in the statement of proposal. That summary must comply with section 89.

Section 89 requires that the summary -

- (a) Be a fair representation of the major matters in the statement of proposal; and
- (b) Be in a form determined by the Council; and
- (c) Be distributed as widely as reasonably practicable (in such manner as determined appropriate by the Council, having regard to the matter to which the proposal relates) as a basis for general consultation; and
- (d) Indicate where the statement of proposal may be inspected and how a copy may be obtained; and
- (e) State the period in which submissions on the proposal may be made to the Council.

Attached to this report ('Appendix 2') is a summary of information that complies with the requirements of Section 89. It is recommended that the Council formally adopt this summary (for the purposes of section 89(b)) and resolve to publish it in both the 'The Press' and the 'Christchurch Star' newspapers and on the Council's website (for the purpose of satisfying section 89(c)).

Timetable for Special Consultative Procedure

On 25 March 2004, the Council will consider approving the timetable for the special consultative procedure for making the proposed bylaw. On the basis that it approves the proposed bylaw at its meeting on the 25 March 2004 the timetable for consultation would be as follows:

- (a) That the proposed bylaw be open for public consultation from 31 March 2004 to early 7 May 2004 this year; and
- (b) Submissions on the proposed bylaw be heard by the Regulatory and Consents Committee on 9, 10 and 11 June 2004; and
- (c) The Committee report directly to the Council at its meeting on the 1 July 2004.

In order to comply with the requirements of the Local Government Act 2002 and the Council's timetable referred to above, it is recommended that the first public notice of the proposal and the consultation to be undertaken be given on Wednesday 31 March 2004. It is also recommended that the period within which submissions may be made on the proposal be from Wednesday 31 March 2004 until Friday 7 May 2004.

Staff

Recommendation:

That the Council resolve:

1. That it is satisfied that such a bylaw is necessary in terms of sections 147 and 155 of the Local Government Act 2002.
2. That the draft bylaw contained in the attached statement of proposal is the most appropriate form of bylaw for addressing the perceived problems that the consumption of alcohol in certain public places or at certain times is likely to create if this is not controlled.
3. To adopt the statement of proposal and the summary of information attached to this report.
4. That the statement of proposal be made available for public inspection at all Council Service Centres, Council libraries and on the Council's website.
5. That public notice of the proposal be given in 'The Press' and in the 'Christchurch Star' newspapers and on the Council's website on Wednesday 31 March 2004.
6. That the summary of information be distributed by way of publication (together with the public notice of the proposal) in 'The Press' and in the 'Christchurch Star' newspapers and on the Council's website on Wednesday 31 March 2004.
7. That the period within which written submissions on the proposal may be made to the Council be between Wednesday 31 March 2004 and Friday 7 May 2004.
8. That the Regulatory and Consents Committee be delegated authority to hear submissions on the bylaw on 9, 10 and 11 June 2004 and to report back directly to the Council at its meeting on 1 July 2004.
9. That the NZ Police be asked to provide quarterly reports on the administration and enforcement of the bylaw and the bylaw to be reviewed annually on the basis of such reports and other relevant information.

Chairman's

Recommendation:

That the above recommendations be adopted.