

8. TEMPORARY ALCOHOL BAN RICCARTON/LLAM AREA

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PURPOSE OF REPORT

1. To examine a proposal to investigate and develop a temporary alcohol ban under the provisions of the Christchurch City Alcohol Restrictions in Public Places Bylaw 2009 to cover the Riccarton/llam area as described in **Attachment 1**.

EXECUTIVE SUMMARY

2. The proposal to consider the introduction of a Temporary Alcohol Ban Area in the Riccarton/llam Area has been raised by the New Zealand Police as well as the Riccarton/Wigram Community Board.
3. Both parties have raised a number of issues relating to activities arising from changes to some drinking being undertaken with increased numbers of people in the area. This is seen as resulting from the transfer of persons from the central city bars since the drinking places in the latter have not been available since the earthquake in February 2011. Some of the disorderly conduct could be controlled under legislation, for example the Summary Offences Act 1988 and the Litter Act 1979, but the Police consider creating an Alcohol Ban under the Local Government Act 2002 provisions provides for early intervention.
4. The matters the Council must consider, as contained in clause 5(2) of the Bylaw, have been examined at this stage. The evidence that significant drinking is occurring in public places is tentative and circumstantial. In considering a permanent alcohol ban in this area in 2010 the Council was satisfied that there was a nuisance being created by people consuming alcohol in public places. The power created by the bylaw is to control anticipated or potential negative alcohol-related behaviour and there is some evidence that is available that such may be occurring in the area. It is not clear that this is associated with drinking in the public places or roads rather than just with intoxicated persons passing through the areas. It should be noted that introducing such a ban without sufficient and defensible evidence that creates a criminal offence could be challenged on the basis of its reasonableness and call into question its validity.
5. On balance it is recommended that a Temporary Alcohol Ban Area be put in place. It will only apply to public places under the control of the Council and all roads, whether controlled by the Council or not. It cannot apply to other places open to the public that are under private ownership such as private car parks or private sports grounds.
6. The original Police request also sought Alcohol Bans in the areas of Merivale and Papanui, to be applied in a similar manner to the one in Riccarton/llam. In both cases the evidence to support the bans over the wide areas sought needs further investigation. In the case of Papanui a permanent alcohol ban already exists for part of the area and there would be legal difficulties in changing this through a Council resolution process. These areas and issues will be further investigated.

FINANCIAL IMPLICATIONS

7. The Police have the responsibility for enforcement of such bans and can provide funding for enforcement if they accept the duty. There is no funding specifically for advertising and the provision of signage, including costs of production, erection, and where necessary replacement. In addition to the costs of public notices (estimated at \$350) the costs of signs will depend on the area chosen for the ban to cover. For the extensive area this ban would cover it is estimated in the order of a minimum of 80 signs may be required plus some 40 to cover replacements over the period. For 120 signs, if installed with posts, the cost could be in the order of \$16,000. These costs do not include any additional publicity the Council may see as needed.

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

8. See above.

LEGAL CONSIDERATIONS

9. The Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009 (the Bylaw) provides the power, by resolution, to put Temporary Alcohol Ban Areas in place. Section 151 of the Act and section 13 of the Bylaws Act 1910 make it clear that a bylaw may contain discretion. The Council must be careful to ensure that any discretion left to the Council is not so great that it might be considered unreasonable (which could make the bylaw, or part of it, invalid). To ensure this is not the case, clause 5 of the bylaw specifies a number of matters the Council must consider before it imposes a temporary alcohol ban area. Clause 5 also requires that the resolution must describe the specific area that is the Temporary Alcohol Ban Area and the times, days or dates during which the alcohol restrictions apply to any public places in the area.
10. The Act allows for such liquor bans in public places which are under the control of the Council as opposed to public places as defined in other legislation. It can include roads over which the Council has control but not private parking areas for example.
11. Under clause 5(2) of the Bylaw the Council must consider, in the case of resolving to introduce any Temporary Alcohol Ban Area, the following matters:
- (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).
 - (iv) the area in which the event is to be held.
 - (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 outweigh the restrictions imposed on local residents and other people in the area covered by the resolution; and other people in the area covered by the 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.
 - (f) Any other information the Council considers relevant.
12. 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. 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 Alcohol Ban.¹ In the past the Council has exercised this power and passed a resolution under clause 8(1), where the Council has resolved to impose a Temporary Alcohol Ban Area for an event.

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.

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

13. Yes. The proposed Temporary Alcohol Ban Area will apply to public places within the meaning of section 147 of the Act. This includes roadways whether under the control of the Council or otherwise but not private car parks or other private places to which the public may have access but not under the control of the Council. 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.
14. With respect to the considerations in clause 5(2) of the Bylaw, the following is noted:
 - (a) Clause 5(2) (a) – the proposed ban does not relate to an event.
 - (b) Clause 5(2)(b) – the alcohol related problems have included drunken youths, out of control parties, intoxicated persons, fights and associated disorder, littering, smashed glass, and drunken youth urinating on fences and in shop driveways.
 - (c) Clause 5(2) (c) – given the responses of persons residing in the area to the proposal it could be seen that the benefits outweigh the restrictions if they reduce or remove the type of problems that have occurred in the area. It is unlikely that the majority of persons living in the area would wish to consume alcohol on the roads or Council controlled public places. This view may not support the seven day a week 24 hours per day ban which could preclude persons having neighbourhood street parties or picnics with alcohol in parks in the area.
 - (d) Clause 5(2) (d) – the Police have provided information (summarised in this report) of the issues and behaviour being experienced in the Riccarton area. The recommended area to be covered by the ban is the area recommended by the Police.
 - (e) Clause 5(2) (e) – as noted in the Background the Council has previously considered applying an Alcohol Ban in the area and since the earthquake in February 2011, and the closure of central city drinking establishments, there has been movement to the area being considered. As noted in paragraph 19 of this report various local stakeholders have been consulted with and most support the introduction of an alcohol ban.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

15. See 16 below.

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

16. Introducing a temporary alcohol ban for the Riccarton/Ilam area 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. A recommendation adopted by the Council at its meeting on the 26 August 2010 was that the Council:

Initiate an amendment to the Alcohol Restrictions in Public Places Bylaw 2009 to incorporate permanent restrictions in the Ilam and Riccarton areas.²

ALIGNMENT WITH STRATEGIES

17. 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?

18. Yes – as above.

² Report to Council 26 August 2010.

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CONSULTATION FULFILMENT

19. A number of key stakeholders were contacted regarding the proposed alcohol ban in the Riccarton/Illam area via email and phone. These included Residents Associations, key retail centres, Canterbury University, local bars, Community Watch and Neighbourhood Support groups, the Community Constable, and a local hospice. The majority of those contacted did make a response. All responses received support an alcohol ban in the Riccarton/Illam area. The areas that were seen as requiring an alcohol ban include the length of Riccarton Road from Hagley Park to Church Corner and from Maidstone Road to Blenheim Road. Some variations from this included a push for a city-wide ban, only Riccarton Road, around the University of Canterbury, and a combination of Riccarton Road, Clyde Road, Creyke Road, Maidstone Road, Waimari Road, Pears Street, Yaldhurst Road, and Church Corner. Church Corner around the Bush Bar was mentioned as an area where drinking in a public place did occur to the concern of stakeholders, including the owner of the Bush Bar. When asked "What times/days require a liquor ban in the Riccarton/Illam area?" stakeholders largely preferred a 24 hours, 7 days a week approach to simplify the enforcement of the ban. However, some stakeholders noted that the occurrences of people drinking in public places is often occurring from Wednesday night through to Monday morning and some were interested in a 9pm to 5am alcohol ban.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) That having considered the matters in clause 5(2) of the Christchurch City Alcohol Restrictions in Public Places Bylaw 2009, declares a Temporary Alcohol Ban Area in Riccarton/Illam, (being the area shown on the attached map), applying 24 hours per day and seven days per week, commencing on 19 May 2011 and ending and ending on the 30 November 2011.
- (b) Note the Council resolution of August 2010 to initiate an amendment to the Alcohol Restrictions in Public Places Bylaw 2009 to incorporate permanent restrictions in the Illam and Riccarton areas and the intention to initiate this amendment in time for it to be considered and if so determined by the Council to be in place by 30 November 2011 (i.e. when the temporary ban ends).
- (c) Note that proposals to introduce a temporary or permanent alcohol ban in Merivale and an amendment to the alcohol ban in Papanui will be investigated and reported to the Council.

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BACKGROUND (THE ISSUES)

20. Originally the Police approached the Civil Defence National Controller with a request that the Council put in place an alcohol ban for the areas around Riccarton. They advised that due to the close-down of the central city bars and other drinking establishments it appeared customers had moved to drinking establishments in the Riccarton/Ilam area. They indicated that there appeared to be an increase in disorderly behaviour in that area as a result. Support for a ban was provided by some local politicians who also considered that support would exist from community groups and resident associations in the area.
21. The evidence for drinking in public places appears to be largely circumstantial, e.g. the littering of cans and bottles previously containing alcohol. Much of the disorderly behaviour would be able to be dealt with under legislation such as the Summary Offences Act 1988
22. Following the devastation experienced in the Central Business District (CBD) following the February 22 earthquake, Police have identified a very clear trend where patronage of bars has shifted now from the CBD to Riccarton, Merivale, Papanui and the outer suburbs. The Police have indicated that going hand and hand with that has been a corresponding shift in violence and disorder.
23. The Police advise that Riccarton, Merivale and Papanui in particular have experienced a considerable increase in disorder, so much so that Christchurch City patrols are now spending 50 per cent to 60 per cent of their time in this area every Thursday, Friday and Saturday night, dealing with drunken youths, out of control parties, intoxicated persons, fights and associated disorder. The Canterbury District Team Policing Unit, which is a unit dedicated to policing licenced premises, violence and disorder, advise that 90 per cent of their time is now spent in the Riccarton and Merivale/Papanui areas. This compares to only 25 per cent of police time, pre-earthquake, that police units would have spent in the Riccarton area.
24. Another problem emanating from this is a trend where people regularly attended parties in private residences. What Police are now seeing is a return to parties - specifically in the Riccarton and Ilam suburbs. This increase has been put down largely to the licenced premises in the areas being full, with lengthy queues to enter, resulting in groups opting to have parties instead. Police and Fire Service have both seen an increase in parties resulting in call outs for disorder and couch fires. Police are also receiving considerably more complaints from members of the public residing, or having businesses, in Riccarton/Ilam complaining of littering, drunken behaviour, smashed glass, intoxicated persons urinating on fences and in shop doorways etc.
25. The Christchurch Safe City Officers have confirmed that there has been an increased apparent incidence of public intoxication and open alcohol being carried on the streets in both commercial and residential areas of Riccarton/Ilam. They note it appears to be largely on Thursdays, Fridays and Saturdays. From their information it appears not to be just university students but also high school students as well. The increase in parties in residential premises (possibly because of overcrowding of bars and queuing problems) has resulted in spreading out into the street. Residents have been feeling threatened even if the behaviour is not explicitly threatening. They have suggested the area should be from Hagley Park in the east to Church Corner in the west and Blenheim Road in the south to Maidstone Road in the north. In their view the ban could apply from Wednesday 5pm to Sunday 5am as this appears to be the times that the major problems occur.
26. The Police have also advised that experience has shown that Liquor Bans are one of the most successful tools in reducing violence and disorder. Since the CBD liquor ban has been in place there have been reductions of 6 per cent in serious violence and 6 per cent in minor assaults each year for the last three years. It is not clear that there is a direct causal link with the ban of drinking in public places or whether the increase of Police presence and the introduction of Safe City Officers have added to the reductions noted. Excess alcohol is the problem and liquor bans appear to be instrumental in reducing the amount and impact of excessive alcohol. A liquor ban in the Riccarton and Ilam area would assist Police in dealing with those offenders who drink outside the private parties and then throw beer bottles at Police and Fire when they turn up to extinguish the fires and/or close the parties down.

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27. Once signage and publicity of the liquor bans are in place, Police Officers advise they intend to use discretion in enforcing the law. There are times when people genuinely are unaware of the ban, are merely walking to a neighbours/friends for an evening carrying liquor or are simply transporting people and liquor in vehicles (the last two are not offences under the Bylaw in any case). Police state they will use discretion at all times and carefully weigh up all factors before deciding to prosecute. Warnings, official (known as pre-charge) warnings, and diversion are all examples of common policing methods utilised that enable police to still effectively police the area but do not end up in convictions for the offender. There are times however, the Police consider, where zero tolerance is also the most appropriate course of action. Police have been dealing with liquor bans now for many years and they submit that they can recognise the appropriate action for each breach
28. The Council introduced a Temporary Alcohol Ban for an area in Ilam for the period of Orientation at the University of Canterbury and while the February earthquake occurred during that period we are still awaiting details of its effectiveness over half of its time in place. That was in place specifically for an event which contained both day and evening activities hence applied 24 hours per day. It is unclear that such a 24 hour seven days a week ban is required for the much wider Riccarton/Ilam area. The Safe City Officers have noted that the major problems appear to be on the days at the end of the week, Thursday, Friday and Saturday. It is unclear how much disorder and drinking in public places occurs during the daylight hours even on these days.
29. Police are applying for the following three areas. They advised these were based on extensive interviews with patrol group Sergeants, Sgt Al Lawn from Licensing, Police Intelligence Section, Team Policing staff and feedback from Traffic units.
 - Papanui - St James Avenue, Blighs Road, Papanui Road and across onto Grants Road, to Grassmere Street back onto Papanui Road. Down Papanui Road to Vagues Road, then follow the railway line back to St James Avenue.
 - Merivale: From Papanui Road/St Albans Road intersection to Browns Road to Innes Road, back across Papanui Road to Heaton Street, down to Rossall Street, back up Rugby Street onto Papanui Road then back to the Papanui/St Albans Road intersection
 - Riccarton: Exactly the same as recommended at Council, that is: Blenheim Road, Curletts Road, Peer St, Waimairi Road, Greers Road, Memorial Avenue, Fendalton Road, Deans Ave back up to Blenheim Road.
 - Both sides of the road are sought.
30. The Police seek a Liquor ban Monday to Sunday inclusive, 24 hours - 24/7 in other words, for all the areas above. It should be noted that the Merivale alcohol ban was examined at the time the Bylaw was introduced and it was not considered at that time that there was sufficient evidence for such to be introduced. At this time we still do not have sufficient evidence of the problem to consider the matter. The Bylaw already has an alcohol ban applying to the Papanui area and it is not clear why this needs to be extended at this time.
31. Further investigation of the evidence is required to explore the temporary 24 hours/7 days temporary alcohol ban in the Merivale area as suggested by the Police. In the case of the Papanui area there are legal difficulties in proposing a Temporary Alcohol Ban Area for a wider area than is already covered by a Permanent Alcohol Ban Area or for greater hours than currently provided for. This could be seen as attempting to amend the Permanent Alcohol Ban Area by resolution instead of complying with section 156 of the Local Government Act 2002. Should the Council wish to amend the area or hours covered this should be done by undertaking a special consultative procedure and amending the Bylaw.
32. In the cases of the Merivale and Papanui areas further investigation will be undertaken and reported to the Council for its consideration.