

5. MERIDIAN ENERGY FIREWORKS EXTRAVAGANZA

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BACKGROUND

At the Council meeting of 27 May 2004 it was resolved that:

“Staff be requested to report to the Regulatory and Consents Committee on possible means by which the Council could prevent the public letting off fireworks in the vicinity of the New Brighton Pier on the night of the Meridian Energy Fireworks Extravaganza.”

This report outlines options for addressing these concerns over public safety.

DISCUSSION

The Council’s recommendation refers to “fireworks” in general; however, any potential for damage or injury is most likely to be from sky rockets and the throwing of fireworks. It is noted, however, that no such incident has ever been reported in the life of this event. The majority of those setting off fireworks are careful groups, usually families, causing no problems; these groups tend to let their fireworks off after the display, not during it.

Meridian Energy provides corporate hospitality upstairs in the New Brighton Library and on the balcony for their invited guests on the night, but they have not raised any concerns over potential danger to guests. Nor has safety been raised as an issue for Council events staff, radio station personnel, security guards, the media or the pyrotechnics crew.

RELEVANT LEGISLATION

Under clauses 8-10 of the Health and Safety in Employment Act 1992, potential for work place injury should be “identified, isolated or eliminated”. The sky-rocket problem has been identified as a potential hazard but it is beyond the powers of the Events Team to effectively isolate it or eliminate it. At best the team can maintain careful observation at the event, in order to protect the interests of the responsible majority of people who enjoy the display.

The Explosives (Sky Rocket Restrictions) Amendment Act 1994 does not place a total ban on skyrockets, but restricts their use to organised displays by groups such as service clubs and local authorities under controlled situations.

Under clause 35 of the Summary Offences Act 1981 the Police have the power to prosecute anyone setting off fireworks in a manner which is likely to cause injury or alarm. The Police do not have the power to arrest individuals for the breach of this provision, but if individuals fail to supply their name and details an arrest can be made.

A summary of the options available to the Council for addressing safety concerns at the Meridian Energy Fireworks Extravaganza is included below.

Option 1: Additional fencing and public exclusion

The Events Team already fences off half the beach area between the New Brighton Library and the water’s edge, as it comes within the 300m safety circle surrounding the end of the pier where the fireworks display is fired from. The only means by which the Events Team could prevent fireworks being let off in the remaining area would be to fence off the whole beach area between the north and south ends of the library building down to the waterline and exclude all members of the public from the enclosed area.

- **Advantages**

This option may achieve the desired result of preventing possible injury to those viewing the fireworks from the New Brighton Library balcony from “sky rocket” fireworks let off from below. Similarly, it may prevent possible injury to the sponsor’s personnel, Christchurch City Council Events staff, radio station personnel, security guards and the media located on the pier and balcony.

- Disadvantages

This approach would prohibit all public access to the prime fireworks viewing site and assembly area for the public and prevent the cross flow of the crowd. This move will be most unpopular with the crowd and detract from public enjoyment of the event.

Option 2: Additional fencing with public access permitted

This option would involve fencing off the whole beach area between the north and south ends of the library building down to the waterline (as in option 1). The public would be allowed into this area but letting off fireworks in this area would be prohibited.

- Advantages

This option may achieve the desired result of preventing possible injury to those viewing the fireworks from the New Brighton Library balcony from "sky rocket" fireworks let off from below. Similarly, it may prevent possible injury to the Sponsor's personnel, Christchurch City Council Events staff, radio station personnel, security guards and the media located on the pier and balcony.

- Disadvantages

Enforcing the fireworks "ban" without the ability to search people and without the additional security guards that would be required would be likely to be ineffective. Police resources are likely to be stretched at this time and it is not expected that there will be sufficient Police available to monitor this event.

The public may consider that the fireworks-free area is safe, whereas someone just outside the firework prohibited area could let off a sky rocket which could land in the "safe" area. There may also be a perception that the Council has established a public-excluded area solely for the protection and privilege of the group on the balcony.

The exclusion zone would create an increase in fencing and security costs which is conservatively estimated to be around \$1,200. This cost would have to be taken out of the fireworks budget, reducing the amount of funding available to support this and other events.

Option 3: Bylaw banning fireworks

This option would involve the introduction of a fireworks bylaw preventing fireworks being let off by members of the public at New Brighton Beach on the fifth day of November each year. The area and times the bylaw would apply would need to be defined prior to the bylaw being adopted. It is uncertain whether the Council could legally make such a bylaw.

- Advantages

The enforcement of a bylaw is carried out by Council bylaw enforcement officers.

- Disadvantages

Enforcement of such a bylaw is likely to present serious difficulties. If a person was found setting off fireworks in breach of a bylaw then in order to take action in respect of that offence a Council Enforcement Officer must obtain the offender's name and address. If the offender refused to give those details then the offender commits a further offence under section 178 of the Local Government Act 2002. In order to take action under section 178 the Enforcement Officer once again must obtain the offender's name and address. There is no power to arrest the offender if this information is refused. Consequently the Enforcement Officer is no better off. Any attempt to obtain this information from an uncooperative offender in a crowded public place could well compromise the safety of the Council Enforcement Officer.

Section 35(a) of the Summary Offences Act 1981 provides that every person commits an offence who, in a public place, sets off or throws any firework in such a manner as to be likely to cause injury to, or to alarm, any person. This offence is enforced by the police. The police have the power to arrest any person whom they find committing an offence against this section and who refuses to provide his or her name and address. It is likely that an offender would be more co-operative with a uniformed Police Officer than a Council Enforcement Officer trying to enforce a bylaw. Further, Section 35 differentiates between setting off fireworks in a manner likely to cause injury or alarm and setting them off in a manner which is safe. The letting off of fireworks at public displays is a long-standing custom. An outright ban on fireworks would significantly reduce the appeal of the occasion for those who bring their own fireworks and let them off safely. Any risk of a sizable reduction in attendance is likely to put sponsorship at risk.

It is questionable as to whether or not a bylaw is necessary bearing in mind that the sale of skyrocketers and firecrackers to members of the public is now unlawful and has been for a number of years. Members of the public may no longer purchase these from retail outlets. This may well be a reason why, as noted earlier in this report, no incident of any person setting off skyrocketers or firecrackers in a dangerous manner at this event has ever been reported.

It should also be noted that there already is legislation (concerning hazardous substances) in force which provides that no person may set off skyrocketers or firecrackers unless that person has the necessary qualifications under this legislation. To do otherwise constitutes an offence under this legislation.

Option 4: Status quo, with increased publicity and education

This approach would not involve the introduction of a bylaw to ban fireworks, or additional fencing in the area or the exclusion of members of the public from certain areas of the beach. Instead, a communications campaign would be implemented to highlight safety issues in the week leading up to the event. The objective of this campaign would be to reinforce the need for a safe environment at the fireworks display and for fireworks to be used in a safe manner. The campaign would be reinforced by the fact that the Police have the authority to prosecute anyone setting off fireworks in a dangerous manner.

Discussions have been held with the Communications Manager and cost of this option can be covered within the Event budget.

- **Advantages**

The majority of those people attending the display, especially those responsibly letting off their own fireworks will continue to enjoy the event in its traditional format. This option does not create a bylaw that the Council does not have the resources to enforce.

The Events Team plans to hire 55 security guards for the event and the Police plan to have 40 officers present. The Police have advised that they believe the event is "under control" given the powers and staffing they have. They also report that most of the trouble in the area occurs after the fireworks event has finished.

- **Disadvantages**

There is an element of risk to those on the pier and deck outside the library associated with this option if individuals let off fireworks in a dangerous manner.

Committee

- Recommendation:**
1. That Council staff monitor issues of safety arising from the private use of fireworks at the 2004 Meridian Energy Fireworks Extravaganza and report back to the appropriate Committee of the Council on this.
 2. That the Council not proceed with further investigation of a bylaw to prevent the use of fireworks by members of the public on 5 November at this time.