

## 6. TEMPORARY ALCOHOL BAN FOR UNIVERSITY OF CANTERBURY ORIENTATION PERIOD

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941-8281
<b>Officer responsible:</b>	Programme Manager Strong Communities
<b>Authors:</b>	Terence Moody and Vivienne Wilson

### PURPOSE OF REPORT

1. To examine a proposal to investigate and develop a Temporary Alcohol Ban to cover the Orientation period at the University of Canterbury in 2011. Note: This is separate from the investigation of the proposal to introduce a permanent ban for the Ilam/Riccarton area.

### EXECUTIVE SUMMARY

2. At its meeting on 2 December 2010, the Council resolved unanimously "*That the Council initiate a process to consider introducing a temporary alcohol ban for the University of Canterbury Orientation period in the public areas around the campus.*" It should be noted that previously in August 2010 the Council had resolved to *initiate an amendment to the Alcohol Restrictions in Public Places Bylaw 2009 to incorporate **permanent** restrictions in the Ilam and Riccarton areas.*<sup>1</sup>. The December resolution recognised that the Orientation period is one during which alcohol related issues in the area have been heightened in previous years and that it was not possible to introduce a permanent alcohol ban ahead of the Orientation period in 2011.
3. The timing of the Council resolution on 2 December 2010 has resulted in a short time for Council to consider whether a resolution to introduce a temporary ban is justified. Because of certain public notice requirements the decision needs to be made before 3 February 2011 when the notice must be given for the alcohol ban to come into force on the 17 February 2011. As no Council meetings are scheduled before this date, the Recess Committee needs to decide on the matter by mid January.
4. During the University of Canterbury Orientation period a series of professionally organised events will take place as part of the University of Canterbury Students Association (UCSA)'s 'Orientation 2011'. The organiser of these events goes to significant trouble to reduce or eliminate alcohol related issues associated with these events and it should be noted that many are alcohol free events. In addition to 'Orientation 2011' it is anticipated, on the basis of experience of other years, that there will be a number of parties at private residences and drinking at licensed premises taking place during the Orientation period. It should be noted that whilst there are a significant number of students, there are also other young people not associated with the University of Canterbury in the area during this period.
5. Note that in the remainder of this report when referring to the series of events organised by the UCSA for 2011 the notation 'Orientation 2011' will be used. When referring to this series of events in general over a number of years the notation 'Orientation Festival' will be used. When referring to the general period of time during which orientation is taking place at the University of Canterbury the notation 'Orientation period' will be used.
6. The Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009 (the Bylaw) prohibits, or otherwise regulates or controls, the possession and consumption of alcohol in specified public places. It should be noted that this is all that it does. The Bylaw does not prohibit members of the public from consuming alcohol on private land (including for instance the University Campus, a licensed premise or a party at a residence). The penalty for someone who commits an offence under this bylaw on summary conviction is a fine not exceeding \$20,000, as set out in the Local Government Act 2002 (the Act). Any person in breach of the restrictions in place in an Alcohol Ban Area is subject to any action taken by the New Zealand Police in accordance with the powers given to the Police in the Act. These include the powers of search, seizure of alcohol, and arrest, and also the power to prosecute any failure to comply with a direction of the Police.

<sup>1</sup> Report to the Council, 26 August 2010.

7. Any Temporary Alcohol Ban can only be imposed under clause 5 the Bylaw. Under clause 5(2) of the Bylaw the Council must consider:
- If the proposed ban relates to an event:
    - the nature of the expected event.
    - the number of people expected to attend.
    - the history of the event (if any).
    - the area in which the event is to be held.
  - The nature and history of alcohol-related problems usually associated with the area, together with any anticipated alcohol-related problems.
  - 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.
  - Any information from the Police and other sources about the proposed dates, the event or the area to be covered by the resolution.
  - Whether the Police support the proposed Temporary Alcohol Ban Area.
8. The matters the Council must consider, as contained in clause 5(2) of the Bylaw, have been examined at this stage but the evidence that significant drinking is occurring in public places is tentative. However, the power created by the Bylaw is to control anticipated or potential negative alcohol-related behaviour. Some evidence is available that alcohol-related behaviour is occurring in the area but it is not clear that this is associated with drinking in the public places or roads under the control of the Council or whether it relates to intoxicated persons passing through these areas. There is a body of anecdotal evidence concerning alcohol related issues in the Ilam and Riccarton area that the Council accepted in August as being sufficient to investigate the introduction of a permanent alcohol ban. On the basis of this view a temporary ban could be introduced in public places around the University of Canterbury campus during the orientation period. A temporary ban may help address the consumption of alcohol in public places during a period in which alcohol issues have generally been at their most prevalent and provide a useful gauge as to the effectiveness of such a measure to assist the subsequent consideration of a permanent alcohol ban for the Ilam and Riccarton area.
9. The Police who are responsible for enforcement of any alcohol bans under section 147 of the Local Government Act 2002 have recommended an area bounded by Riccarton Road, Clyde Road, Creyke Road, Maidstone Road, and Waimairi Road. This area was selected by the Police because it covers where the majority of alcohol related issues associated with the Orientation period are likely to take place, is consistent with the Council's resolution of 'public places around the campus' and provides a clearly defined area within which they are able to deploy their resources for enforcement purposes. The area chosen by the Police (as shown in **Attachment 1**), has been selected as the Temporary Alcohol Ban area for the purposes of this report.
10. In deciding whether or not to impose a Temporary Alcohol Ban, the Council needs to satisfy itself that it has reasonable grounds to do so, as the ban could be challenged on the basis of reasonableness and validity. Furthermore, it should be noted that if a person breaches a Temporary Alcohol Ban, that person commits an offence and, on summary conviction, is liable to a maximum fine of \$20,000.
11. If a temporary ban is introduced its primary role is to act as a deterrent to drinking in public places. For this reason the Council will need to carry out extensive communication with people likely to be affected. The UCSA has indicated its desire to work with the Council to help communicate the existence of the ban (if introduced) to students.

## FINANCIAL IMPLICATIONS

12. 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 quoted costs of advertising through the Student's Association have been obtained to ensure all students are aware of the alcohol ban, these total \$9,500. For 40 signs, if installed with posts, the cost would be in the order of \$6,400. Additional funds may be needed to allow for replacements. The Police have the responsibility for enforcement of such bans and can provide funding for enforcement if they accept the duty.

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

13. See above.

## LEGAL CONSIDERATIONS

14. The Bylaw provides the power to put Temporary Alcohol Ban Areas in place, by resolution, to control anticipated or potential negative alcohol-related behaviour associated with specified events or specified dates. Section 151 of the Local Government Act 2002 (LGA 02) 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, set out in paragraph 16 below which the Council must consider before it imposes a temporary ban.
15. Clause 5 of the Bylaw 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. In terms of "area", the LGA 02 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 whether or not they are under the control of a territorial authority, but not private parking areas for example.
16. Under clause 5(2) of the Bylaw the Council must consider:
- If the proposed ban relates to an event:
    - the nature of the expected event.
    - the number of people expected to attend.
    - the history of the event (if any).
    - the area in which the event is to be held.
  - The nature and history of alcohol-related problems usually associated with the area, together with any anticipated alcohol-related problems; and
  - 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.
  - Any information from the Police and other sources about the proposed dates, the event or the area to be covered by the resolution.
  - Whether the Police support the proposed Temporary Alcohol Ban Area.
  - Any other information the Council considers relevant.

In this case the Council is considering a period, the Orientation period, during which an event, Orientation 2011 (amongst other activities), will take place.

17. The Bylaw prohibits, or otherwise regulates or controls, the possession and consumption of alcohol in specified public places. The Police have various powers to enforce the Bylaw, including the power to search containers and vehicles in public places for alcohol, seize and

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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(2) and (3), the Police can search immediately and without notice. In order to give the Police this power, the Council needs to resolve that clause 8(1) of the Bylaw applies to the Temporary Alcohol Ban.<sup>2</sup>

18. If the Council resolves to apply clause 8(1), the power for the Police to search immediately and without notice, of the Bylaw, the Council must give public notice of the Temporary Alcohol Ban in accordance with section 170(3) of the LGA 02. The public notice must be given 14 days in advance of the Temporary Alcohol Ban applying (i.e. by 3 February 2011).

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

19. Yes. In terms of clause 5(1) of the Bylaw, the attached map (**Attachment 1**) shows the specific area to which the Temporary Alcohol Ban will apply. The Temporary Alcohol Ban will not apply to the University of Canterbury campus but will apply to the public places under the control of the Council surrounding the campus.
20. The dates and times during which the Temporary Alcohol Ban will apply are 24 hours per day from 12am 17 February 2011 to 12pm on 27 February 2011.
21. With respect to the considerations in clause 5(2) of the Bylaw, the following is noted:
- (a) Clause 5(2)(a)(i) – the event (in this case) is Orientation 2011 scheduled to take place from 17 February 2011 until 27 February 2011. The schedule of specific events for Orientation 2011 has been released and it includes comedy shows, drama and live bands. Of the approximately 15 events, seven are in the daytime, and 10 are “No alcohol” events. Nine are ticketed.
  - (b) Clause 5(2) (a) (ii) – the number of people attending the Orientation 2011 at the University of Canterbury is estimated to be between 200 to 3200 depending on the specific events.<sup>3</sup>
  - (c) Clause 5(2) (a) (iii) – An Orientation festival has taken place at the University of Canterbury since the Students Association has been operating at Ilam in 1967.
  - (d) Clause 5(2)(a)(iv) – the area where the Orientation festival takes place is the University of Canterbury campus. In the past, some events have taken place at the Foundry, which is a licensed premise at the University. It should be noted that many parties at private residences are normally associated with the orientation period, but not the Orientation festival per se and take place outside the University campus.
  - (e) Clause 5(2) (b) – the alcohol related problems associated with the area have included some instances of vandalism and unacceptable behaviour. These problems have been allegedly associated with excessive drinking in public places during the Orientation period. It should be noted that in addition to the Orientation festival's events many parties at private residences normally take place in this period, along with the consumption of alcohol at licensed premises.

<sup>2</sup> 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.

<sup>3</sup> Personal communication Karyn South, Fabel Events Ltd

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- (f) Clause 5(2) (c) – given the responses of some 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 in the roads or Council controlled public places.
  - (g) Clause 5(2) (d) and (e) – the Police support the proposed ban and have suggested the area they consider should be included. In requesting some indication of their views they referred to their comments during the meetings of the Alcohol Policy and Liquor Control Bylaw Subcommittee.<sup>4</sup>
22. In the last two instances where the Council has imposed a Temporary Liquor Ban (Hagley Park - Band Together Concert and Okains Bay – New Years Eve), the Council has invoked clause 8(1) of the Bylaw, the power for the Police to search immediately and without notice, (which relies on section 170 of the LGA 02).

### ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

23. See 24 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 during the University of Canterbury Orientation period broadly aligns to the following LOS in the Strengthening Communities Activity Management Plan, 2.2.3.1. *Maintain Safe City Accreditation every 15 years.* In enacting the Bylaw the Council deliberately made provision to be able to introduce temporary alcohol bans for selected areas and periods.

### 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.

### CONSULTATION FULFILMENT

27. The introduction of a temporary alcohol ban in the orientation period was recommended by the Riccarton/Wigram Community Board at a meeting on 31 August 2010. The Fendalton/Waimairi Community Board also supported the Riccarton/Wigram Community Board's recommendation at its meeting on 1 September 2010.
28. Given the time factor significant consultation in the whole of the area cannot be undertaken. Some limited consultation with local groups representing the area to be covered and some of those groups alleged to be the source of the problems have been contacted. Residents groups contacted were in support of an alcohol ban during the Orientation period. The University of Canterbury Students Association has expressed a view that such a ban is not necessary as it does not consider significant drinking in public places occurs. It has in place a number of measures to control alcohol consumption at any Orientation 2011 events, including having a number of "No alcohol" events (10 of the 15). If the ban is brought in UCSA is willing to ensure, as far as possible, that students are made aware of it.

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<sup>4</sup> Attachment 1 of the Report to the Regulatory and Planning Committee from the Alcohol Policy and Liquor Control Bylaw Subcommittee on Alcohol-Related Issues in the Ilam Area, 1 July 2010

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29. The University representatives did not consider there was significant drinking occurring in the public places and hence did not consider there was a need for alcohol bans in the area.

**STAFF RECOMMENDATION**

It is recommended that the Council resolves:

- (a) That having considered the matters in clause 5(2) of the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009, the Council declares, for the area in Ilam (being the area shown in the attached map), a Temporary Alcohol Ban covering 24 hours per day from 12am on 17 February 2011 to 12pm on 27 February 2011.
- (b) That clause 8(1) of the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009 applies to the Temporary Alcohol Ban described above.
- (c) That Public Notice be given in The Press on 3 February 2011 and advertising through the University of Canterbury Students Association be undertaken and signs be provided in the public places covered by the Temporary Alcohol Ban.
- (d) That an unbudgeted sum of \$20,000 be approved for the purposes of providing signage and conducting advertising to make students and the public aware of the temporary alcohol ban in the area.

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### BACKGROUND (THE ISSUES)

30. The Council at its meeting on 2 December 2010 resolved on the basis of a request from the Riccarton/Wigram Community Board to investigate and develop a temporary alcohol ban for the Orientation period for the university area. The area was to be determined by staff. It is understood the suggestion has been made that the area to be included in the alcohol ban should be within walking distance from the event. Advice is that 400 metres could be considered walking distance.<sup>5</sup> If so, and depending on the matters below, a considerable area of roads and other public places would be caught in the ban relating to largely residential areas. It will not be possible under the current legislation to apply a ban to either of the main campus or School of Education areas. The Police in supporting the temporary ban have proposed an area bounded by Riccarton Road, Clyde Road, Creyke Road, Maidstone Road, and Waimairi Road. This area was selected by the Police because it covers where the majority of alcohol related issues associated with the Orientation period are likely to take place, is consistent with the Council's resolution of 'public places around the campus' and provides a clearly defined area within which they are able to deploy their resources for enforcement purposes.
31. The dates of Orientation period could be considered to be from 17 to 27 February 2011.<sup>6</sup> However, University enrolment occurs from the 14 February 2011. The Orientation 2011 events generally occur on the land under the control of the University of Canterbury, and not in public places under the control of the Council. The University of Canterbury has in place a number of measures to control any problems caused by alcohol consumption by students. There is an on-campus Community Constable in addition to the employment of security services. There are, often private parties associated with Orientation period that take place in areas other than the campus.
32. In regard to activities outside the campus there appears to be more difficulties dealing with general drinking in the area with persons tending to consume alcohol at home before heading out late at night or returning home after drinking in licensed premises. The University has taken disciplinary action against specific students where necessary and the University of Canterbury Students Association (UCSA) President visits student flats identified as a source of problems together with the Community Constable. The UCSA has stated it attempts to be a good neighbour and has dealt with broken letterboxes and other damage out of a moral obligation even though students may not have been responsible.
33. Neither the University representatives nor those from UCSA considered there was significant drinking occurring in the public places and hence they did not consider there was a need for alcohol bans in the area. The point was made that there are 19,500 students at the University and less than two per cent **may** be causing problems in public places. These may be alcohol-affected but it was not certain all the problems raised were by students rather than other persons.<sup>7</sup>
34. The Police have indicated that statistics on disorder, assault and wilful damage in the area showed that the major problems occurred in Riccarton, south of Riccarton Road, rather than Ilam. They indicated they did not support applying the Alcohol Restrictions in Public Places Bylaw to the Ilam Area. Their view was that drunkenness and the migration of intoxicated people are the key issues rather than people drinking in the streets. The point was made that there were plenty of tools to deal with intoxicated people, including disorderly behaviour, vandalism or breaches of the peace.<sup>8</sup> However, the Police have indicated that they are willing to support temporarily applying an alcohol ban around the Orientation period as this was the time people could be carrying open containers of alcohol in the street. They stated that additional staff are rostered on during that week.

<sup>5</sup> Personal communication - Ruth Foxon, Policy Planner – Transport, Strategy and Planning Group

<sup>6</sup> Personal communication from Steve Jukes, University of Canterbury Students Association and Karyn South, Fabel Events Ltd.

<sup>7</sup> Attachment 1 – Summary of meetings – Report to the Regulatory and Planning Committee from the Alcohol Policy and Liquor Control Bylaw Subcommittee on Alcohol-Related Issues in the Ilam Area, 1 July 2010.

<sup>8</sup> Attachment 1 *op cit*, 1 July 2010

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35. The Council at its meeting on 26 August 2010 in considering the report resolved to initiate an amendment to the Alcohol Restrictions in Public Places Bylaw 2009 to incorporate a Permanent Alcohol Ban in the Ilam and Riccarton areas. This will require an amendment to the bylaw which will require a section 155 analysis and undertaking a Special Consultative Procedure.

### THE OBJECTIVES

36. The objective of this report is to investigate the matter of applying a Temporary Alcohol Ban to the area around the University of Canterbury for the Orientation period at the institution.

### THE OPTIONS

37. **Option 1 – Not introduce any Temporary Alcohol Ban as requested.**  
A number of persons believe that introducing a temporary alcohol ban will help control activities such as general disorder and vandalism. Whilst there is a body of anecdotal evidence that drinking in public places is taking place and resulting in nuisance there is little defensible evidence that drinking alcohol in public places is occurring at any significant level. The Council could take the view that there is insufficient hard evidence with which to defend any challenges to the introduction of the temporary ban and instead rely on the other legal mechanisms open to the Police and on non-regulatory measures to address the issues. However in August 2010 the Council accepted the body of anecdotal evidence as being sufficient to resolve that a permanent alcohol ban be introduced in the Ilam and Riccarton areas.
38. **Option 2 –The introduction of a Temporary Alcohol Ban for the Orientation Period**  
While evidence to satisfy the requirements of clause 5(2) of the Bylaw has not been persuasive the power created by the Bylaw is to control anticipated or potential negative alcohol-related behaviour. In August 2010 the Council accepted the body of anecdotal evidence as being sufficient to resolve that a permanent alcohol ban be introduced in the Ilam and Riccarton areas. On the basis of this view a temporary ban could be introduced in public places around the University of Canterbury campus (as indicated on the attached map) during the orientation period. A temporary ban may help address the consumption of alcohol in public places during a period in which alcohol issues have generally been at their most prevalent and provide a useful gauge as to the effectiveness of such a ban to assist the subsequent consideration of a permanent alcohol ban for the Ilam and Riccarton area. If this option is selected the non-regulatory measures decided on in August 2010 should be followed through in addition to the temporary ban.
39. **Option 3 – The application of Clause 8(1) the Power to Search immediately and without Warning**  
If the Council adopts Option 2 it has the subsequent option to apply clause 8(1) of the bylaw which provides the Police with the power to search immediately and without notice. This option provides a useful additional tool for the Police to use in enforcing the ban.

### THE PREFERRED OPTION

40. **Option 2 –The introduction of a Temporary Alcohol Ban for the Orientation Period**  
(This option fulfils the resolution of the Council of the 2 December 2010) and **Option 3. The application of Clause 8(1) the Power to Search immediately and without Warning**